

Rocky River Municipal Court



Court Rules

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

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**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ADOPTION OF LOCAL COURT RULES

RULES OF PRACTICE AND PROCEDURES

**IN THE ROCKY RIVER MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO) **JUDGE DONNA CONGENI FITZSIMMONS**
) **ADMINISTRATIVE / PRESIDING JUDGE**
) **SS:**
) **ADMINISTRATIVE ORDER**
) **ADOPTION OF ROCKY RIVER MUNICIPAL COURT**
COUNTY OF CUYAHOGA) **LOCAL COURT RULES**

It is ordered that the following Rules be, and are adopted for the governance of the practice and procedures in the Rocky River Municipal Court effective March 23, 2022 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 and have been adopted to provide for the efficient and expeditious management of business before this Court. These Rules are to be known as the Rocky River Municipal Court Rules of Practice and Procedures and may be cited as *RRMCR No.* _____.

The Clerk of Court is ordered forthwith to post this Order and the Forward to the Rules (attached hereto). The Clerk of Court is ordered to maintain a copy of these Rules on the Court’s website.

IT IS SO ORDERED.

Date: March 23, 2022

/S/

Judge Brian F. Hagan
Administrative / Presiding Judge

/S/

Judge Donna Congeni Fitzsimmons

Attachment

JOURNALIZED
Rocky River Municipal Court

MARCH 23, 2022

DEBORAH F. COMERY
CLERK OF COURT

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

FORWARD

ROCKY RIVER MUNICIPAL COURT

This booklet contains Rocky River Municipal Court’s Local Rules. They are effective as of March 23, 2022. Copies of this booklet are available on the Court’s website: www.rrcourt.net.

These Rules have been promulgated in accordance with Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio. These Rules should be followed when filing documents, practicing, appearing, or litigating in the Rocky River Municipal Court in addition to and in conjunction with the Ohio Rules of Civil Procedure and the Ohio Rules of Criminal Procedure as applicable.

Date: March 23, 2022

/s/
Judge Brian F. Hagan
Administrative / Presiding Judge

/s/
Judge Donna Congeni Fitzsimmons

JOURNALIZED
Rocky River Municipal Court
MARCH 23, 2022
DEBORAH F. COMERY
CLERK OF COURT

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

GENERAL RULES

RULE 1.1 COURT HOURS

The Clerk of Court's office shall be generally open between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Sessions of the court shall generally be daily Monday through Friday, 8:30 a.m. to 4:30 p.m. The court shall be in session at such time as the judges shall prescribe to meet special situations.

RULE 1.2 DECORUM AND CONDUCT

- A. On opening of any court session, all persons in the courtroom shall stand. All persons in the courtroom shall conduct themselves with decorum and in such manner so as not to interfere with or obstruct judicial activities or proceedings. All persons appearing before the court shall appear in appropriate dress.
- B. Litigants and/or spectators are not permitted to smoke, eat or drink in the courtroom, nor shall they bring food or drink into the courtroom.
- C. No person shall loiter, or conduct him or herself in an unseemly or disorderly manner, in the courtroom or in any halls, stairways, entryways or parking lots adjacent thereto, or otherwise interfere with or obstruct judicial activities or proceedings.
- D. All cell phones, pagers and other sound making devices are to be silenced while in the courtroom.
- E. The court expects that counsel shall call this rule to the attention of clients and witnesses.

RULE 1.3 PUBLIC USE OF COURTROOMS

- A. Questions of the admission of persons to a courtroom shall be the province of the judge or magistrate to whom that courtroom is assigned, within the guidelines of public access to all court proceedings, consistent with the order and dignity of the court.
- B. Public statements by counsel, court personnel, and witnesses shall be regulated by the judge or magistrate to whom the case is assigned within the guidelines of public access to court proceedings and the right of the parties to be free of improper publicity within areas protected by fundamental rights.
- C. No recording shall be made of any court proceeding without approval of the judge or magistrate conducting the proceeding. All such recording must conform to the guidelines set forth in Ohio Rules of Superintendence for Ohio Courts.

Requests for permission to broadcast, record, photograph or televise in the courtroom shall be in writing to the judge to whom the case is assigned as far in advance as reasonably practical, but no later than one-half (1/2) hour prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the trial judge.

RULE 1.4 GIFTS

No employee shall accept or permit to be accepted on their behalf a gift, bequest, favor or loan from any person likely to be engaged in a proceeding that ordinarily would come before the court, from a person likely to do business with the court or from any other person under circumstances that might

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reasonably be regarded as influencing or appearing to influence the performance of the employee's official duties.

RULE 1.5 COURT SECURITY

All visitors of the Rocky River Municipal Court will follow the directives of Rocky River Municipal Court Security Personnel in the event of an emergency situation or security incident.

RULE 1.6 APPEARANCE AND WITHDRAWAL OF COUNSEL

- A. **APPEARANCE**: Attorneys practicing before this court (except for pro se litigants) shall designate their capacity as trial counsel on all pleadings, motions, petitions, etc. filed in this court. All such documents shall bear, in addition to the signature of trial counsel, counsel's name, email address, office address and zip code, office telephone number, as well as the number of counsel's Ohio Supreme Court Certificate of Registration, as provided by Ohio Gov. Bar R. VI, § 4. A law firm shall not be designated as trial counsel. Upon the entry of appearance of counsel, all journal entries, court documents, court orders and trial assignments shall be served upon the designated counsel at the email address that the attorney provides Rocky River Municipal Court. It is the sole responsibility of attorney to provide any change of email address for which assignment notices are sent. Any change of attorney address or email must be submitted in writing to the Clerk of Court at Rocky River Municipal Court. In addition, any filings with this Court must have counsel's current contact information reflected on all documents.
- B. **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 or magistrate. 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. It shall certify that the attorney is admitted to practice law in the highest court of another state or in the District of Columbia and that the attorney is not a resident of this state. The request must be cosigned by an attorney admitted to the practice of law in this state and registered under the Rule VI of the Rules for the Government of the Bar of Ohio. If the judge or magistrate grants the applicant's motion for permission to appear pro hac vice, the applicant must file a Notice of Permission to Appear Pro Hac Vice and a copy of the order granting permission with the Office of Attorney Services at the Ohio Supreme Court within 30 days.
- C. **WITHDRAWAL**: Once an appearance is made, an attorney may withdraw from a case only with leave of court. Withdrawal shall be permitted only by written motion filed with the court. The motion shall include (1) the specific reasons for requesting withdrawal, (2) the name and address of a substitute attorney, if any, and (3) proof of notification to the opposing attorney and to the client. Said motion shall be filed at least seven (7) days prior to the next scheduled hearing.

RULE 1.7 COURT APPOINTED COUNSEL

No attorney shall be appointed to represent an indigent person unless his/her name appears on the Court Appointed Counsel List.

- A. **APPLICATION**: The attorney must submit a written application to the Administrative Judge. Said application must include the attorney's name, email address, business address, Ohio Attorney Registration Number, and whether the attorney is in good standing with the Ohio Supreme Court. The application shall also include any special areas of expertise, such as

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language fluency or mental health law specialization. Upon ascertaining that the attorney is in good standing with the Ohio Supreme Court, the attorney's name shall be placed on the Court Appointment List. Said list will be reviewed by the judges on a quarterly basis.

- B. FELONY LIST: Those attorneys on the current court approved Court Appointment List for representing defendants in felony cases in Cuyahoga County Common Pleas Court pursuant to Common Pleas Court Local Rule 33.0 are eligible and may apply to be placed on this court's Felony Court Appointment List.
- C. REMOVAL: For good cause shown, the court may decline to accept any application for inclusion on any list, or may remove the name of any attorney from the list.
- D. ASSIGNMENT: Attorneys shall be assigned to represent indigent defendants by appointment from a master list and in a rolling order.

RULE 1.8 MAGISTRATES

The judges shall appoint magistrates who may hear cases by reference, and in accordance with Traffic Rule 14, Criminal Rule 19, Civil Rule 53, and Rules of Superintendence Rule 19.

RULE 1.9 ASSIGNMENT OF CASES TO JUDGES

- A. Civil cases shall be assigned by random lot when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned by random lot when a plea of not guilty is entered.
 - 1. Particular Session: The arraignment session shall be the only designated particular session. The following subject categories shall be disposed of by the judge assigned to the arraignment session:
 - a. Civil cases in which a Motion for Default Judgment is filed, and where there has not been an answer or other responsive pleading or motion filed;
 - b. Initial appearance in criminal and traffic cases;
 - c. Criminal and traffic cases in which a plea of guilty or no contest is entered at arraignment;
 - d. Preliminary hearings in criminal cases;
 - e. Small Claims cases;
 - f. Forcible Entry and Detainer cases in which the right to trial by jury is either waived or not demanded;
 - g. The arraignment judge/magistrate may also rule on motions before the court at the arraignment session.
 - 2. Transfer of Cases: Once a traffic and/or criminal case is assigned to an individual judge upon a plea of not guilty, it shall be transferred to another judge by journalized order of the administrative judge when one of the following applies:
 - a. When there are multiple defendants charged with criminal and/or traffic offenses arising out of the same acts or transactions, all such defendants shall be transferred to the same judge, that being the judge with the earliest assigned, pending case, arising out of said related acts.
 - b. When a defendant, charged with a criminal and/or traffic offense, has an already pending assigned case or is on probation, monitored, inactive, basic or intensive, all such new cases, upon a plea of not guilty, shall be transferred to the judge with the earliest pending assigned case or the judge that most recently placed the defendant on probation. Additionally, when a defendant, charged with a criminal and/or traffic offense, is in the Selective Intervention Diversion Program (SIDP) or Young Adult Alcohol Diversion

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- Program (YAADP) all such new cases, upon a plea of not guilty, shall be transferred to the judge that placed the defendant in the SIDP or YAADP.
- c. When a defendant is charged with both a felony and a pending misdemeanor, where a plea of not guilty is entered on the misdemeanor, the pending misdemeanor case(s) after individual assignment shall be transferred to the judge that presided over the initial appearance.
 - d. When a defendant is charged with a felony where an initial appearance with the prosecutor is demanded and has an already pending assigned case, the felony proceeding shall be scheduled with the judge who has the pending assigned misdemeanor case. Any additional misdemeanors, which are companion cases to the felony, shall also be scheduled with the judge who has the pending assigned case.
 - e. If both subsections c. and d. above apply to any given defendant, subsection d. is to be followed.
3. Assignment of re-filed cases: In any instance where a previously filed and dismissed case is re-filed, that case shall be reassigned to the judge originally assigned by random lot.
- B. All cases heard before a visiting judge remain on the docket of the individual judge who was last assigned until final disposition unless otherwise ordered by the administrative judge.

RULE 1.10 PRIORITY OF SCHEDULING

- A. Actions shall be scheduled for trial in their numerical order so far as possible, except that the following matters shall have priority for trial:
1. Cases on trial which have gone over from the preceding day.
 2. Cases which the court may advance for trial.
 3. Cases involving the liberty of a person.
 4. Cases for wages.
 5. Cases for replevin.
 6. Cases for attachment.
- B. Pursuant to Sup. R. 36(C)(2) of the Rules of Superintendence for Ohio Courts, the following types of cases shall immediately be assigned to a judge upon the filing of the required motions:
1. Cases involving attachment or garnishment before judgment.
 2. Cases involving immediate seizure in a replevin action.
- C. Priority of normal assignment shall be as follows (subject to ORC § 2945.71):
1. Criminal/traffic jury trials;
 2. Criminal/traffic bench trials;
 3. ALS appeals, BMV Administrative Appeals, and/or Alternative Motions for Limited Driving Privileges;
 4. Civil jury trials;
 5. Civil bench trials;
 6. Pre-trials – criminal/traffic and civil;
 7. Motions (with request for oral hearing).

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RULE 1.11 COURT COSTS

The schedules of court costs for criminal/traffic cases as well as for civil/small claims cases are set by administrative order. The schedules are available at the Clerk of Court's office and are posted on the Court's website at www.rrcourt.net.

RULE 1.12 MOTIONS

All motions shall be in writing and timely filed and served on all appropriate parties in accordance with Ohio Rules and Statutes. At the discretion of the court or as required by law, motions may be set for oral hearing.

RULE 1.13 JURY DEMAND

- A. Any party desiring a jury trial in a civil case must demand the same in accordance with Rule 38 of the Ohio Rules of Civil Procedure. Any party desiring a jury trial in a criminal/traffic case shall demand the same in accordance with Criminal Rule 23. The jury demand must be in writing either by separate instrument or by prominent endorsement in the caption of a pleading. The jury demand must be filed in compliance with the time frame set forth in the applicable Rule.
- B. The party demanding the jury in a civil case shall pay the Jury Demand Civil Cost at the time the demand is made and the Jury Deposit Civil Cost no later than noon on the date prior to the trial. The cost requirement may be waived upon the presentation of evidence, which establishes the indigency of the party demanding the jury, and upon approval of the judge assigned to the case. There is no prepayment of jury costs in criminal/traffic cases.
- C. Each party shall file, seven (7) full days in advance of trial, a complete set of instructions suitable for charging the jury in the captioned matter. Parties shall file a trial brief seven (7) full days in advance of trial.
- D. Failure to comply with these requirements may result in a jury waiver or other appropriate sanctions.

RULE 1.14 CONTINUANCE FOR TRIAL OR HEARING

No case assigned for trial or hearing may be continued except on written motion and for good cause shown. Such motion shall be filed with the court not less than seven (7) business days prior to the date of the trial or hearing in civil cases and two (2) business days prior to the date of trial or hearing in criminal/traffic cases. In the case of unforeseen emergency, this time requirement may be waived. The moving party is required to first discuss the continuance with all opposing counsel, or opposing parties if there is no counsel, and state the reason for the continuance. If counsel is alleging a conflicting trial date as the reason for continuance, the conflicting trial notice must be attached to the notice. Counsel must also set forth at least two (2) other alternative dates for trial, agreeable to the court and all parties in the case. Alternative dates are available on the court's website at www.rrcourt.net.

RULE 1.15 RECUSAL OF ASSIGNED JUDGE

- A. Should a judge recuse himself or herself from hearing any individually assigned case, said judge shall cause a Journal Entry to be made setting forth the recusal and the reasons therefore. The case shall thereafter be referred to the administrative judge. If approved by the administrative

**ROCKY RIVER MUNICIPAL COURT
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judge, that case shall be reassigned. The transferring judge shall then receive the next case that was assigned by random lot to the transferee judge, pursuant to a Journal Entry signed by the administrative judge.

- B. ILLNESS, ETC.: In the event of the protracted illness of a judge, or the unduly prolonged time for trial of a case(s) assigned to a judge, the administrative judge may order reassignment of case(s) assigned to such judge to another judge or to a visiting judge,
- C. GENERAL: A judge appointed or elected to succeed another shall have the cases assigned to his or her predecessor. When there is a transfer of a case, the case file and the other records shall be changed to reflect the reassignment to the transferee judge.

RULE 1.16.1 FAX FILING / EMAIL FILING

A. APPLICABILITY - These rules apply to all proceedings in the Rocky River Municipal Court.

B. ORIGINAL FILINGS

- 1. **After January 1, 2015, the Court shall no longer accept fax filings, email filings, filings by mail or filings personally presented at court by an attorney on a CIVIL case. All CIVIL filings submitted by an attorney shall be required to be submitted to the Court via the Court's eFiling web portal only (see [RULE 1.16.2](#)).**
- 2. A document filed by fax or email shall be accepted as the effective original filing. The person making a fax or email filing need not file any source document with the Clerk of Court but must, however, maintain in his/her records and have available for production on request by the court the source document filed by fax or email, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- 3. The source document filed by fax or email shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

C. DEFINITIONS – As used in these rules, unless the context requires otherwise:

- 1. 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.
- 2. A “**facsimile machine**” means a machine that can send and receive a facsimile transmission.
- 3. “**Fax**” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- 4. An “**email transmission**” means the transmission of a source document through the Court's email system to a specified email address. These transmissions are not to be confused with the Court's eFiling System. (Please see [Rule 1.16.2](#) for specific eFiling information.)
- 5. The “**email address**” to be used for filing submissions is clerk@rrcourt.net.

D. FAX COVER PAGE

- 1. The person filing a document by fax shall also include a cover page containing all of the following information:

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- a. name of the court
 - b. name, title, telephone number, fax number, and e-mail address of person filing the fax document;
 - c. title of the case;
 - d. case number;
 - e. title of the document being filed (e.g., Defendant Johns' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
 - f. name of the judge to whom the case is assigned, if any;
 - g. date of fax transmission;
 - h. indication of the number of pages included in the transmission, including the cover page;
 - i. if applicable, a statement explaining how costs are being submitted
2. If a document is sent by fax to the clerk without the cover page information listed above, the clerk may do either of the following:
- a. enter the document in the case docket and file the document;
 - b. deposit the document in a file of failed faxed documents with a notation of the reason for the failure (omission of cover page). The document shall **not** be considered filed with the clerk.
- E. FAILED FAX SUBMISSION - The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.
- F. SIGNATURE
1. A party who wishes to file a signed source document by fax or email shall either:
 - a. Fax or email a copy of the signed source document; or
 - b. Fax or email 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.
 2. A party who files a signed document by fax or email represents that the physically signed source document is in his/her possession or control.
- G. EXHIBITS
1. Each exhibit to a facsimile or email produced document that cannot be accurately transmitted via facsimile transmission or email 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 or email document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
 2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff North Olmsted's

ROCKY RIVER MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

Notice of Filing Exhibit 'G' to Plaintiff North Olmsted's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

H. TIME OF FILING

1. Subject to the provisions of these rules, all documents sent by fax or email and accepted by the clerk shall be considered filed with the clerk of court as of the date and time the clerk time-stamps the document received as opposed to the date and time of the fax or email transmission. The office of the clerk of court will be deemed open to receive facsimile or email transmission of documents on the same days and at the same time the court is regularly open for business. Therefore, a fax or email filing received after the court closes on a given business day will be deemed filed with the clerk of court as of the opening of the next business day. On a fax filing, at least one page of any document received by the clerk will be automatically imprinted with the date and time of receipt. On an email filing, the email will have the date and time of its receipt on the header page. The date and time imprinted on the document will determine the time the filing was received, provided the document is deemed accepted by the clerk.
2. If received after 4:30 PM, that filing would be considered filed as of the following day the court is open for business.
3. Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the clerk of court.
4. The clerk of court may, but need not, acknowledge receipt of a facsimile transmission.
5. The risks of transmitting a document by fax or email to the clerk of court shall be borne entirely by the sending party. Anyone using facsimile filing or email filing is urged to verify receipt of such filing by the clerk of court through whatever technological means are available.

I. FEES AND COSTS

1. No document filed by facsimile or email that requires a filing fee at the time of filing shall be accepted by the clerk for filing until court cost and fees have been paid by a credit or debit card (VISA, Discover, or MasterCard). The forms necessary for the authorization of payment by credit card shall be available at the Clerk's Office during normal business hours and are accessible online at www.rrcourt.net. Documents tendered to the clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.
2. No additional fee shall be assessed for facsimile filings.

J. LENGTH OF DOCUMENT – Facsimile or email filings shall not exceed 10 pages in length.

K. SERVICE COPIES - The filer shall not transmit service copies by facsimile or email.

RULE 1.16.2 EFILING

A. **NOTICE**: BEGINNING JANUARY 1, 2015, ALL CIVIL FILINGS SUBMITTED BY AN ATTORNEY SHALL BE TRANSMITTED TO THE COURT VIA THE COURT'S WEB

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PORTAL. PRE-REGISTRATION FOR WEB PORTAL ACCESS IS REQUIRED AND IS AVAILABLE AT WWW.RRCOURT.NET .

B. DEFINITIONS

1. **Original document** – the electronic document received by the Court from the filer.
2. **PDF** – Portable Document Format - documents saved as this type have the [.pdf] extension.
3. **DOC** – Microsoft Word Documents - documents saved as this type have the [.doc] extension.
4. **Source Document** – the document created and maintained by the filer which is then electronically transmitted to the Court.
5. **Submission** – a document or other data sent to a system or sent as a court filing.
6. **Effective Date and Time of Filing of a New Complaint** – means the date and time the electronic filing was received and uploaded to the Clerk of Court as noted on the time stamp on the submitted document.
7. **Effective Date and Time of Filing of a Motion** – means the date and time the electronic filing was received and uploaded to the Clerk of Court as noted on the time stamp on the submitted document.
8. **Electronic Filing** (i.e., eFiling) – the process of transmitting a digitized source document electronically via the Internet to the Clerk’s Office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted
9. **Electronic Mail** (i.e., eMail) – Messages sent by a user and received by another through an electronic service system utilizing the public Internet. For purposes of eFiling, any references to eMail or Emailing are the communication between the eFiling System and the eFiler.

C. ELECTRONIC FILING POLICY

1. In conformity with Ohio Revised Code, Ohio Civil Rule 5(E) and Criminal Rule 12(B) and, as approved (provisionally) by the Ohio Supreme Court on Technology and the Courts, complaints, pleadings and other documents may be filed with the Clerk of Court electronically via the Internet, subject to the provisions in this rule.
2. Application of Rules and Orders – Unless otherwise modified by approved stipulation or Court order, ALL Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the Court shall continue to apply to all documents electronically filed.
3. Accepted Filings:
 - a. All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or, by a party not represented by an attorney.
 - b. Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.
 - c. If it is established that the documents were transmitted without authority, upon motion, the court shall order the document stricken.
 - d. No attorney shall authorize any person to electronically file on that attorney’s behalf, other than his or her employee or a service provider retained to assist in electronic filing.
 - e. The electronic filing of a document by an attorney, or by another under the authorization of the attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule 11.

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- f. No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.

4. Account Assignment

- a. Upon receipt of a properly executed and signed User Agreement Form, the Clerk of Court shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing document.

NOTE: Third party electronic filing providers are not acceptable.

- b. For each electronic document filed, the filer shall submit a Cover Page

NOTE: Cover Page Format is available from the Clerk of Court's Office.

5. Hours of Operation

- a. The Clerk of Court shall receive electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open.
- b. A document will be deemed timely when filed prior to 4:30 p.m. the afternoon of the due date, unless the assigned judge has ordered the document filed by a different time /date. Time at the Court (Eastern Standard/Daylight Savings) governs, rather than the time zone from which the filing is made. SEE **RULE 1.16.1 H. TIME OF FILING**
- c. All electronically filed documents shall receive a confirmation date and time acknowledgement.

6. Document Format. Documents must be submitted in PDF or DOC formats. OTHER FORMATS CAN BE CONVERTED TO PDF. CONTACT THE COURT FOR INFORMATION

Note: Image types [such as jpg, tif and BPM] can be embedded within PDF or DOC formats.

7. Fees

- a. The Clerk of Court shall assess normal filing fees and case payments will be collected via user credit card at the time the filing is processed. Pursuant to §301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Court.
- b. No personal checks will be accepted.
- c. The Clerk's Office will document the receipt of fees on the docket with a text-only entry.
- d. The Court shall not maintain electronic billing or debit accounts for lawyers or law firms.

8. Filing Acceptance or Rejection Cycle

- a. A confirmation number will be assigned to each filing when it is received in its entirety by the Clerk of Court's receiving device.
- b. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing.

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- c. Upon successful processing of the filing by the Clerk of Court, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer.
- d. Filers will be notified via electronic mail if the filing is rejected for any reason.
- e. A rejected filing may be resubmitted to the Clerk of Court in order to retain the original date and time of filing.
- f. Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Court within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Court in order to retain the original date and time of filing and confirmation number.
- g. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hour period expires, this filing will be considered a new filing and the prior confirmation number will have expired.
- h. If a document is rejected due to technical errors and the filer wishes to have the corrective filing relate back to the date and time of the rejected filing, the filer must file a motion with the Court seeking relief.
- i. The Clerk of Court shall retain the rejected documents for a period of one year from the date of transmission.
- j. Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the Clerk of Court as a result.

9. Electronic File Stamping

- a. Upon successful completion of acceptance processing by the Clerk of Court, a document filed electronically will be electronically file stamped.
- b. This stamp will include the date and time that the receiving device of the Clerk of Court received the entire transmission as well as the case number of the filing.
- c. Upon recognition of a processing error, the Clerk's Office will contact the filer to remediate the issue.
- d. After a document is electronically file stamped, the document cannot be altered once it has been accepted into the system.

10. Disposition and Maintenance of Source Documents

- a. A document electronically filed shall be accepted as the original filing, consistent with Ohio Civil Rule 5(E) and Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule.
- b. The person filing electronically need not file a hard copy with the Clerk of Court but must maintain in his or her records, and have available for production upon request by the Court, the Clerk of Court or other counsel, the source document of any document electronically filed.
- c. The filer must maintain this source document until the final disposition of the case and through any Notice of Appeal, or, if appealed, appeal period.

11. Public Method of Access to Electronically Filed Public Documents

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- a. Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper via the Clerk of Court's website at <http://www.rrcourt.net>.
- b. Public access to electronically filed public documents will be available via the internet web site of the Clerk of Court as soon as the Clerk has processed the document.
- c. If the internet website is unavailable or is not provided by the Clerk of Court or if the Clerk of Court is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available for review at the office of the Clerk of Court, either by computer terminal or in paper form in the case file.
- d. If, however, a document or case record is sealed or expunged, it is unavailable for public disclosure.

12. Service of Documents

- a. Documents filed electronically with the Clerk of Court shall be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49.
- b. Once a party has entered an appearance in the case, the party shall furnish his or her email address, and service thereafter shall be electronically, where possible.

13. Attachments and Exhibits

- a. Attachments and exhibits are to be filed electronically.
- b. Large attachments or exhibits over 30 megabytes cannot be filed electronically and must be submitted in hard copy and served on all other parties.

14. Signatures

- a. If an original document requires a signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document and, then electronically file it on the System.
- b. A pleading or other document requiring an attorney's signature shall be signed in the following manner if filed electronically: "/(attorney name)/." The correct format for an attorney signature is as follows:
 - /Ohio Attorney/
 - attorney's name (typed)
 - Ohio Supreme Court Number
 - Attorney for (Plaintiff/Defendant)
 - Address
 - Telephone Number
 - Facsimile Number
 - Email Address
- c. Any attorney or party challenging the authenticity of an electronically filed document or signature on that document must file an objection to that document within ten (10) days of receiving the notice of electronic filing.
- d. For documents containing multiple signatures, such as stipulations or documents requiring two or more signatures, the following procedure applies:
 - (1) The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document.

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- (2) The filer will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.
- e. If the filing party or attorney elects to file the document electronically the signatories shall be indicated as, e.g., /Jane Doe/, /John Smith/, etc.
 - (1) A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures themselves must file an objection to the document within ten days of receiving the notice of electronic filing.

15. Orders (Journal Entries)

- a. A moving party, at the time of filing a motion, may submit with that motion a proposed journal entry granting the motion and setting forth the requested relief.
- b. The motion shall be docketed prior to submitting the proposed journal entry to the judge, and the proposed journal entry shall contain, by reference, the case number of the case.

16. Privacy

- a. Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise:
 - Social security numbers except for the last four digits;
 - Financial account numbers, including but not limited to debit card, charge card, and credit card numbers;
 - Employer and Employee identification numbers;
 - A juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV: for "child victim";
 - Proprietary or trade secret information.
- b. With permission of the Court, a party may file, under seal, a document containing the un-redacted personal data identifiers listed above.
 - (1) The party seeking to file an un-redacted document shall electronically file a motion to file the document under seal.
 - (2) In granting the motion or application to seal, the assigned judge may require the party to file a redacted copy for the public record.
- c. The responsibility for redacting personal data identifiers (i.e., social security numbers and bank/credit card numbers) rests solely with the filing party.
 - (1) The Clerk's Office will not review the documents for compliance with this rule or redact documents, whether filed electronically or on paper.

17. Technical Failures

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- a. The Clerk of Court's Office may deem the internet web site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day.
 - (1) Known system outages will be posted on the website, if possible.
- b. A filer who cannot file a document electronically due to problems on the filer's end, must file a hard copy of the document with the Clerk of Court.
- c. A filing party whose filing is made untimely as a result of a technical failure of the Court's system or site, or as a result of the problems on the filer's end, may seek appropriate relief from the Court.

18. Correction of Docket Entries / Documents Filed in Error

- a. Once a document is electronically submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk of Court's Office.
- b. The System does not permit a filing party to make changes to the document(s) or docket entry once the transaction has been accepted.
- c. If a document has been filed in error, the filing party should not attempt to re-file the document.
- d. As soon as possible, after the error has been discovered, the filing party should contact the Clerk of Court's Office with the case number and document number for which the correction is being requested.
- e. If appropriate, the Court will make an entry indicating that the document was filed in error and the filing party will be advised if the document needs to be refiled.
- f. If a document is filed in error (e.g., a document is filed on the wrong case or the electronic file is corrupt or unreadable), upon motion, the judge may order the document stricken from the record.
- g. The Clerk of Court shall immediately notify the filer of the error and inform the filer if the document needs to be re-filed.
- h. The Clerk will not delete the relevant docket text, but will annotate the docket to show the deletion, the reason for the deletion and that the filer has been so notified.

C. NONCONFORMANCE RULE – The Clerk of Court reserves the right to deny any party, firm, or agency the use of eFiling due to habitual nonconformance of these rules and/or equipment incompatibility issues that are not corrected.

RULE 1.17 SERVICE OF PROCESS

The Clerk of the Rocky River Municipal Court shall accept service of process methods as outlined in Civil Rule 4.1 which methods shall include “virtual” service of process.

The Clerk may choose to utilize service by eCertified mail. This advanced postal technology does not modify Civil Rule 4.1(A)(1)(a) *Service by United States certified or express mail*, but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the court's website to show to whom the mail was delivered, the date of delivery, and address where delivered, all in accordance with the now-existing Civil Rules.

The Clerk may also choose to utilize service of process methods as outlined in Civil Rule 4.1(A)(1)(b) *Service by commercial carrier service* using the specific service that the Clerk deems most effective for the purpose. Advanced technology may also allow the provision for advanced

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electronic and website technology in the use of a commercial carrier service and receipt of confirmation utilizing the court's website to show to whom the mail was delivered, the date of delivery, and address where delivered, all in accordance with the now-existing Civil Rules.

All service of process of complaints or other documents served with virtual services of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through this Clerk's Office.

RULE 1.18 COURT RECORD RECORDING AND TRANSCRIPTS

A. **RECORD OF PROCEEDING**: All traffic and criminal proceedings, except minor misdemeanor traffic arraignments, shall be recorded as required by the Ohio Rules of Criminal and Civil Procedure. Civil trials, hearings and other proceedings will only be recorded at the request of either counsel or party, if there is no counsel, unless otherwise deemed appropriate by the assigned Judge.

A party in any case may have a court reporter present to record the proceedings. No fees for court reporters will be taxed as cost or otherwise paid by anyone other than the party providing the court reporter unless that party makes a timely motion prior to trial or hearing for the appointment of an official court reporter and requests in advance that such fees be taxed as costs. See Civil Rule 54(D) and ORC §1901.33. The responsibility of arranging for the attendance of a court reporter shall rest with the attorney and/or party desiring the same.

B. **TRANSCRIPT OF PROCEEDING**: All requests for transcripts of any court proceeding shall be in writing and directed to the judge or magistrate who heard the case. The Court also requires an unopened thumb drive be submitted along with the request. If movant or movant's counsel wants a particular reporting firm appointed to transcribe a recording, a motion seeking such appointment must be made. The court will then contact the appointed reporter with a specific date and time to come to court to transcribe the recording or obtain the record of the proceeding for transcription. If a reporting firm is not specified by movant or movant's counsel, or is not acceptable to the court, then the court will issue an entry appointing a court reporter and the transcription is then obtained from the official court reporter at movant's costs.

All transcripts shall be completed within a reasonable time which shall be thirty (30) days, and the request should allow for that thirty (30) day preparation time.

All transcriptions must be filed with the court immediately upon completion.

C. **COPY OF RECORD OF PROCEEDINGS**: All requests for a copy of a recording of court proceedings require an unopened thumb drive be submitted along with the request. The Rocky River Municipal Court shall follow the Ohio Supreme Court's Rules of Superintendence, Rule 11(D) that states: "*(D) Inspection of electronically recorded transcripts of proceedings. A party may request a copy of an electronically recorded transcript of proceedings, or a portion of the transcript. The court may permit a party to view or hear the transcript of proceedings on file with the court.*"

RULE 1.19 PUBLIC RECORD REQUESTS

Court records are presumed open to public access. Public record requests will be fulfilled in full compliance with the Ohio Rules of Superintendence, the Ohio Revised Code and any other

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applicable rules or statutes. Any public record request that seeks information in electronic format will be delivered in PDF format. This insures the integrity and authenticity of the data received from the Rocky River Municipal Court.

RULE 1.20 JURY MANAGEMENT PLAN

See **APPENDIX A, JURY MANAGEMENT PLAN**, on Page 35.

RULE 1.21 COURT RECORDS MANAGEMENT AND RETENTION

Pursuant to the Ohio Rules of Court, Rules of Superintendence for the Courts of Ohio, Rule 26 (C) and (D), all Rocky River Municipal Court case records filed after January 1, 2006, will be retained in electronic media format, including text and digital images, as an alternative to a paper record.

The Clerk of Court will provide the computer hardware and software equipment necessary to allow for inspection and copying of public records, including public records that are maintained, recorded, copied or preserved by an electronic records and information management process in accordance with division (D)(2) of Rule 26.

Paper media may be destroyed after it is imaged and saved to the electronic case record in accordance with division (D) of Rule 26.

Audio records of courtroom proceedings shall be kept for a period of five (5) years.

RULE 1.22 MEDIATION RULES

The Rocky River Municipal Court incorporates by reference R.C. §2710 “Uniform Mediation Act” (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

A. **DEFINITIONS** - All definitions found in the “Uniform Mediation Act” (UMA) R.C. §2710.01 are adopted by this court through this local rule including, but not limited to the following:

1. “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.
2. “Mediator” means an individual who conducts mediation.
3. “Mediation Communication” means a statement, whether oral, in a record, verbal or non-verbal, that occurs during mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening mediation or retaining a mediator.
4. “Proceeding” means either of the following:
 - a. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
 - b. A legislative hearing or similar process.

B. **PURPOSE** – Mediation is designed to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Rocky River Municipal Court cases. To accomplish this goal, Rocky River Municipal Court Mediation Services has been established.

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C. SCOPE - At any time any action under the jurisdiction of this court may be referred to mediation by the judge or magistrate.

D. CASE SELECTION

1. Referral Process - The court, on its own motion, or the motion of any of the parties may refer disputed issues to mediation in whole or in part by “Notice of Scheduled Mediation” which shall, at a minimum, indicate the date, time, place and contact information of the mediation. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.
2. Eligibility of Cases - Rocky River Municipal Court Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.
3. Mediator Selection and Assignment - The court mediator for the judge assigned to the case may facilitate the mediation.

E. PROCEDURES - In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Rocky River Municipal Court Mediation Services, mediation will 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.

1. The court shall utilize procedures for all cases that will:
 - a. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
 - b. Screen for domestic violence both before and during mediation.
 - c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
 - d. Prohibit the use of mediation in any of the following:
 - As an alternative to the prosecution or adjudication of domestic violence;
 - In determining whether to grant, modify or terminate a protection order;
 - In determining the terms and conditions of a protection order; and
 - In determining the penalty for violation of a protection order.
2. Party / Non-Party Participation
 - a. Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.
 - b. A judge, magistrate and/or mediator may require the attendance of the parties’ attorneys at the mediation sessions if the mediator deems it necessary and appropriate.
 - c. 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 been joined as a

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- party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.
- d. 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 duty to participate in any screening required by the court.
 - e. By participating in mediation, a non-party 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 non-party 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).
3. Confidentiality / Privilege - All mediation communications related to or made during the mediation process are subject to and governed by the “Uniform Mediation Act” (UMA) R.C. § 2710.01 to § 2710.10, the Rules of Evidence and any other pertinent judicial rule(s).
 4. Mediator Conflicts of Interest - 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 non-party 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 from the list of qualified mediators that is maintained by the court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).
 5. Termination - If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he / she shall inform all interested parties and the court that the mediation is terminated using the procedure required by this court.
 6. Stay of Proceedings - All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.
 7. 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. Requests for a continuance shall be in writing.
 8. Mediation Case Summary - Attorneys may, at their option, or must if required on a specific case by the judge and / or magistrate, submit a “Mediation Case Summary” to the mediator which shall contain the following (insert applicable provisions, such as):
 - a. Summary or material facts.
 - b. Summary of legal issues.
 - c. Status of discovery
 - d. List special damages and summarize injuries or damages.
 - e. Settlement attempts to date, including demands and offers.
 9. Mediation Memorandum of Understanding - The assigned mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum

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memorializing the agreement reached by the parties. The “Mediation Memorandum” may be signed by the parties and counsel (if the “Mediation Memorandum” is signed it will not be privileged pursuant to R.C. § 2710.05(A)(1)). The written “Mediation Memorandum of Understanding” may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the court will be regarded unless made in open court.

10. Mediator Report - At the conclusion of the mediation and in compliance with R.C. § 2710.06, the court shall be informed of the status of the mediation including all of the following:

- a. Whether the mediation occurred or was terminated;
- b. Whether a settlement was reached on some, all or none of the issues;
- c. Attendance of the parties;
- d. Future mediation session(s), including date and time;
- e. [Insert any additional applicable provision(s) that are consistent with R.C. § 2710].

F. FEES AND COSTS - Mediation services are provided at no cost to the parties.

G. 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 issuance of a judgment against the party that does not appear, the award of attorney’s fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned judge or magistrate.

RULE 1.23 FRIVOLOUS ACTIONS AND VEXATIOUS LITIGATORS

A. If the Court, *sua sponte* or on motion by a party, determines that an action is frivolous or is filed for delay, harassment or any other improper purpose, it may impose, on the person who signed the complaint or action, a represented party or both, appropriate sanctions. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or any other sanction the court deems just. An action shall be considered frivolous if it is not reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.

B. If a party habitually, persistently and without reasonable cause engages in frivolous conduct under section (A) of this rule, the court may, *sua sponte* or on the motion by a party, find the party to be a vexatious litigator. If the court determines that a party is a vexatious litigator under this rule, the court may impose filing restrictions on the party. The restrictions may include prohibiting the party from instituting legal proceedings in the court without first obtaining leave or any other restriction the court considers just.

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CRIMINAL / TRAFFIC CASE MANAGEMENT

RULE 2.1 DIVERSION PROGRAMS

- A. **THE SELECTIVE INTERVENTION DIVERSION PROGRAM:** The Selective Intervention Diversion Program (SIDP) is for certain non-violent misdemeanor offenses, committed by first-time offenders. Upon successful completion of the program, charges are dismissed and the records in the case are sealed from public inspection. The defendant shall pay the court costs associated with the dismissal. If the defendant fails to successfully complete the diversion program, the defendant shall be found guilty of all charges and the court shall proceed to sentencing. A hearing shall be scheduled at which the court determines whether the defendant has successfully completed the program.

At pretrial/trial, if the prosecutor determines that the defendant is a candidate for the program, the prosecutor may make a motion that the defendant be admitted to the program. The defendant enters the SIDP by entering a No Contest Plea. The defendant shall sign a program agreement. The court will hold its findings in abeyance.

No one may enter the SIDP without the consent of the assigned judge/magistrate. The factors that the court will consider are whether the defendant was cooperative with the law enforcement officer(s) making the arrest, whether the incident is a non-violent offense, whether there is evidence of remorse on the part of the defendant, the defendant's prior criminal/traffic record, whether there are any criminal cases or alcohol related traffic offenses pending against the defendant at the present time and any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found the defendant has an active arrest warrant.

While enrolled in the program, all participants must remain law abiding and have no further criminal offenses or alcohol related traffic offenses. Individuals may be ordered to abstain from alcohol/drugs of abuse, be subject to random alcohol/drug screening, obtain a G.E.D. or high school diploma if applicable, obtain employment, complete community work service and/or comply with any additional appropriate terms. In cases where victim restitution is applicable, the court shall order the defendant to pay restitution. There is a diversion fee for the program. Participants may be ordered to complete an educational instruction program at their own expense.

- B. **THE DRIVING UNDER SUSPENSION DIVERSION PROGRAM:** The Driving Under Suspension Diversion Program (DUSDP) is designed to assist drivers who are under suspension to restore their valid driving privileges. The Diversion Program Coordinator shall review the DUS cases presented before the court. The LEADS Printout shall be reviewed to determine the eligibility of the defendant. Program eligibility shall be determined using criteria established by the court. **A defendant may not participate in the DUSDP if the charge is driving under an OVI/ALS suspension or if there was an accident.**

A DUS checklist form shall be completed by the Diversion Program Coordinator. The checklist shall identify the specific problems the defendant has with the Bureau of Motor Vehicles (BMV) and the specific tasks and financial costs necessary to restore driving

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privileges. In addition, all other pending or unpaid traffic matters will be identified on this form.

Defendant's ability to participate may be determined at arraignment or following a prosecutor's pre-trial conference with the defendant/defense counsel.

1. If eligible, defendants will be asked if they wish to participate in the program.
2. The defendant shall enter a No Contest plea to the DUS Charge and any accompanying charges.
3. Defendants shall sign a program agreement.
4. The court shall hold its findings in abeyance.
5. A Journal Entry shall reflect assignment to the program.
6. The case shall be continued on the court's docket for a reasonable period of time.
7. The checklist shall be reviewed and the defendant advised on the tasks and financial costs necessary to obtain valid driving status, including, but not limited to, obtaining auto insurance.
8. Upon defendant's return to court on the DUSDP hearing date, the court will issue a finding on the original plea based on whether defendant has a valid driver's license and insurance. If the defendant has a valid license and insurance, the DUS will be amended to a failure to display charge and all accompanying traffic charges will be dismissed at the defendant's cost. Insurance issues may be resolved pursuant to ORC §4509.101(D).
9. Participants of the DUSDP will be required to pay a diversion fee, a mandatory fine relative to the licensing offense, plus all court costs associated with their case(s).
10. Any program violation will result in termination of the referral, the court entering a finding of guilty on the original pleas and proceeding to sentencing.

- C. THE YOUNG ADULT ALCOHOL DIVERSION PROGRAM: The Young Adult Alcohol Diversion Program (YAADP) is for first-time offenders charged with offenses alleging underage purchase, consumption, or possession of alcohol. Defendants are eligible if they also have an accompanying minor misdemeanor offense of open container or disorderly conduct.

At arraignment, if it appears that defendants are candidates for the program, and they want to enter the YAADP, they need to enter a No Contest Plea when asked by the court. Defendants shall sign a program agreement. The court will hold its findings in abeyance. This step can also occur following a prosecutor's pre-trial conference with defense counsel.

Individuals may not be admitted into the YAADP if the court finds that a defendant has prior criminal convictions, a prior OVI/OMVUAC conviction or the instant offense is connected to an OVI/OMVUAC arrest, the defendant made false statements to a law enforcement officer, there are other criminal offenses charged with the present offense or for any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found the defendant has an active warrant issued for arrest.

A defendant is given six months from the date of the no contest plea to complete the program. Participants shall pay a diversion fee, complete an educational instruction program at their own expense, and complete 20 hours of community service work. While enrolled in the program, all participants must remain law abiding, have no further criminal offenses or alcohol/drug related traffic offenses and are subject to random alcohol/drug screening.

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Upon successful completion of the YAADP requirements a dismissal hearing will be held at which the court shall dismiss the charge and seal the record. The defendant shall pay the court cost associated with the dismissal. If the defendant fails to successfully complete the diversion program, the defendant shall be found guilty of all charges and the court shall proceed to sentencing on those charges.

RULE NO. 2.2 ARRAIGNMENT

The Clerk of Rocky River Municipal Court shall require the filing of a written complaint or uniform traffic ticket before placing an individual's name on the traffic / criminal docket.

A. Plea by Personal Appearance: The defendant, either on his own behalf or by and through counsel, may enter one of the following pleas at arraignment:

1. Guilty,
2. Not guilty
3. No contest, or
4. Not guilty by reason of insanity (except in traffic cases where a not guilty plea by reason of insanity is not applicable).

B. Not Guilty Plea by letter: A defendant may enter a plea of not guilty by letter prior to defendant's scheduled arraignment provided that the letter is sent by retained or court appointed counsel. The letter shall include counsel's name, email address, office address and zip code, office telephone number, and counsel's Ohio Supreme Court Certificate of Registration Number. The letter shall demand or waive the defendant's right to a speedy trial, demand or waive the defendant's right to a jury trial if the offense is one that provides a right to a jury trial and indicate if the defendant is willing to have his case heard by a magistrate. If right to a speedy trial is not addressed, the court will presume that a right to speedy trial is not waived and schedule accordingly. If right to a jury trial is not addressed, that right is waived pursuant to Ohio Rule of Criminal Procedure 23.

C. Request for continuance: Defendant may request a reasonable continuance of initial arraignment by filing a written motion or defendant may appear in court at arraignment to request a continuance.

RULE NO. 2.3 WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND OHIO REVISED CODE

Pursuant to the requirements of Criminal Rule 4.1(E), and Traffic Rule 13, the court has established a waiver schedule by administrative order. The schedule is available at the counter in the Clerk's Office and on the court's website at www.rrcourt.net.

RULE NO. 2.4 BAIL BOND SCHEDULE

SEE APPENDIX B for more information on RPMC's Bail Bond Schedule.

RULE 2.5 USE OF ELECTRONICALLY PRODUCED TICKET (eTICKETING)

The use and filing of a ticket that is produced by a computer or other electronic means is hereby

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authorized in the Rocky River 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 at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

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CIVIL / SMALL CLAIMS MANAGEMENT

RULE NO. 3.1 CIVIL CASE MANAGEMENT

- A. Costs: No action, proceeding, motion or other document shall be accepted for filing by the clerk of court unless there first shall be deposited the sum of not less than the amount specified in the civil costs section as security costs, unless otherwise ordered by the court or otherwise exempted by law. The schedule of court costs in the civil division is set by administrative order. The schedule is available at the clerk of court's office or at the court's web site. Those persons unable to post the required security for costs may be excused from the same upon filing of an appropriate affidavit, when approved by the judge assigned to the case.
- B. Summons: The summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the clerk of court shall notify counsel immediately. If counsel/pro se litigant fails to obtain service of the summons and complaint within 6 months from the date the case has been filed and the party on whose behalf such service was required cannot show good cause why such service was not made, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion.
- C. Assignment of cases: If an answer or motion, other than one for default judgment, is filed, the clerk of court shall immediately forward the file to the judicial staff for random lot assignment.

RULE NO. 3.2 JOINDER AND SEPARATION OF CASES

- A. Motions for joinder, consolidation and separation of civil cases shall be addressed to the administrative judge. The clerk of court shall be provided with a sufficient number of copies of any motion filed in accordance with this rule to include a copy in each file affected by the motion. Failure to comply with this provision will result in such partial filing being stricken.
- B. If joinder or consolidation is permitted, all cases so joined will be assigned or transferred to the judge holding the case with the lowest case number.
- C. If separation is permitted, the originally assigned judge shall retain the case bearing the lowest case number.

RULE NO. 3.3 PLEADINGS AND MOTIONS

Upon assignment of a civil case to an individual judge, pleadings, motions and other pertinent documents shall be filed with the clerk of court.

All motions must be in writing, on 8 1/2 x 11 paper, with no backing, and served on opposing counsel / pro se litigant. All motions must be accompanied by a written memorandum containing argument and citations.

Motions and responses must be filed within the time guidelines set forth in the Ohio Rules of Civil Procedure.

Motions shall be ruled on without a hearing unless otherwise requested in writing, and at the court's discretion.

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Motions for Summary Judgment

Unless otherwise ordered by the court, Motions for Summary Judgment shall be decided on the briefs and other attachments without oral arguments. The adverse party shall file a brief in opposition within fourteen (14) days after service of the motion.

Motions other than for Summary Judgment

Each party opposing a motion other than Motion for Summary Judgment shall serve and file a brief in opposition within seven (7) days of service of said Motion, unless a longer time period is provided in the Ohio Rules of Civil Procedure.

RULE NO. 3.4 PRE-TRIAL CONFERENCES

- A. The judge/magistrate may schedule a pre-trial conference the purpose of which is to narrow and clarify issues, agree to stipulations, set a case management schedule, and attempt to reach settlement.
- B. Attorneys and/or pro se litigants are required to appear at scheduled pre-trial conferences and failure to appear may result in sanctions. Counsel attending a pre-trial conference must have complete authority to stipulate to items of evidence and admissions, and must have full settlement authority or have the client present at the pre-trial.

RULE NO. 3.5 JOURNAL ENTRIES

The court shall prepare judgment entries. However, when ordered by the court, counsel for the party in whose favor an entry, order, judgment, or decree is entered, shall prepare a proper Journal Entry and submit it to the court.

RULE NO. 3.6 DEFAULT JUDGMENTS

In all cases in which default judgment is available to a party by reason of failure of defendant to answer or appear, the motion for default judgment must be filed within 90 days from the time that plaintiff has notice of such default. Failure to file a motion for default shall result in dismissal of the complaint for want of prosecution. Proof of damages must be submitted to the court by affidavit or testimony. For cases based on an account, the account statement must be submitted, along with proof by affidavit or testimony that no subsequent payments have been made on the account.

RULE NO. 3.7 FORCIBLE ENTRY AND DETAINER

- A. COMPLAINT - A complaint in Forcible Entry and Detainer shall be filed and shall contain a reason for the eviction, a copy of the notice under ORC § 1923.04, and a copy of the written instrument upon which the claim is founded. When the plaintiff is a corporation, the complaint must be signed and prosecuted by an attorney. Noncompliance with this rule may result in dismissal of the complaint.
- B. TRIAL - There shall be no "Answer Day" or "Call Day" as the term is used in other civil cases, and the trial date shall be set forth in the summons. Defendant shall be served at least seven (7) days prior to the date set for trial. Motions shall be heard at the trial, unless the assigned judge or magistrate directs otherwise.
- C. CONTINUANCE - A continuance may be granted as provided in R.C. §1923.08.

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D. ENFORCEMENT OF FIRST CAUSE JUDGMENT – WRITS AND MOVE-OUTS

1. If judgment is for plaintiff on the first cause (possession), unless otherwise ordered by the court, the plaintiff may immediately purchase a Writ of Restitution and schedule a move-out with the bailiff.
2. Writs must be timely purchased. Timely purchase is determined according to the following:
 - a. Within thirty (30) days of the date of the judgment, unless the judgment orders otherwise.
 - b. Where the judgment is more than thirty (30) days old, but less than sixty (60) days old, plaintiff must file a Motion for Leave to Purchase a Writ and serve a copy of the motion on the defendant(s). The court may schedule a hearing on the motion or decide the motion on the filings of the parties. Upon the granting of the motion, plaintiff may purchase a writ and schedule a move-out.
3. Writs must be executed upon (the scheduled move-out must occur) within fifteen (15) business days of issuance by the clerk's office. If a move-out is stayed or canceled, and more than fifteen (15) business days pass between the date the writ issued and the new move-out date, the plaintiff must purchase a new writ.

E. SCHEDULING THE MOVE-OUT - In order to arrange for the physical removal of the defendant and their belongings, the following must occur:

1. Plaintiff must purchase a writ of restitution from the clerk;
2. Plaintiff must call the judge's bailiff to schedule the move-out within five (5) days of the purchase of the Writ.
3. Upon presentation of the receipt, the bailiff shall schedule a move-out date and inform the plaintiff of the scheduled date.

F. MOVE-OUTS

1. Every move-out scheduled by the court pursuant to a Writ of Restitution shall be supervised by the bailiff. The actual physical move-out of defendant's belongings shall be conducted by the movers hired by the plaintiff.
2. On the scheduled date and hour, the bailiff shall meet the plaintiff, or his/her agent, at the premises. The bailiff shall enter the premises and remove all inhabitants not lawfully entitled to possession. The movers shall then conduct the actual physical move-out and place the items on the tree lawn.
3. The court recommends that plaintiffs inspect the premises prior to scheduling the move-out date. On the scheduled move-out date, if the volume or nature of the contents of the premises is such that removal of the contents to the tree lawn would create a health or safety hazard, the move-out may be canceled. Thereafter, a new move-out date may be set in conjunction with a special waste collection as scheduled by the plaintiff. Although the costs of special waste collections are initially borne by plaintiff, plaintiff may plead such costs as damages.

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RULE NO. 3.8 CHANGE OF VENUE CERTIFICATION OR PROCEEDINGS

- A. **COURT AS TRANSFEROR**: The clerk shall not transfer any case pursuant to venue change in application of Civil Rule 3(C) until all costs are paid, and, in addition, a check made payable to the transferee court in the sum sufficient to secure its costs is deposited with the clerk to accompany the file upon transfer. It shall be the responsibility of the plaintiff's attorney to ascertain the filing cost in the transferee court. Failure to comply with this rule within fourteen (14) days from the date of entry as to change of venue may form the basis for dismissal of the action.
- B. **COURT AS TRANSFEREE**: The clerk shall not file and docket any case transferred to this court pursuant to venue change in application of Civil Rule 3(C) until a sum sufficient to secure costs has been deposited. Failure to comply with this rule within fourteen (14) days from receipt of the file from the transferor court may form the basis for returning the file to the transferor court.
- C. **CERTIFICATION TO COMMON PLEAS COURT**: It shall be the responsibility of any party filing a counterclaim, crossclaim or third-party complaint exceeding the monetary jurisdiction of the court to also file a motion to certify the case to the Court of Common Pleas. The motion shall be accompanied by a check or money order made payable to the Court of Common Pleas, in a sum of not less than the amount specified as security costs for that court. Failure to comply within thirty (30) days of the filing of such counterclaim, crossclaim or third-party complaint shall be grounds for dismissal under Civil Rule 41(B).

RULE NO. 3.9 TRANSFER OF JUDGMENT

Pursuant to provisions of ORC §2329.02, the clerk of court shall accept for filing, a Certificate of Judgment or a Transcript of the Proceedings of the original court which shall be docketed and numbered as if originally filed in this court and the clerk shall notify the original court by mail that such transfer has been made.

RULE NO. 3.10 SMALL CLAIMS

- A. **COMPLAINT** - A small claims action is commenced by filing a small claims complaint pursuant to ORC § 1925.04. A small claims handbook is available from the clerk of court. The clerk of court shall accept claims for filing and shall not provide legal advice. A defendant is not required to file an answer or a statement of defense. A timely counterclaim or crossclaim may be filed. All pleadings will be construed to accomplish substantial justice. Should the defendant fail to appear for the hearing, a judgment may be entered.
- B. **CONTINUANCES** - No case scheduled for trial, hearing or mediation may be continued except on written motion and for good cause shown. Such motion shall be filed with the court not less than seven (7) calendar days prior to the hearing, trial or mediation. In the case of unforeseen emergency, this time requirement may be waived.
- C. **MOTIONS TO TRANSFER TO THE CIVIL DOCKET** - Unless good cause is shown, a motion to transfer to the regular docket shall accompany all timely, written counterclaims and crossclaims in excess of \$6,000.00 (or the jurisdictional limit) and shall be transferred to the regular docket. After transfer, the defending party shall have 28 days from judicial assignment, to move or plead. A motion to transfer (without a counterclaim or crossclaim in excess of \$6,000.00) must be filed seven days before trial and may be transferred to the regular docket. A jury demand shall not be allowed in a case filed in the Small Claims Division unless accompanied by a proper and timely motion to transfer to the regular docket. The movant must

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comply with Local Rule 29 regarding jury demands and all required fees and deposits must have been paid.

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APPENDIX A

JURY MANAGEMENT PLAN

RULE 1.20.1 SCOPE

This Local Rule of Practice for Jury Management shall govern petit jury assembly, selection and management in the Rocky River Municipal Court. It addresses the mandates of Rule 5(B)(2) of the Rules of Superintendence for the Courts of Ohio, requiring each Court to adopt a Jury Management Plan. The Plan addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in 1993, and Title XXIII of the Ohio Revised Code, amended, effective May 18, 2005. The Rule also takes into consideration the Report and Recommendations of the Supreme Court Ohio Task Force on Jury Service (February 2004), and resulting amendments to the Ohio Rules of Criminal and Civil Procedure, effective July 1, 2005. Its purpose is to implement an efficient and comprehensive system of jury use and management for the Rocky River Municipal Court.

RULE 1.20.2 JURY POOL

The judges of the Rocky River Municipal Court in conjunction with the Rocky River Municipal Court Clerk of Court shall administer the jury assembly process. These officials may appoint clerical personnel to aid in the administration of the jury system. Any person appointed to administer the jury assembly process is a jury administrator. (Ohio Jury Management Standard 10). Jury service is an obligation of all qualified citizens of the Cities of Bay Village, Fairview Park, North Olmsted, Rocky River and Westlake, Ohio, hereinafter referred to as the court's jurisdiction. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a recognizable group in the jurisdiction. (Ohio Jury Management Standard 1). Therefore, the jury administrator shall annually compile the jury pool or jury source list of registered voters in the court's jurisdiction utilizing as its source the Cuyahoga County Board of Elections randomly sorted list of the names of all voters in the court's jurisdiction registered to vote in the preceding election year. (Ohio Jury Management Standard 2).

RULE 1.20.3 RANDOM DRAW

The jury administrator shall randomly draw names from the jury pool or jury source list as needed to establish jury panels for jury selection. Prospective jurors shall not be drawn from bystanders or any source except the jury pool. The jury administrator, by use of automated data processing software, shall intermix and randomly select the names of a sufficient number of prospective jurors for the ensuing year. The software system shall be utilized to randomly assign, from the source list, sufficient prospective jurors to specific panels, and for assignment during voir dire in a random selection process, while efficiently requesting the services of a minimally sufficient number of jurors needed to accommodate trial activity with a minimum of inconvenience to jurors. (Ohio Jury Management Standards 3 and 13).

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**RULE 1.20.4 MANAGEMENT STANDARDS PRIOR TO THE ISSUANCE OF JURY
SUMMONS FOR TRIAL DATE CERTAIN**

Prospective jurors shall be summoned only upon notice to the jury administrator from the assigned Judge or the judge's designee. Such action shall be prompted by the filing of a written jury demand, if required by the Ohio Rules of Civil and Criminal Procedure, in cases that have not been resolved at pre-trial or other appropriate hearing.

In civil cases, a jury demand fee in an amount indicated in the court's most recent Administrative Journal Entry/Schedule of Court Costs, shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, the *jury demand fee*, in the amount set by said Administrative Entry shall accompany said pleading. One (1) business day prior to the trial date, the *jury deposit fee* must be receipted by the Clerk's Office by noon. This *jury deposit fee* (as listed in the court's most recent Schedule of Court Courts), shall be used to pay the prospective jurors who have been called in response to the jury demand. The *jury deposit fee* will not completely cover the juror expense. The remainder of the juror expense will be added to the court costs of the case at hand. In the event either *deposit fee* or the *demand fee* is not made, this shall be deemed a waiver of the right to a trial by jury in the civil case. (RRMC Local Rule 1.13(B)) A person determined to be indigent may petition the court for a waiver of the jury deposit requirement. No deposit shall be required of a party in a criminal / traffic case.

Every effort shall be made to resolve cases prior to summoning a jury. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial. The assigned judge or his or her designee shall contact counsel, or the parties, whichever is appropriate, at least two weeks prior to the scheduled trial date. If it appears that trial is inevitable, a jury panel shall be summoned upon court order, at least fourteen (14) days in advance of the trial, unless the time limitations in criminal cases pursuant to ORC § 2945.71 are invoked, requiring summons to issue at least seven (7) days prior to the scheduled jury trial. Those costs associated with the summoning of a jury as set by the court's most recent Administrative Journal Entry/Schedule of Costs, shall be assessed to the party requesting the jury trial.

In cases where multiple civil trials are set for the same date, jury costs shall be assessed to the last case settled on the date of the jury trial, as substantial efforts have been made by the court to have all issues resolved prior to trial. If a civil case is settled on the date of the jury trial all lawful costs shall be assessed against the party who requested the jury, unless otherwise agreed by consent entry. If a jury has been sworn at the trial of a civil case, the fees of the jurors shall be paid to the public treasury from which the jurors were paid.

In cases where multiple criminal/traffic trials are set for the same date, the individual jury service payment shall be assessed at the discretion of the judge per agreement of the parties. Ultimately, said costs will be assessed based on the motion of the prosecution. If the agreement is the defendant is to pay costs, all court costs shall be assessed to the defendant unless otherwise agreed. If the agreement is that the State or the City pay costs, the cost of summoning the jury, as well as other court costs, including the cost of paying juror fees will be assessed to the State or City based on the complaint in the file unless amended, unless otherwise agreed by the parties. ORC §2947.23(A)(2)(b) effective May 18, 2005 provides that if a jury has not been sworn at the trial of a criminal case, and the defendant fails to appear without good cause, the costs incurred for that morning's jurors for that particular trial may be included in the costs of prosecution. If the costs

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incurred in summoning jurors are assessed against the defendant, those costs shall be paid to the public treasury from which jurors were paid.

RULE 1.20.5 NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE

As soon as possible after receiving the names from the jury pool, the jury administrator, on an ongoing as needed basis, shall mail to each person whose name is drawn a juror questionnaire or jury qualification form. The form shall indicate that a jury summons may issue in the ensuing year for service as a prospective juror (Attachment A).

Upon notice of a staff member of the Judge conducting the upcoming jury trial, the jury administrator shall send Summons upon Court Order at least fourteen (14) days in advance of the scheduled trial date. A judge may order prospective jurors to appear upon less notice when, in the course of jury selection, it becomes apparent that additional prospective jurors are required in order to complete jury selection, or where there is not a waiver of speedy trial in a criminal case.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty persons per trial shall be summoned for service unless the court determines that a lesser or greater number is necessary for a particular trial.

Persons summoned for jury service shall receive compensation in the amount designated in the most recent Administrative Journal Entry/Schedule regarding same. Such fees shall be promptly paid from the City Treasury, as appropriate.

Any juror wishing to waive his or 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 Treasury, as appropriate.

The Summons shall include the following information: the date of service, directions to the court, parking, public transportation, per diem compensation set by the most current Administrative Journal Entry setting such rate, attire, meals and how to obtain auxiliary aides and services required by the Americans with Disabilities Act. It shall further explain how and when the recipient must respond, the consequences of a failure to respond, and how the recipient may check reporting status by phone. (Ohio Jury Management Standard 1 and 11) (Attachment B).

The Summons shall indicate that the term of service for any prospective panel shall be one day or the completion of one trial, whichever is longer. (Ohio Jury Management Standard 5)

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors,
3. To remove prospective jurors for cause if challenged peremptorily, or
4. To provide all prospective jurors an opportunity to be called for jury service and to be assigned to a panel.

All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned (see Attachment B). All prospective jurors will have previously been requested to complete the basic jury questionnaire

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form that will have been sent by the jury administrator prior to the Summons being issued (see Attachment A).

The Summons shall also indicate that written forms for seeking disqualification, exception or deferral are available from the court at the clerk's office or on the court's website at www.rrcourt.net. (Attachment C). Written records shall be kept pursuant to Rule 8 regarding Documentation. (Ohio Jury Management Standard 6).

RULE 1.20.6 QUALIFICATION

The court shall determine if the prospective jurors are qualified to serve, or if disabled but otherwise qualified, could serve with reasonable accommodation. In order to qualify as a juror, a person shall state under oath or affirmation that he or she is:

1. A citizen of the United States,
2. At least eighteen (18) years of age,
3. A resident of the summoning territorial jurisdiction of the Rocky River Municipal Court,
4. Able to read, speak and understand the English language,
5. Not suffering from a physical or mental disability that prevents him or her from rendering satisfactory jury service,
6. Not under a guardianship appointment because of mental incapacity, or
7. Not a person who has had rights to vote revoked by reason of a felony conviction and whose rights to vote have not been restored. (Ohio Jury Management Standards 4 and 6).

RULE 1.20.7 EXEMPTION

Only those exemptions expressly provided by statute, narrowly construed are permitted. A person who is over seventy-five (75) years of age is exempt if the juror requests to be excused. 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. Such individuals must be excused by the judge presiding over the case for which they have been summoned or by the judge's designee, the jury administrator. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excusal, exemption or deferral must be made on the appropriate form described in Rule 4, and attached as an Appendix to this Rule. (Attachment C). Once a prospective juror has submitted his or her request for exemption or deferral, the prospective juror must report for service unless otherwise notified by the court. (Ohio Jury Management Standard 6).

RULE 1.20.8 DEFERRAL

The judge or judge's designee may authorize deferral of jury service for up to six (6) months upon a showing of hardship, extreme inconvenience, or necessity (Ohio Jury Management Standard 6). All those deferred will remain in the jury source list or pool for the next year.

RULE 1.20.9 DEPARTURES FROM RANDOM SELECTION AND DOCUMENTATION THEREOF

Departures from random selection shall be permitted only as follows:

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1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors, or
3. To remove prospective jurors for cause or if challenged peremptorily.

The facts supporting juror disqualification, exceptions, and deferrals shall be recorded under oath or affirmation. No disqualification, exemption or deferral shall be authorized unless the facts support it. These records shall be kept for a minimum of two (2) years. (Ohio Jury Management Standard 6).

RULE 1.20.10 TERM OF JURY SERVICE

A person who appears for service as a petit juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service by reporting to the courthouse and being recorded as present for jury service and not deferred, but is not selected and sworn as a juror, completes the person's service in Rocky River Municipal Court when jury selection is completed.

A person who: (1) serves as a juror; or (2) serves until jury selection is completed but is not chosen to serve as a juror, may not be selected for another jury panel until all nonexempt persons in the jury pool for that year have been called for jury duty.

RULE 1.20.11 JUROR SAFETY AND PRIVACY

Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The court shall maintain confidentiality to the extent consistent with constitutional and statutory rights of the parties, and with Ohio's Public Records laws. (Ohio Jury Management Standard 7 D).

RULE 1.20.12 JURY ORIENTATION

The court shall provide prospective jurors with orientation prior to the selection process so that they may understand their role in the legal system. Jury orientation shall include a standard presentation recommended by the Ohio Rules of Superintendence for the Courts of Ohio, Appendix B. Jury Management Standards, Standard 16.

RULE 1.20.13 RECORD SHALL BE MADE

Jury selection shall be recorded including all sidebar conferences. The parties may waive this process in civil matters, but only if the waiver is on the record. (Ohio Jury Management Standard 7)

RULE 1.20.14 JURY PANEL – OATH OR AFFIRMATION BY PROSPECTIVE JURORS

The jury panel consists of those prospective jurors who answered their Summons by reporting for jury service. The judge or judge's bailiff shall administer the following to the prospective jurors of the jury panel:

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“Do you swear or affirm that you will honestly answer any question asked of you during jury selection?”

RULE 1.20.15 INTRODUCTION TO CASE

After welcoming the jury panel, the judge shall introduce the panel to the case. The judge’s introduction to the case shall include at least the following:

1. Introduction of the participants;
2. The nature of the case;
3. The applicable standard of proof;
4. The applicable burden(s) of proof;
5. The presumption of innocence in a criminal case;
6. The appropriate means by which jurors may address their private concerns to the judge;
7. The appropriate standard of juror conduct;
8. The anticipated course of proceedings during trial; and
9. The rules regarding challenges.

To facilitate the jury panel’s understanding of the general nature of the case, with consultation of the parties, the judge may give jurors a brief introduction to the case. The brief introduction may include a general description of the legal claims and defenses of the parties. Ohio Civil Rule 47(a) and Ohio Criminal Rule 24(A), effective July 1, 2005.

RULE 1.20.16 EXAMINATION OF PROSPECTIVE JURY PANEL (VOIR DIRE)

Examination of prospective jurors shall be governed by Ohio Rule of Civil Procedure 47(B) and Ohio Rule of Criminal Procedure 24(B).

Examination of prospective jurors 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 shall be made available to counsel in writing for each party on the day on which jury selection is to begin (See Exhibit C).

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 shall ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process (Ohio Jury Management Standard 7).

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

An examination of a prospective juror may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE 1.20.17 NUMBER OF JURORS

In all *criminal* cases in the Rocky River Municipal Court, the jury shall consist of eight (8) persons. The court shall determine the number of alternate jurors to be seated. The verdict shall be unanimous.

In all *civil* cases in the Rocky River Municipal Court, the jury shall consist of eight (8) persons, unless the parties agree to a lesser number of jurors before the jury is selected. The court shall determine the number of alternate jurors to be seated. The verdict shall conform to existing Ohio law.

RULE 1.20.18 CHALLENGE FOR CAUSE

In both civil and criminal cases, the parties shall make all challenges for cause before the jury is sworn to try the case, or upon a showing of good cause for the delay, before the jury retires to deliberate.

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 (Ohio Jury Management Standard 8).

RULE 1.20.19 NUMBER OF PEREMPTORY CHALLENGES

Peremptory challenges shall be exercised alternatively as presently established by Ohio Revised Code § 2945.23, Ohio Civil Rule 47, and Ohio Criminal Rule 24. All challenges shall be made in open court. Peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure, and as governed by Procedure 41(C) challenges to prospective jurors, effective 7/1/2005, and Ohio Rule of Criminal Procedure (D) peremptory challenges, effective 7/1/2005.

RULE 1.20.20 OATH OR AFFIRMATION OF THE JURY

After the jury has been selected, but before commencement of the trial, the judge or the bailiff shall administer the following oath or affirmation to the jury, including alternate juror(s):

A. OATH:

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR THAT YOU WILL TRUTHFULLY ANSWER THE QUESTIONS ASKED OF YOU BY THE ATTORNEY FOR THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT, AND BY THIS COURT IN REGARDS TO YOUR QUALIFICATIONS TO ACT AS A JUROR IN THIS CASE ENTITLED STATE OF OHIO, CITY OF _____ VS. _____ AND THIS YOU SO DO, AS YOU SHALL ANSWER TO GOD.”

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

B. AFFIRMATION

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR OR AFFIRM THAT YOU WILL DILIGENTLY INQUIRE INTO AND CAREFULLY DELIBERATE ALL MATTERS BETWEEN THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT. DO YOU SWEAR AND AFFIRM YOU WILL DO THIS TO THE BEST OF YOUR SKILL AND UNDERSTANDING, WITHOUT BIAS OR PREJUDICE, SO HELP YOU GOD?”

RULE 1.20.21 PRELIMINARY INSTRUCTIONS

The court shall instruct the jury before opening statements by reading the appropriate instructions that shall include at least the following:

1. The issues for trial,
2. The credibility of witnesses and the manner of weighing the testimony to be received,
3. That each juror may take notes during the trial and paper shall be provided, but note taking shall not interfere with the attention to the testimony; Ohio Civil Rule of Procedure 47 (E) and Ohio Criminal Rule of Procedure 24,
4. The personal knowledge procedure under Rule 25,
5. The order in which the case will proceed,
6. That jurors may seek to ask questions of the witnesses by submission of questions in writing. (Ohio Rule of Civil. Pro. 47 (F)), and
7. That jurors are not permitted to discuss the evidence among themselves in the jury room during recesses from trial. The court shall admonish jurors not to discuss the case with anyone other than fellow jurors in their jury deliberation when all has been presented to them, after the instructions.

RULE 1.20.22 OPENING STATEMENT

1. In *criminal* cases, the prosecution shall state briefly the evidence that supports its case. The defense may then state briefly the evidence in support of the defense, but has the choice to decline to make an opening statement.
2. In *civil* cases, the party with the burden of going forward may briefly state the evidence that supports its case. The adverse party may then briefly state the evidence in support of its case.

RULE 1.20.23 PRESENTATION OF EVIDENCE.

Unless the court otherwise directs, the party with the burden of going forward shall present evidence first, followed by the presentation of evidence by the adverse party.

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE 1.20.24 JUROR TRIAL BOOKS

In both criminal and civil cases, the court may authorize the use of juror trial books to aid jurors in the performance of their duties.

Juror trial books may contain:

1. All given instructions,
2. Information regarding the anticipated trial schedule,
3. Witness lists, and
4. Copies of exhibits admitted for trial.

RULE 1.20.25 PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES.

If the court receives information that a juror has personal knowledge about the case, the court shall examine the juror under oath, concerning that knowledge, in the presence of the parties and outside the presence of the other jurors.

If the court finds that the juror has personal knowledge of a material fact, the juror shall be excused, and the court shall replace that juror with an alternate. If there is no alternate juror, then the court shall discharge the jury without prejudice, unless the parties agree to submit the cause to the remaining jurors.

RULE 1.20.26 JURY VIEW

When the court determines it is proper, the court may order the jury to view:

1. The real or personal property which is the subject of the case; or
2. The place in which a material fact occurred.

The place shall be shown to the jury by a person appointed by the court for that purpose. While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial. Counsel for the parties shall have the right to accompany the jury but shall not speak to the jury.

RULE 1.20.27 FINAL INSTRUCTIONS

The court shall read the appropriate final instructions. The court shall reduce its final instructions to writing or make an audio, electronic or other recording of those instructions, provide at least one written copy or recording of those instructions to the jury for use during deliberations, and preserve those instructions for the record. Ohio Rule of Criminal Procedure 30(A) and Ohio Rule of Civil Procedure 51(A) effective July 1, 2005.

RULE 1.20.28 FINAL ARGUMENTS

When the evidence is concluded, the parties may, by agreement in open court, submit the case without argument to the jury.

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

If the parties argue the case to the jury, the party with the burden of going forward shall open and close the argument. If the party with the burden of going forward declines to open the argument, the adverse party may then argue its case. In criminal cases, if the defense declines to argue its case after the prosecution has made its closing argument, then that shall be the only argument allowed in the case.

In criminal cases, the party with the burden of going forward is the prosecution. In civil cases, the party with the burden of going forward is the plaintiff.

RULE 1.20.29 ASSISTING JURORS AT AN IMPASSE.

If the jury advises the court that it has reached an impasse in its deliberations, the court may, but only in the presence of counsel, and in a criminal case, the parties, inquire of the jurors to determine whether and how the court and counsel can assist them in their deliberative process. After receiving the jurors' response, if any, the court, after consultation with counsel, may direct that further proceedings occur as appropriate.

RULE 1.20.30 SEPARATION DURING DELIBERATION

The court in its discretion may permit the jury in civil and criminal cases to separate during deliberations. However, before the jurors are permitted to separate, the court shall instruct them that while they are separated they shall:

1. Not discuss the case among themselves or with anyone else;
2. Not talk to the attorneys, parties or witnesses;
3. Not express any opinion about the case; and
4. Not listen to or read any outside or media accounts of the trial.

RULE 1.20.31 JUDGE TO READ THE VERDICT

When the jury has agreed upon its verdict, the jurors shall sign the appropriate verdict form in ink. When the jurors return to the courtroom, the judge shall read the verdict. Upon the request of either party, the court may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.

RULE 1.20.32 MONITORING THE JURY SYSTEM.

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

To achieve these goals, the court shall adopt and utilize a juror exit survey, (see Attachment D) along with maintaining regular data on all jury pools as maintained by the jury administrator.

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT A

JURY QUESTIONNAIRE LETTER TEXT

Your name was selected as a prospective juror for Rocky River Municipal Court in a manner prescribed by law. In order to assist in determining whether you meet the legal requirements for service as a juror, the court orders that you answer the questions below. Please complete this form in INK and RETURN IT WITHIN 10 DAYS. If the court requires your service as a prospective juror for a specific trial, the court will send you a *Jury Summons* specifying the date and time your service is required.

Under penalty as prescribed by law, failure to comply could result in Contempt of Court proceedings against you.

This is NOT a summons to appear. If you are chosen to serve, you will be notified LATER by mail.

ALL QUESTIONS MUST BE ANSWERED

PLEASE PRINT

LAST NAME FIRST NAME MID. INITIAL AGE DATE OF BIRTH

NUMBER & STREET CITY STATE ZIP CODE HOME PHONE

OCCUPATION BUSINESS PHONE

NAME & PLACE OF EMPLOYMENT

I SOLEMNLY AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE

DATE

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT B

JURY SUMMONS TEXT

I am commanded to summon you to appear at the Rocky River Municipal Court, 21012 Hilliard Blvd., Rocky River, Ohio, on _____ at **8:30 AM** for the purpose of serving as a Juror.

For directions to the court, please visit our website, www.rrcourt.net. Public parking is located in front of the court. For information regarding public transportation and wheelchair accessible transportation to the court, see the Regional Transit Authority's website, www.riderta.com or call RTA at 216-566-5227.

Numerous restaurants are located nearby. Vending machines are in the lobby of the courthouse.

The per diem compensation is \$25.00 per day.

When you arrive, proceed to the second floor lobby. It is suggested that you bring reading material along with a beverage. Required attire is business casual.

Under penalty as prescribed by law, failure to comply could result in Contempt of Court proceedings against you.

YOUR JURY DUTY IS NORMALLY COMPLETED IN ONE DAY.

NOTE:

**TO CONFIRM YOUR APPEARANCE AS A JUROR,
PLEASE CALL**

(440) 333-0066

**BETWEEN THE HOURS OF 5:00 PM AND 8:30 AM THE NIGHT
BEFORE YOU ARE TO APPEAR. LISTEN TO THE RECORDED
MESSAGE ADVISING YOU IF YOUR APPEARANCE IS NECESSARY**

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT C

JURY SERVICE EXEMPTION, EXCUSE, OR DEFERRAL REQUEST TEXT

Jury service is an important and valuable civic duty. Jury service in Rocky River Municipal Court is usually completed in one day. If you are unable to serve as summoned, you may request that you be exempted, excused or deferred. If excused or deferred, you may be summoned again at a future date.

Instructions: Complete this form and return it to the Rocky River Municipal Court Clerk of Court within two (2) DAYS OF RECEIPT (Court Fax Number: (440) 356-5613). If you do not hear from this court, YOU MUST APPEAR AS SCHEDULED. If you have a question, please call (440) 333-0066. **Please print.**

Please Circle

Yes No I am a citizen of the United States of America
Yes No I am at least eighteen (18) years of age
Yes No I am a resident of Bay Village, Fairview Park, North Olmsted, Rocky River, or Westlake.
If no, list current residence: _____

Claim of Exemption from Jury Service

Yes No I have completed a term of jury service in the 24 months preceding my current selection for jury service and wish to be exempted from jury service.
Yes No I am over the age of 75 and wish to be exempted from jury service.
Yes No I qualify for a statutory exemption and wish to be exempted from jury service.
Please list the exemption: _____

Request for Deferral of Jury Service

I request deferral of my jury service for a period of _____ months (not more than one (1) year) due to undue hardship, extreme inconvenience or public necessity because: _____

I hereby affirm under the penalties for perjury that the foregoing information is true and correct.

Juror No. _____ Signature _____ Date _____

Name: _____

Address: _____

Telephone: _____ Date of Jury Duty: _____

FOR COURT USE ONLY (will be returned to prospective juror)

Comes Now the Court, having reviewed the request for Exemption or Deferral of Jury Service, does now GRANT or DENY (circle one) the request for Exemption or Deferral for a period of _____ months.

Judge or Judge's Designee: _____

Date: _____

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT D

LIST OF PROSPECTIVE JURORS

Computerized list of summoned petit jury jurors provides the following information:

1. Service Number
2. Full Name
3. Address
4. Annual Number
5. Term Number
6. Date of Jury Trial

Two lists are generated. One lists the prospective jurors alphabetically, the second lists them by their Service Number (random lot number 1-35).

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT E

JURY EXIT QUESTIONNAIRE

Your answer to the following questions will improve jury service. All responses are voluntary and confidential.

1. Approximately how many hours did you spend at the Rocky River Municipal Court? _____
2. Of these hours in the court, how many were spent in the jury room? _____
3. Have you ever served on jury duty before? _____
4. Did a judge speak with you, other than during the initial orientation or the trial? Yes No
If so, when? _____
5. How would you rate the following factors? (Please answer all)

| | Good | Average | Poor |
|---------------------------------|------|---------|------|
| a. Initial Orientation | [] | [] | [] |
| b. Treatment by Court personnel | [] | [] | [] |
| c. Physical comforts | [] | [] | [] |
| d. Personal safety | [] | [] | [] |
| e. Parking facilities | [] | [] | [] |
| f. Eating facilities | [] | [] | [] |
| g. Scheduling of your time | [] | [] | [] |
6. Did you lose income as a result of jury service? Yes No
7. Are you paid by your employer during jury service? Yes No
8. After having served, what is your impression of jury service? (Answer one)
 - a. The same as before – favorable []
 - b. The same as before – unfavorable []
 - c. More favorable than before []
 - d. Less favorable than before []
9. In what ways do you think jury service can be improved? _____

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

10. Age: (please circle one) 18-20 21-24 25-34 35-44 45-54 55-64 65 – over
11. Gender: [] Female [] Male
12. Occupation: _____

**ROCKY RIVER MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

APPENDIX B

**MISCELLANEOUS ADMINISTRATIVE COURT ORDERS
BAIL BOND SCHEDULE**

**IN THE ROCKY RIVER MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO) JUDGE DONNA CONGENI FITZSIMMONS
) ADMINISTRATIVE / PRESIDING JUDGE
) SS:
) ADMINISTRATIVE ORDER AND JOURNAL ENTRY
COUNTY OF CUYAHOGA) **BAIL BOND SCHEDULE**

Pursuant to Crim.R. 46(G), the bail schedule for misdemeanor charges, including traffic offenses, unless excluded below, shall be set as follows:

1. Personal recognizance is the rule. If the police officer or prosecutor, based on the circumstances of the case, has reasonable cause to believe that a personal recognizance bond is insufficient, the Administrative Judge shall be contacted for additional authority. If the Administrative Judge determines that personal bail is insufficient, the conditions of release shall be set pursuant to Crim.R. 46. When the Administrative Judge has previously set bail in a case, or has ordered a new amount in its last capias or warrant entry, that bail shall remain in effect unless otherwise ordered by the Administrative Judge.

For all other charges, the Administrative Judge of the court shall set bail pursuant to Crim.R 46.

2. Felonies;

3. Misdemeanor charges, regardless of whether charged under the Ohio Revised Code, local ordinance, or other statutory provision:

- A. Domestic violence or any other offense of violence if the victim is a family or household member (see: R.C. 2919.251);
- B. Violation of any protection order or condition of community control, supervision, or probation involving prohibition from contact with specified persons or places;
- C. Aggravated menacing (R.C. 2903.21);
- D. Menacing by stalking (R.C. 2903.211);
- E. Menacing (R.C. 2903.22);
- F. Aggravated trespass (R.C. 2911.211);
- G. Any sexually oriented offense as defined by R.C. 2950.01.
- H. Any other offense when the victim, police officer, or prosecutor is seeking a protection order, no contact order, or other conditions of bond.

