

Local Rules of Court

AUGLAIZE COUNTY
MUNICIPAL COURT
FILED

2020 JUN -1 PM 1:31

Auglaize County Municipal Court

I. JEAN MECKSTROTH
CLERK OF COURTS

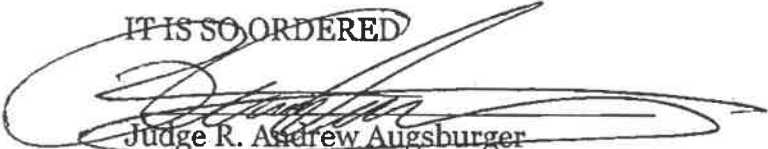
Effective: June 1, 2020

IN RE: ADOPTION OF LOCAL RULES OF COURT

IT IS THE ORDER OF THE COURT that the following local rules of court are adopted to govern proceedings before the Auglaize County Municipal Court in all criminal, civil, small claims and traffic proceedings effective June 1, 2020.

IT IS FURTHER ORDERED that all previous local rules are hereby rescinded effective June 1, 2020 and a copy of these rules shall be filed with the Auglaize County Clerk of Courts and the Supreme Court of Ohio.

IT IS SO ORDERED



Judge R. Andrew Augsburger
Auglaize County Municipal Court

Table of Contents		Page
Rule 1	Scope and Applicability of Rules; Purpose	1
Rule 2	Term of Court; Hours of Sessions	1
Rule 3	Court Costs	1
Rule 4	Service	2
Rule 5	Removing Files; Copying Files	3
Rule 5.1	Protection of Personal Identifiers	3
Rule 6	Pleadings and Motions	4
Rule 7	Facsimile Copy Filing with the Clerk	5
Rule 8	Certificate of Service	9
Rule 9	Rule Dates and Extensions	9
Rule 10	Notification of Counsel	10
Rule 11	Withdrawal of Trial Counsel	10
Rule 12	Scheduling Conference	11
Rule 13	Pre-trial Procedure	12
Rule 14	Discovery	14
Rule 15	Interrogatories and Production of Documents	15
Rule 16	Depositions	15
Rule 17	Trial Briefs	16
Rule 17	Default Judgments and Relief from Judgment	16
Rule 19	Entries in Civil Cases	17
Rule 20	Continuances	18
Rule 21	Attorney Case Load	19
Rule 22	Admission Pro Hac Vice	19
Rule 23	Counsel for Indigent Criminal Defendants	19
Rule 24	Indigent Appeal Procedure	19
Rule 25	Bail and Surety Bonds	20
Rule 26	Jurors	20
Rule 27	Jury Waiver	21
Rule 28	Discharge of Jurors for Past Service	21
Rule 29	Conduct at Trial	22
Rule 30	Courtroom Procedure	23
Rule 31	Guidelines for Counsel in Jury Trials	24
Rule 32	Findings of Fact and Conclusions of Law	26
Rule 33	Transcription: Trial Record	27
Rule 34	Exhibits for Reporter	28
Rule 35	Bankruptcy Adjudication	28
Rule 36	Work-Release Program	28
Rule 37	Conditions of Community Control	32
Rule 38	Trusteeship	34
Rule 39	Transfer from Small Claims Docket	34
Rule 40	Weddings	34
Rule 41	Clerk Acceptance of Proof of Insurance	35
Rule 42	Special Projects Fund and Supervision Fees	35
Appendix		36

These rules may be cited as "Local Rule _____," or "Loc. R. _____."

Rule 1

Scope and Applicability of Rules; Purpose

The Rules herein after set forth shall apply to the Criminal, Civil, and Small Claims Divisions of the Auglaize County Municipal. The purpose of these Rules is to define local practices and procedures of this Court, consistent with the Rules of Superintendence, Civil and Criminal Procedure, Traffic Rules and such, as other Rules as may be adopted or promulgated by the Supreme Court of Ohio.

Rule 2

Hours of Sessions

The separate sessions of this Court for the trial of cases shall be from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:30 p.m. on Monday through Friday each week, except on those days designated by law as legal holidays. The Court shall be in session at such other times as the Judge shall prescribe to meet special situations or conditions.

Rule 3

Court Costs

Court costs in criminal, civil and traffic proceedings shall be established by the Judge of the Court in conformance with the provisions of the Ohio Revised Code.

Copies of the cost schedule shall be made available to the public and attorneys upon request.

The Clerk shall have the following discretionary powers:

- a. To apply any deposit for costs at the termination of litigation to any unpaid costs due.
- b. To make periodic partial distribution of money deposited for the purpose of fines and restitution or funds paid pursuant to a trusteeship order.
- c. To refuse to file any paper or pleading not filed in complete conformity with these rules, or any pleading which is not signed or in which the original signature is illegible.
- d. To refuse to accept any check that is not certified.
- e. To require an additional deposit for costs from the initiating party or parties when the Clerk of the Court is of the opinion that the funds on deposit for costs are or will become inadequate in an amount sufficient to cover the excess costs.

Unless a poverty affidavit is filed, no civil action shall be accepted by the Clerk unless the party or parties offering the same for filing have first deposited a sum of money to secure the payment of costs and to pay the filing fees required by the Ohio Revised Code and Local Rules.

Rule 4

Service

(A)(1) In all civil filings, the plaintiff shall initially choose one method of service as provided for in Civil Rule 4.1, and may not request service by an alternate method until there is a return showing failure of service.

(A)(2) Special Process Servers

- (a) Application. A person may apply to be designated as a "Special Process Server" for cases filed in the court by filing an application supported by an affidavit setting forth the following information:
 - (1) The name, address, and telephone number of the applicant
 - (2) That the applicant is eighteen years of age or older
 - (3) That the applicant agrees not to accept service of process on any case in which the applicant is a party or counsel for a party
 - (4) That applicant agrees to follow the requirement of Civil Rule 4.1 through 4.6, any applicable local rules, and specific instruction for service as ordered by the Court in individual cases.
- (b) Order. The applicant requesting the designation shall submit an order captioned "In Re the Appointment of (name of applicant) As Standing Special Process Server" and stating the following:

"It appearing to the Court that the Applicant is eligible for appointment as a Special Process Server, (name of applicant) is hereby designated a Special Process Server authorized to make service of process in all cases filed with the Court, and to serve one year from the filing of this Order."
- (c) Filing. The order shall be signed by the Judge and shall be filed with the Clerk of Court who shall record the entry and retain the original Application and Order. For a one year period from filing, the Clerk shall accept a file-stamped copy of such order as satisfying the requirements of Civil Rule 4.1 for the designation by the Court as a person authorized to make service of process. The cost of filing this application is \$100.00.

(B) Counsel for a party desiring service by a publication shall submit to the Clerk of Courts the proposed legal notice for such publication. This notice shall be promptly

published in the local newspaper by the Clerk of Courts. The costs of the legal notice shall be paid by the requesting counsel directly to the newspaper.

Rule 5

Removing Files; Copying Files

The Clerk of Courts shall not permit any of the files of that office to be taken from said Clerk's custody except with written approval by the Court, and only then with proper receipt for the same. No such Pleading or papers shall be removed from the Auglaize County Courthouse. Such orders shall not prevent the files of the Clerk of Courts being removed from the County by a visiting Judge, however.

The Clerk shall permit any party to the action or her attorney or agent to make copies of any papers in the files of the Court (except Depositions and Bills of Exceptions, and except items otherwise sealed), the same to be made at the expense of the party requesting such copies. The Clerk shall charge \$.05 per page for all copies made of documents on file in the office of the Clerk of the Court. If Certificate and Seal is requested, the Clerk shall charge an additional \$1.00 fee for each document.

Rule 5.1

Protection of Personal Identifiers

A person filing or submitting a document with the Court or the Clerk of Court shall comply with Rule 44 through 47 of the Rules of Superintendence for the Courts of Ohio by not including in any document "personal identifier":

Superintendence Rule 44(H) – "Personal identifier" means 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; any other information deemed personal and private by any federal or state statute, regulation, executive order, or court ruling.

The parties when omitting personal identifiers from a case document shall submit that information to the Court or Clerk on a separate form designated by the Court in this rule as Form 5.1. Such completed forms shall only be accessible as provided for in the Rules of Superintendence, which will be deemed by the Court as a non-public record. The information will be kept in a separate envelope within the case filed and marked as follows: "CONFIDENTIAL FILE – To be opened by Court/Clerk Personnel ONLY."

When issuing orders or other documents that require personal identifiers such as on arrest warrants or garnishment orders, those personal identifiers shall be provided on a separate document and not be a part of the case document. That document shall be maintained by the Clerk in the same manner as the personal identifier information sheet, and shall be transmitted by the Clerk to the Sheriff, law enforcement agency, garnishee,

or other appropriate party or person as needed to carry out the warrant or order as appropriate.

It is the responsibility of the filing party and counsel to remove personal and private information from a document filed with the Clerk of Court's office. The responsibility of the filing party and counsel to remove personal and private information extends to and includes exhibits or addenda attached to filings, such as preliminary and final judicial reports, which itemize state tax liens that use social security numbers as case numbers, or medical records. The Clerk of Courts and Deputy Clerks shall have no responsibility for the removal of any personal and private information filed in a public document in the Clerk of Court's office.

Any personal and private information in documents filed prior to June 30, 2009, is considered public. Any personal and private information in records or transcripts transmitted to this court from another court is considered public. A party or an attorney in a case, or any other person whose personal and private information is contained in a public record of this court may petition the court for the removal of personal and private information, and if the request is granted, the personal and private information will be removed from the file-stamped document and placed in a separate envelope and deemed a non-public record. A redacted copy of the document will be placed in the public case file.

Rule 6

Pleadings and Motions

(A) All pleadings, Motions, Memoranda, Briefs and other papers filed for record shall be legibly typewritten or printed on letter size (8 ½" x 11") paper and must be on the FRONT side only. The top right hand corner of the initial sheet of every pleading, motion, brief, or other paper filed for record shall have an area approximately two and one half inches by two and one half inches (2 ½" x 2 ½") left blank for the Clerk of this Court to file stamp the date and time of filing. All subsequent pages shall have a top margin of at least one and one half inches (1 ½"), shall be secure and bound at the top. All such Pleadings shall contain the name, address and telephone number of counsel, the name of the attorney having primary responsibility for the case where counsel is a firm of attorneys or there is co-counsel and the current address of all parties to the action. All such pleadings shall contain a legible, original signature. The Clerk is authorized to refuse to accept any document not conforming to such requirements. Counsel shall notify the Clerk in writing of any change of address of any party.

(B)(1) The Clerk of Courts shall not accept for filing any Pleading, Motion or Memorandum unless it is accompanied by a copy thereof, which copy the Clerk shall forthwith forward to the Judge, plus sufficient copies for service and/or return to the filing party.

(B)(2)(a) No party or any representative of any party shall cause to be filed in any civil or criminal case any pleading or filing that contains the full social security number

of any person, and the Clerk shall not accept for filing any pleading or filing that violates this rule, except as provided in Rule 6(B)(2)(b) below. A party or representative thereof may, at their discretion, file a pleading or filing containing the last four numbers of a person's social security number, if such number is relevant to the case or controversy.

(B)(2)(b) Notwithstanding this rule, any request for issuance of an arrest warrant, summons or bench warrant, and the actual warrant or summons issued thereafter, may include the full social security number and date of birth of the person named therein. The Clerk shall, upon return of service of the warrant or subpoena replace the original with a redacted copy (ies) upon which the Clerk shall redact the first five numbers of such social security number, retaining the original document (s) in a separate envelope maintained with the file, with said documents open only to inspection to judicial staff, clerk's staff or upon Court order.

(C) Motions not expressly governed by Civil Rule #65 and Civil Rule #75, shall have attached thereto and is accompanied by a Brief stating the grounds thereof and citing the authorities relied upon. The Clerk shall not accept for filing any Motion or Exception that is not accompanied by such Memorandum or Brief.

(D)(1) All motions may be decided by the Court without oral hearing unless leave of Court for such a hearing is obtained by counsel.

(D)(2) Motions for summary judgment shall be submitted to the Court upon the pleadings as provided for in the procedures and time frames as set forth in Civil Rule 56(C) without a hearing unless otherwise ordered by the Court.

(D)(3) All other motions shall be subject to the briefing schedule and submission as set forth in Civil Rule 6(C).

(E) Pleadings and Motions may be Amended as provided in Civil Rule #15, but no Pleading or Motion shall be Amended by interlineation or obliteration except upon leave of Court.

(F) Counsel and parties are reminded of Revised Code Section 2323.51. The Court shall enforce appropriate sanctions where called for.

(G) The Clerk of this Court shall refuse to accept for filing any pleading, motion or other paper which is unsigned. A rubber stamp signature or the signature of an unidentified third-party not an attorney or party acting in a pro se capacity is not sufficient to satisfy Civil Rule 11.

Rule 7

Facsimile Copy Filing with the Clerk

Pleadings and other papers may be filed in the Criminal, Civil and Small Claims Divisions of the Court with the Clerk of Courts by facsimile transmission to 419-739-6768 subject to the conditions listed below:

APPLICABILITY

- (A) These rules apply to civil, criminal, and Small Claims proceedings in the Auglaize County Municipal Court, Ohio.
- (B) The following documents will not be accepted for fax filing: original wills and codicils, cognovit promissory notes, written pleas of not guilty, written pleas of not guilty by reason of insanity, and any pleadings for filing that require a deposit for costs or check for witness fee.

ORIGINAL FILING

- (A) A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in her records and have available for production on request by the court the source document filed by fax, 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.
- (B) The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules, unless the context requires otherwise:

(A) 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.

(B) A "facsimile machine" means a machine that can send and receive a facsimile transmission.

(C) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

- (A) The person filing a document by fax shall also provide therewith a cover page containing the following information: (See appendix for sample cover page form.)
- (1) the name of the court;
 - (2) the title of the case;
 - (3) the case number;
 - (4) the assigned judge;
 - (5) the title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith', Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
 - (6) the date of transmission;
 - (7) the transmitting fax number;
 - (8) an indication of the number of pages included in the transmission, including the cover page;
 - (9) if a judge or case number has not been assigned, state that fact on the cover page;
 - (10) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
 - (11) if applicable, a statement explaining how costs are being submitted.
- (B) If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at the Clerk's discretion;
- (1) enter the document in the Case Docket and file the document; or
 - (2) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the Clerk of Court.

- (C) 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.

SIGNATURE

- (A) A party who wishes to file a signed source document by fax shall either:
- (1) fax a copy of the signed source document; or

- (2) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.
- (B) A party who files a signed document by fax represents that the physically signed source document is in her possession or control.

EXHIBITS

- (A) Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- (B) 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 Smith's Notice of Filing Exhibit "G" to Plaintiff Smith'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. (See appendix for sample exhibit cover sheet.)

TIME OF FILING

- (A) Subject to the provision of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
- (B) 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 Courts.
- (C) The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

- (D) The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

FEES AND COSTS

- (A) No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

- (A) Facsimile filing shall not exceed 20 pages in length. The filer shall not transmit service copies by facsimile.
- (B) Copies needed for service shall be made by the Clerk and charged for at the rate established by the Auglaize County Clerk of Courts.

Rule 8

Certificate of Service

Every Pleading, Motion, Memorandum or Argument, in writing, filed with the Court and Judge, shall be served upon all opposing counsel or upon all parties not represented by counsel.

Proof of service shall be by certificate of service attached to such Pleading of a Motion, Brief, Memorandum or Argument, and shall include the names of attorneys and/or parties served, and the date and manner of such service.

Rule 9

Rule Dates and Extensions

Prior to the expiration of any Rule date, any party may be permitted leave to Move or Plead provided the total extension of time does not exceed twenty-one (21) days. Subsequent to the expiration of a Rule date, leave will be granted only for good cause shown.

Where an additional extension of time beyond that provided by the foregoing paragraph is needed, the party desiring the extension shall file a written Motion supported by an affidavit stating facts indicating the practical impossibility of pleading within Rule and demonstrating good cause for further extension. The Motion and affidavit shall be served upon opposing counsel and the matter shall be heard at a time to be fixed by the Court. Motion and affidavit will be required even though consent of counsel is obtained if the extension is for a period of time beyond twenty-one (21) days.

Rule 10

Notification of Counsel

It shall be the duty of any attorney upon accepting representation of the Defendant in any Civil, or Criminal matter, to immediately notify the Court of such representation, even though her appearance may not as yet have been entered in the case.

Notification by the Assignment Commissioner by ordinary mail shall be deemed official and complete notification to all counsel of any assignment of any case for any purpose whatsoever.

Rule 11

Withdrawal of Counsel

A trial Counsel shall not be permitted to withdraw from any action at any time within twenty (20) days in advance of trial or hearing. At other times withdrawal shall be permitted only:

- (A) Upon written application with the written consent of his or her client and the entry of appearance of a substitute trial Counsel, or;
- (B) Upon written application showing a good cause, and service of a copy of this Rule and notice to the client, and upon such terms as the Court shall impose.

If Counsel for a party shall die or formally enter withdrawal from a case, a party shall have fourteen (14) days in which to secure new Counsel. During such time no actions shall be taken in said cause unless the Court shall determine that suspension shall work an injustice to the opposite party. Upon application of the parties, said time may be extended. If a party fails to procure Counsel within fourteen (14) days or fails to request the Court for an extension, all pending actions will be assigned as in any other case, and the case will proceed. In such case, notice of assignment, filed with the Clerk and made a part of the original papers will be deemed notice to the party without Counsel.

Any Counsel formally withdrawing from a case shall advise the party to the action of this rule by furnishing a written copy of such rule to the party.

Rule 12

Scheduling Conference

(A) At such time as the Court may determine, or upon request of any party to the proceeding, and when it appears that any case is at issue before the Court, such case will be assigned for a Scheduling Conference.

(B) Scheduling Conferences may be held in Chambers or by telephone conference as the Court may direct.

(C) Scheduling Conference Statements need not be filed unless specifically directed by the Court. In the event such order is made, the statement will cover the matters set forth in paragraph (D) below. Criminal matters will generally take precedence over civil matters. Civil matters seeking injunctive relief will be scheduled on a priority basis, consistent with Civil Rule 65, and as soon as practicable whether or not a temporary restraining order has issued.

(D) At such Scheduling Conferences, trial counsel shall appear and be prepared to discuss the following:

- 1.) Nature of proceeding;
- 2.) Peculiar issues involved;
- 3.) Analysis of issues;
- 4.) Scope and time needed for Discovery, including cut-off date;
- 5.) Exchange demonstrative evidence and exhibits;
- 6.) Determine whether Pre-trial Conference and/or Pre-trial statement will be required;
- 7.) Determine witness list exchange date;
- 8.) Possible settlement;
- 9.) Estimate of trial time;
- 10.) Firm trial date.

(E) At the Scheduling Conference, the Court shall have the authority to decide any undetermined preliminary matters; to record any admissions, stipulations or agreements; to hear and decide the case with the consent of the parties in Civil cases; to make whatever findings, orders, Judgments or decrees which may be warranted or proper under the circumstances.

(F) Parties are not required to appear at Scheduling Conferences if held in Chambers unless specifically ordered by the Court.

(G) The Court may set certain proceedings for back-up trial at a Scheduling Conference, or at any time thereafter to date of Pre-trial or Discovery cut-off date. Counsel shall be prepared to go forward with trial. The Court will make every effort to advise trial counsel as early as possible as to whether the back-up trial will go forward or

be preempted by a signed primary trial, but in any event, no later than three (3) days before trial date.

Rule 13

Pre-trial Procedure

(A) All Civil cases not in Default and all Criminal cases where a plea of Not Guilty has been entered at an Arraignment should be pre-tried. Pre-trial Conferences may be held by telephone conference calls with prior arrangement and approval of the Court.

(B) In all Civil cases, Pre-trial Statements by all parties shall be filed with the Court at least three (3) days before date of Final Pre-trial. They shall include the following:

- 1.) A statement of the facts giving rise to the claim or defense, and/or counter-claim.
- 2.) A comprehensive statement of the issues involved.
- 3.) Propositions of law or positions supported by law with at least two (2) or three (3) authorities cited.
- 4.) List of and addresses of witnesses who will be appearing on behalf of the party, including a short statement of testimony of witnesses. Witness lists shall be furnished to the Court Reporter.
- 5.) A list of all demonstrative evidence or exhibits which will be offered on date of trial. Exhibits shall be marked, in accordance with Court Reporter's instructions, and exhibits shall be exchanged with copies to Court and Court Reporter.
- 6.) A demand or offer for settlement.
- 7.) An estimate of trial time.

(C) It is the intent of the Court to assign Final Pre-trial and trial within a short period of time. Accordingly, it is suggested to counsel that a preparation for the Final Pre-trial hearings shall encompass the same type of preparation as would be required for trial.

(D) The parties and their respective counsel shall appear at each Pre-trial session. A corporate party may appear by an officer or by an employee having knowledge of the subject matter of the case. A party, who is insured, concerning the claims of the case, may appear by a Claims Representative of her public liability insurance company. However, if the Pre-trial Judge finds that the presence of the insurance party is essential to the conduct of the Pre-trial, he may direct such party to appear in addition to the Claims Representative. A party unable to appear by reason of illness or other disability, or residence outside the jurisdiction of the Court, may be excused from appearing upon application to the Pre-trial Judge. If such party is excused,

it is mandatory that he be available by telephone at the time of the Pre-trial and ordered to assist in negotiations. A party may be excused only upon prior leave of Court.

Whether or not the case is settled, it is likely that by reason of the knowledge gained at Pre-trial, the case will be more efficiently tried.

(E) The attorneys (or parties pro se) shall be prepared to:

- 1.) Freely discuss the theory or theories of their case, both factual and legal;
- 2.) Discuss the necessity or desirability of Amendments to any Pleadings or the filing of additional Pleadings;
- 3.) Discuss simplification of the issues;
- 4.) Make admissions as to the facts and genuineness of documents and other exhibits which are not in dispute;
- 5.) Eliminate parties unnecessary to the case;
- 6.) Give the names and addresses of witnesses whom they intend to call, and state the general nature of their testimony. The refusal or failure of any counsel to disclose a witness may render evidence by that witness inadmissible at trial, unless leave is obtained for good cause shown. This shall not apply to rebuttal witnesses;
- 7.) Give the number and nature of exhibits they intend to introduce and produce them for examination by the Court or parties;
- 8.) Give the names, addresses and specialties of any anticipated expert witnesses unless disclosure of such witnesses has been previously ordered;
- 9.) Exchange reports of expert witnesses expected to be called by the parties;
- 10.) Exchange medical reports and hospital records;
- 11.) Discuss limitations on the number of expert witnesses;
- 12.) Discuss the necessity of supplementing Interrogatory Answers or other previously discoverable matters;
- 13.) Discuss procedures and time limitations for the completion of any further anticipated Discovery;
- 14.) Submit and consider authorities on unique or controverted issues or guarantee their submission on or before a date certain;
- 15.) Discuss any other matters that may expedite the trial or disposition of the case.

(F) At the Pre-trial Conference, the Pre-trial Judge shall have authority to decide any undetermined preliminary matters; to record any admissions, stipulation or agreements; in Civil cases, to hear and decide the case with the consent of the party; to make whatever findings, orders, Judgments or decrees which may be warranted or proper

under the circumstances and within the scope and the spirit of the Civil Rules; set the case for trial or dismissal, or take other appropriate action under Civil Rule #37 if counsel failed to appear.

(G) Following the Pre-trial Conference, the Pre-trial Judge will cause to be prepared an Order reflecting all matters stipulated by counsel and all Orders made by the Pre-trial Judge, and said Orders shall control further proceedings in the action subject to the provisions of Rule #60 of the Civil Rules. The Court and counsel may take any further action at the Pre-trial Conference as is authorized in Rule #16 of the Civil Rules.

(H) Failure of any attorney to be prepared for Pre-trial Conferences or failure of a party or attorney to appear, or to cooperate in good faith in the conduct of the Pre-trial Conference, shall subject said attorney or party, in the discretion of the Judge, to any sanctions provided by Rule #37 of the Ohio Rules of Civil Procedure, including an award of expenses and/or attorney fees to any party prejudiced by said failure. In addition, the Court shall have the authority to proceed with all or any portion of the case and to decide and determine any or all matters ex parte upon failure of the Plaintiff or Defendant to appear in person or by counsel at Pre-trial Conferences in Civil cases. In addition, the Court may transfer the matter to the inactive docket of this Court. In addition, the Court may exclude exhibits if not produced at Pre-trial, or exclude testimony of witnesses who have not been identified to opposing counsel on witness lists at Pre-trial.

(I) Statements of the parties through their counsel made in the course of any Pre-trial hearing shall not be binding upon the parties unless expressly made so by written stipulation in the course of the Pre-trial, or as set forth in the Judge's Pre-trial Minutes.

At the Court's discretion, counsel shall file within five (5) days after the Pre-trial, an amended Pre-trial Statement, including those items contained in paragraph (B), above.

Rule 14

Discovery

(A) Unless circumstances clearly dictate otherwise, counsel shall participate in informal Pre-trial Discovery Conferences to reduce, in every way possible, the filing of Discovery demands and procedures; to that end it is suggested that no Interrogatory requests, Motions or Applications, or Protective Orders shall be filed under Civil Rule #26-37, inclusive, until counsel have diligently explored such objectives with opposing counsel in an effort to informally handle all Discovery matters and reduce or clarify the issues in controversy to facilitate the presentation at trial.

(B) At such time as Discovery cannot be completed informally, the party seeking Discovery shall advise the Court in writing and file such Interrogatory requests, Motions, Applications and Protective Order requests as may be necessary or advisable to counsel for protecting the interests of their client. Such statements shall recite efforts

made to resolve differences informally. In addition, such statements shall recite those matters that remain in dispute, and in addition, the date, time and place of such conferences, and names of all parties participating therein.

(C) All Discovery shall be completed by date of Pre-trial or at such other time as may be set by the Court. Unless authorized by the Court, any Discovery after said date may not be offered at trial.

(D) Any person who has responded to a request for Discovery, informal or formal, is under a continuing duty to supplement such response pursuant to Civil Rule #26(E). Any party who fails to supplement such responses will be subject to sanctions by the Court at trial.

Rule 15

Interrogatories and Production of Documents

Counsel demanding Discovery shall file with the Clerk of Courts a one (1) page certificate bearing the caption, the type of Discovery requested, the name of the party required to respond, the name and address of the counsel to whom the demand for Discovery was directed, and the date of mailing. Unanswered Discovery requests (interrogatories, requests for production of documents, etc.) shall not be accepted for filing by the Clerk.

Rule 16

Depositions

(A) The fees of Officers taking and certifying Depositions shall be paid by the party on whose behalf such Depositions are taken. If the Deposition is used to present evidence at the trial, such payments may be taxed as costs in favor of the prevailing party and shall then become part of the Judgment in the action, except as otherwise ordered by the Court.

(B) When a Deposition has been filed in any action, except in actions in which the law prescribes a different procedure, it shall be opened only by the Clerk at the direction of the Court. The fact and date of opening, and the name of the person opening it shall be endorsed on the envelope containing the Deposition, which envelope shall be preserved with the Deposition.

(C) Depositions on file shall not be withdrawn without leave of Court.

(D) All Video Depositions shall be filed no later than fourteen (14) days before trial and shall be accompanied by a written transcript of the testimony. The Court will hold a hearing as soon as possible and order to rule on objections, and allow the Video to be edited by trial date if such editing is required. When testimony is recorded on video tape pursuant to Civil Rule #40, it will be the responsibility of counsel to

instruct the Notary Public before whom the testimony is taken to note by the use of a digital counter or other clock device connected with the tape, the point on the video tape where objections are made. The Notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk. Objections must be made at the conclusion of the question and answer only. Counsel may state the basis for the objections and read citations into the record at this time. Any objections made prior to the completion of an answer may, in the Court's discretion, be considered overruled.

- (E) The filing party/Court Reporter shall include the name and address of the deposing attorney or the party paying for the deposition to allow the Clerk of Court to notify the proper party when the time comes to dispose of the deposition.
- (F) All Exhibits depositions and transcripts. depositions and transcripts shall be destroyed in accordance with Supreme Court Rule 26 Court Records Management and Retention (F) Exhibits.

RULE 17

Trial Briefs

Preliminary to the trial of cases assigned for trial, counsel may, within their discretion, or counsel shall upon request of the Judge, file Trial Briefs containing questions of law involved in the case. All Trial Briefs shall be furnished to opposing counsel.

Rule 18

Default Judgments and Relief from Judgment

(A) Default Judgments shall be granted in accordance with Civil Rule #55. All Motions for Default Judgment shall be accompanied by a proposed Judgment Entry. In addition to the following requirements of Civil Rule #55, the party applying for a Default Judgment shall give notice of the application to the party against whom the Default Judgment is sought and shall, at the time of filing the application, submit to the Court proof of service of the application. Said application shall recite that the moving counsel has not been contacted by the Defaulting party or counsel for the Defaulting party, or if such contact has been made, the extent to which such contact has been made.

(B) In all cases where a party is seeking unliquidated damages or is entitled to a Jury trial, at a time designated for Default Judgment, the party entitled to Judgment shall present proper evidence in support of the Allegations and Pleadings for consideration by the Court and Judgment shall be rendered according to the evidence and law applicable. Counsel shall set forth in the Entry of Assignment that a trial by Jury was waived and the matter submitted for decision by the Court.

(C) In any action or proceeding commenced in this Court, if there shall be a Default of any appearance by any party, the party seeking Judgment shall file with the Court an affidavit setting forth facts showing the party in Default is not in the military service. If unable to file such affidavit, the party seeking Judgment shall in lieu thereof file an affidavit setting forth that the party in Default is either in the military service or the affiant is not able to determine whether or not such Defaulting party is in the service, so that before Judgment can be entered, further Civil proceedings shall be had pursuant to the Soldiers and Sailors Civil Relief Act (50 U.S.C. 520 et seq.).

(D) No Motion for Relief from Judgment pursuant to Civil Rule #60(B) shall be granted by the Court unless the Movant has demonstrated the satisfaction of the Court by operative facts of evidentiary quality that:

- 1.) The Movant has a meritorious defense or claim to present if Relief is granted;
- 2.) The Movant is entitled to Relief under one of the grounds stated in Civil Rule #60(B)(1)(5);
- 3.) The Motion is made within a reasonable time;
- 4.) Such party in Default presents and offers to file a proper Pleading in the case together with the Motion for Relief. The Court may, if justice requires, set aside the Default Judgment or decree upon such terms to costs as may be just, and shall order the Pleadings for want of which the Default existed, to be filed forthwith or within such time as the Court may designate.

Rule 19

Entries in all Cases

(A) Unless the Court otherwise directs, counsel for the parties in whose favor an order, decree or Judgment is rendered, shall within five (5) days thereafter, prepare the proper Judgment Entry and submit it to counsel for the adverse party who shall approve or reject the same within five (5) days after receipt thereof. When approved by counsel, it shall be so endorsed and furnished to the Court. If counsel are unable to agree on the form of the Entry, or if the same is prepared and submitted by counsel in whose favor the order, decree or Judgment is rendered, and counsel for the adverse party fails, neglects, or refuses to return such Entry, counsel in whose favor an order, decree or Judgment is rendered shall prepare a substitute Entry and submit the same to the trial Judge with the notation thereon that the same has been submitted to counsel for the adverse party pursuant to this Rule, and thereafter the trial Judge will direct what Entry shall be made or shall approve and file the Entries submitted. If such Entry is not prepared and presented for filing by counsel, then it shall be prepared and filed by the Court.

(B) Counsel shall promptly submit an order of dismissal following settlement of the case. If counsel fails to do so within fifteen (15) days after representation to the Court that the case has been settled, the Court may order the case dismissed for want of

prosecution or file a Judgment Entry of settlement and dismissal, and assess costs. The Court may also sua sponte transfer any matter to the inactive docket upon being advised the cause has been settled.

(C) Provisions of this Rule shall not be deemed to preclude the Court at any time from sua sponte preparing and filing with the Clerk its own Judgment or order.

(D) All such Entries shall be submitted to the Court with sufficient copies to provide each party with a copy thereof. The Clerk of Courts will not accept for filing any Judgment Entry unless it is accompanied by sufficient copies for each party or counsel in the cause, and the Clerk shall immediately, upon the filing of any such Entry, cause each party or counsel to be served a copy of such Entry.

(E) The Clerk's notation of the service of the entry of judgment on the appearance docket is sufficient evidence of service.

Rule 20

CONTINUANCES

(A) No continuance of an oral hearing will be granted except upon written application of the Court together with evidence of good cause for such continuance. Also, its applications for continuance must be made at least seven (7) days prior to such hearing.

(B) In cases assigned for trial, applications for Continuances must be supported by evidence of good cause for Continuance and when such application is based upon the absence of a witness it must be supported by evidence of reasonable diligence on the part of counsel.

(C) All applications for Continuances must be approved by the Judge subject to the following:

- (1) If a Jury has been called, the expense of calling such Jury will be borne by the party requesting the Continuance.
- (2) If the request is granted, the applicant shall prepare a Judgment Entry which contains the reason for the Continuance, the name of the attorney who made the request and the new date certain to which the matter has been continued, which dates shall be first obtained from the Assignment Commissioner.
- (3) Counsel who plan to be away on vacation or otherwise, should notify the Assignment Commissioner well in advance of their anticipated absence.
- (4) After a trial date is scheduled, counsel who has a conflict with a scheduled trial date should immediately apply for Continuance so that

their case may be rescheduled and a replacement case inserted instead; also, requests must be accompanied by a copy of the Order creating the conflict.

(5) Untimely requests will be denied.

Rule 21

Attorney Case Load

Any attorney whose case load interferes with the effective function of the trial docket, shall obtain co-counsel and proceed to trial on the date scheduled.

This Rule is in accordance with Superintendence Rule #9 of the Supreme Court.

Rule 22

Admission Pro Hac Vice

In order to make for consistent treatment of counsel admitted *Pro Hac Vice*, the Court establishes this local rule to require all counsel who have been admitted *Pro Hac Vice* in pending cases to comply with all registration requirements of the current Rules for the Government of the Ohio Bar, Rule XII. Pending cases shall be counted in the limitation contained within said Rule XII, and shall be reported accordingly. Counsel shall forthwith register and fully comply with said Rule XII, and shall certify the same to this Court as soon as practicable.

Rule 23

Counsel for Indigent Criminal Defendants

In all Criminal cases of a serious offense where the Defendant is unable to obtain counsel, the Court shall appoint counsel from the members of the Bar or the Public Defender's Office.

When counsel appointed by the Court to represent an indigent Defendant or the Public Defender's Office discovers that the Defendant has property in addition to that reported to the Court when indigence was determined, he shall report the facts in open Court in Defendant's presence.

Rule 24

Indigent Appeal Procedure

An indigent, where there are reasonable grounds to believe that prejudicial error has been committed during the trial proceedings, has the right of appeal. A Defendant has the right to seek leave to appeal a sentencing order of the Court, unless the sentencing was consistent with a joint recommendation pursuant to R.C. 2953.08. Defense counsel, upon determination that an appeal is meritorious, shall advise the indigent Defendant of her rights of appeal, the grounds for the appeal, and file the Notice of Appeal. At the time of the filing of the Notice of Appeal, counsel shall:

- 1.) File a Motion with the trial Court requesting an estimated cost of that part of the transcript required to perfect the appeal.
- 2.) File a Motion with the trial Court on behalf of the Defendant requesting the appointment of defense counsel.
- 3.) File a Motion with the Trial Court asking for approval of the cost estimate for the payment of the cost of the transcript.

Each Motion, upon a termination, must be terminated in the appropriate Court by Journal Entry.

Rule 25

Bail and Surety Bonds

Attorneys and other Officers of the Court shall not be accepted as bail or surety for others, and no bond shall be approved having the name of such persons thereon as surety for others.

Rule 26

Jurors

- (A) All jurors to be used in the Auglaize County Municipal Court shall be selected from a list of eligible jurors furnished to the Court by the Jury Commissioners of the Court of Common Pleas of Auglaize County. The Court shall notify the Jury Commissioners of the number of names to be drawn for the venire. The venire shall be notified by the Sheriff of Auglaize County as the bailiff of the Court that they have been selected for jury duty.
- (B) The assignment clerk of the Court shall summon jurors for trial in a number to be determined by the Judge in the order that they appear on the list as provided by the Jury Commissioners. Summons to be a juror to appear for trial shall be made by mailing the summons to the juror's last known address.
- (C) No person shall be summoned as a juror twice until all prospective jurors have been summoned once.
- (D) A juror may be excused upon the request of the juror from service when the request is made at least two business days before the date summoned for service. The request may be made in person by the juror, by telephone, electronic mail or in writing. The request will be granted if the juror has not previously been granted a postponement and the juror and the court reach an agreement as to future service. The juror may be assigned to a subsequent term. A juror may be granted a second postponement of service only in the event of an extreme emergency or a natural disaster or emergency in which

the juror is personally involved that could not have been reasonably anticipated at the time the initial postponement was granted.

- (E) A juror who requests an excuse from service due to undue or extreme physical or financial hardship may be required to provide the Court with documentation supporting the request to excuse service.
- (F) A juror who is over 75 years of age is entitled to be excused from jury service but must inform the Court of the request no later than the date on which the juror is scheduled to appear for service. An employer may request postponement of the jury service of an employee if the employer has fewer than 25 full time employees and if another employee has been summoned to appear during the same term.

Rule 27
Jury Waiver

- (A) When jury trial has been demanded in a criminal case, the demand may only be withdrawn in writing signed by the defendant. Unless the waiver or withdrawal is received prior to notice being sent to the jurors, costs associated with the jury shall be assessed to the defendant.
- (B) When a jury trial has been demanded in a civil case, the demand may only be withdrawn by a waiver executed by either parties or their counsel. Unless the waiver is received prior to notification of the jury to appear, the costs associated with the jury shall be assessed to the party that demanded the jury unless it can be shown that the failure to timely file the waiver was the fault of the opposing party.
- (C) In civil cases the party demanding a trial by jury shall pay a bond for the court costs associated with jury fees. Said fees shall be applied to court costs at the end of the trial. The Court shall not schedule the case for jury trial until such time that the bond is paid or waived by the Court.

Rule 28
Discharge of Jurors for Past Service

Pursuant to R.C. 2313.21(B), persons who were drawn from the jury wheel for jury service in Auglaize County in the prior jury service year (defined as from September 1 through August 31) shall be and are hereby DISCHARGED and shall be prohibited from jury service in Auglaize County in the ensuing jury service year, and shall be excluded from the jury draw therefor.

Rule 29

Conduct at Trial

(A) Trial Counsel shall meet in Chambers with the Court on day of Jury Trial at least thirty (30) minutes before time set for trial.

(B) Prior to trial, counsel for the parties shall be provided by the Court with copies of Juror questionnaires which have been previously completed by perspective Jurors and directed to the Court. During voir dire, Counsel may not inquire of Jurors as to matters satisfactorily and completely answered in the questionnaires. Counsel may not copy the Juror questionnaires furnished to them, and must return the jury questionnaires to the Court promptly after voir dire.

(C) The Court hereby maintains a standing order of separation of witnesses during the trial. The only witness permitted in the Courtroom during the trial shall be the Defendant in Criminal Cases, an investigating officer for the State, and any party in a Civil Case. All other witness must wait outside of the Courtroom until they are called by a party to testify.

(D) Witnesses shall be expected to take the stand in all cases, unless prevented from doing so by physical infirmity. A witness, not a party, when examined, cannot be recalled without express permission of the trial Judge.

(E) Only one (1) Counsel on each side will be permitted to examine the witness on the trial of a case. Only the same Counsel who examines the witness will be permitted to object.

(F) The Court Reporter shall be the official custodian of all exhibits offered and admitted during the trial of any cause. The same shall be retained by her until otherwise ordered by the Court.

(G) After a Judgment and appeal, or after appeal time has expired without appeal, Counsel for each party shall, upon issuing a receipt to the Court Reporter therefore, obtain return of the exhibits introduced into evidence by such Counsel and cause them to be returned to the owner. In cases of doubtful ownership of the exhibits, Counsel shall bring the matter before the Court for determination.

(H) The Prosecution, plaintiff, or movant in any proceedings shall be seated at the counsel table adjacent to the jury box, unless directed by the Court.

(I) Any party or their Counsel, who requests a view of the premises or scene, must make a request in writing for such not later than seven (7) days prior to the scheduled date of trial. No requests will be honored if made with less than seven (7) days notice. View requests will be granted only upon a showing to the Court that it will

expédite or make the testimony of witnesses more understandable, and that it is necessary in the interest of substantial justice.

Rule 30
Courtroom Procedure

(A) No photographic, television, recording, broadcasting, telephonic equipment or devices shall be used within the confines of the Courthouse, and in official business, unless otherwise approved by the Court for trial related proceedings and as long as such action is approved by Canon 3(A), Ohio Code of Judicial Conduct. All requests pursuant to this rule shall be received no later than 4:00 p.m. at least one business day prior to the hearing.

(B) Spectators and others will be seated in the Courtroom on a first come, first serve basis for who seats are provided behind the rail, and remain there until such time as the Court declares a recess or adjournment. The Court may, in the public interest, reserve seats for the public media, this Rule notwithstanding.

(C) No person shall have on his person or under his control any dangerous weapon or dangerous ordinance other than police officers on official business. Any person within the confines of the Courthouse shall be subject to search at any time by the Sheriff of Auglaize County, Ohio. The Sheriff is further directed to search any and all spectators at his discretion.

(D) The Courtroom shall be cleared at all 12:00 noon recesses, at discretion of the Judge.

(E) Representatives of the media will under no circumstances question or converse with prospective or selected Jurors concerning a cause set for trial.

(F) No person except officers of the Court and duly authorized persons shall be permitted in front of the railing or bar of the Common Pleas Courtroom.

(G) There shall be no eating, drinking or smoking in the Courtroom.

(H) Any person violating any part of Rule 44 shall be subject to a finding as in "Contempt of Court".

Rule 31
Guidelines for Counsel in Jury Trials

The following guidelines for counsel involved in Jury Trials in this Court are established in the hopes that they will not only enhance the likelihood of a fair trial, but also will permit the trial to run more smoothly.

I. **VOIR DIRE EXAMINATION:**

During voir dire counsel should not:

- (A) Argue the case.
- (B) Engage in efforts to indoctrinate, visit with or establish "rapport" with Jurors.
- (C) Question Jurors concerning anticipated instructions or theories of law, or Jurors' "understanding" of various legal principles yet to be explained to them.
- (D) Ask Jurors what kind of verdict they might return under a hypothetical state of facts.
- (E) Seek a pre-commitment from a Juror to a factual or legal proposition that is in issue.

II. **CHALLENGES TO JURORS:**

All challenges, whether peremptory or for cause, shall be addressed to the Court outside the hearing of the Jury at the bench.

III. **OPENING STATEMENTS:**

Opening statements of counsel afford an opportunity to explain to the Jury the issues in the case and summarize the facts that counsel expect the evidence will show. Argument in support of the client's case should not be made during opening statements. Counsel may use visual aids such as charts, graphs, maps, photographs, models or other graphic devices, but leave the Court for such use should be first obtained unless the visual aid has, outside the presence of the Jurors, already been admitted into evidence or its use has been approved by stipulation of all counsel.

IV. **OBJECTIONS AND TRIAL MOTIONS:**

Generally speaking, except when the Court feels it necessary to act sua sponte to prevent a manifest miscarriage of justice, the Court will make rulings on evidentiary and related matters only upon appropriate objection or Motion of counsel. Objections or Motions should be made promptly and should state the basis or grounds for the objection or the nature of the Motion, but without argument unless or until invited by the Court. "Speaking" objections or Motions, that is, objections or Motions in which

counsel argue the basis or ground of the objection or Motion, should be avoided. All objections or Motions should be addressed to the Court and at no time should counsel address one another directly except for perfunctory matters of courtesy, such as stating the page and line number of a Deposition to which reference is made. All argument in support of or against an objection or Motion, unless otherwise directed by the Court, should be out of the hearing of the Jury, either in a low voice at the bench or after the Jury has been excused.

V. EXAMINATION OF WITNESSES:

Ordinarily, counsel should remain at or behind the lectern when examining a witness. However, counsel may approach a witness for the purpose of showing a witness a document or other object. Before approaching a witness for any other purpose, counsel should request permission from the Court. For limited or brief examination, counsel may conduct such examination from his position at counsel's table, but should always stand while conducting examination of the witness or while addressing the Court. Counsel, upon completing examination of the witness, whether on direct or cross, should so state to the Court and the Court will then direct such further examination of the witness as may be appropriate.

VI. RECORD AWARENESS:

Please remember that while all present in the Courtroom may be fully aware of the document or exhibit which you show to a witness and say, "I now hand you this document", and while all present in the Courtroom may understand what the witness means when he points to a drawing and says "I was standing over here", one who subsequently reads the Court Reporter's transcript of the proceedings will have no idea of what was meant by "this document" or "over here" without the exhibit number. Have the witness identify where "over here" is, preferably by an identifiable symbol on the map, chart or drawing, etc.

VII. FINAL ARGUMENT:

Arguments should be limited to matters in evidence and all inferences fairly and reasonably to be drawn from the evidence together with reference to matters of common and every day knowledge. Except where a different procedure may be required in a complex case, the order of argument is (1) Plaintiff's summation; (2) Defendant's summation, including rebuttal of the Plaintiff's summation, and; (3) Plaintiff's rebuttal of Defendant's summation.

While the Court will generally give counsel wide latitude, there are some areas which are improper for argument and which are generally known by

experienced trial counsel. While not meant to be an exclusive list, the following are considered by the Court to be improper during closing argument.

- (A) Reading from the Pleadings is not allowed.
- (B) Counsel may not testify in the guise of argument by suggesting that he has personal knowledge of the facts in the case or of matters outside of the evidence, nor should counsel assert his personal belief in the justice of his cause.
- (C) Plaintiff's counsel may not comment on his client's obligation to pay an attorney's fee out of the gross damages awarded by the Jury.
- (D) The Golden Rule Argument – requesting the Jury to put itself in the place of one of the parties and reach a verdict according to how the Jury would wish to be treated in the same position – is improper.
- (E) Personal attack on opposing counsel is to be avoided.
- (F) Argument which in any way attempts to relate to an individual Juror or which attempts to elicit a direct or immediate response from a Juror is improper.
- (G) Any argument which seeks to appeal to sympathy, bias or prejudice, or seeks to inflame the Jury by arousing in them any feeling of hatred or distrust of a party or counsel is improper. The Jury's duty is to fairly and dispassionately consider and weigh the evidence, to decide the disputed issues of fact, and to apply the law to the facts as it finds them from the evidence. It is not the Jury's duty to "send a message" to anyone.

Rule 32

Findings of Fact and Conclusions of Law

When a party requests the Court to state its findings of fact separately from its conclusions of law under the provisions of Civil Rule #52, the party requesting such statement shall within five (5) days after receipt of notice of the Court's decision, submit to the Court a statement of proposed findings of fact and conclusions of law and shall serve copies thereof on all opposing parties or their Counsel. Within five (5) days after receipt of such proposed statement of findings of fact and conclusions of law, opposing Counsel shall submit and similarly serve their proposals.

For want of strict compliance with this Rule on the part of the party requesting this statement of findings of fact and conclusions of law, the Court will enter a general finding.

A party moving for dismissal pursuant to Civil Rule #41(B)(2) shall submit to the Court proposed findings of fact and conclusions of law in writing together with his Motion for Dismissal.

Rule 33

Transcription: Trial Record

Requests for transcriptions of testimony from the recordings of any cases shall be made in writing by Motion with the Court, with a copy to be served upon the Court Reporter. The Motion shall request an estimated cost of the transcript from the Court Reporter. Upon the estimate being determined and after submission, the party shall secure the cost of the transcript before transcription commences.

The Motion shall further set forth the testimony to be transcribed.

Transcription from the recording for the Court record shall be made by the Court Reporter, under the control and direction of the Court and shall be paid for at rates assessed by the Court and filed under Sundry Paper in the office of the Clerk of Courts. (Reference to Third Appellate District Local Rule #5.)

The electronic recording for the making of a trial record are the property of Auglaize County and the record thereon is the public's.

No transcript shall be prepared by other than a duly appointed and sworn Court Reporter as set forth and certified in Third Appellate District Court of Appeals, Rule #5 .

Transcription of the tapes shall be made by the Court Reporter under the control and direction of the Court and shall be charged as determined by the Court and filed under Sundry Papers in the office of the Clerk of Courts.

Said transcript schedule is as follows: original and one copy to same person \$2.00 per page; subsequent copy \$1.00 per page.

All transcript charges are to be paid for in advance to the Auglaize County Common Pleas Court before transcription will commence, by the appointed Court Reporter-Transcriber.

Rule 34

Exhibits for Reporter

It shall be the duty of the Court Reporter to receive and hold all exhibits offered and received during the trial of any case and safely keep same throughout such trial, unless the release thereof is consented to by the parties, or released by the Order of the Court.

Rule 35

Bankruptcy Adjudication

Whenever any party to an action pending in this Court files bankruptcy, the attorney of record or the party, if acting in a pro se capacity shall, within fifteen (15) days after filing bankruptcy, file written Notice of Filing with the Clerk of this Court. Such Notice shall include a copy of the Order Staying State Court actions or other appropriate documentation confirming and giving the date of such filing.

Such attorney or party shall likewise give such Notice to other counsel or pro se parties of record in such pending litigation; same to conform to requirements of Civil Rule #5.

Furthermore, such attorney or party shall file and serve all counsel or pro se parties notice of the lifting of any such stay within fifteen (15) days after such a stay is lifted by the Bankruptcy Court or operation of law.

Rule 36

Work-Release Program

WHEREAS, Section 5147.28 et seq. Of the Revised Code of Ohio provides for establishment of a prisoner work-release program, which said program is first to be established with the agreement of all Courts in the County, and,

WHEREAS, the officials of all Courts is Auglaize County together with those persons and officials connected with the administration and with the working of such program having heretofore met and agreed upon and have approved a program which they feel to be feasible under the provisions of such statutes and provided in such cases, Now Therefore:

BE IT ORDERED, ADJUDGED AND DECREED that a prisoner work-release program be and the same is hereby established and adopted for all Courts of Auglaize County, Ohio, in order that the Court of this county may permit a prisoner confined in jail in Auglaize County, Ohio, to have employment so that he/she can continue and that

he/she may provide for restitution, payment of other bills and expenses and to provide a fund for herself as upon her release from such institution.

Such prisoner work-release program shall be administered and shall be subject to the following rules, terms and conditions, which said rules may be complemented, amended or changed by Judgment Entry of this Court.

RULES AND REGULATIONS

- (1) At the discretion of the sentencing Judge in Auglaize County, Ohio, any prisoner sentenced to a County jail term may be permitted to participate in a Work-Release Program, provided:
 - (A) Prior to the time of sentencing, said defendant makes application to the appropriate Court setting forth the nature of his employment, the amount of his/her wages, the names and address of any and all dependents, the addresses of all Courts and Bureaus of Support through whom obligations for child support, fines or Court costs are owing, and the hours of his/her employment.
- (2) Any prisoner participating in a work-release program in Auglaize County, Ohio, shall be paid remuneration, subject to garnishment, and have hours and other conditions of work substantially equal to those prevailing in the locality. However, the sentencing Court may under special circumstances approve the work-release program for a wage less than the prevailing rate in the locality.
- (3) "The Sheriff of Auglaize County shall be appointed to serve as the Administrator of the Work-Release Program as set forth herein such position being necessary and proper pursuant to Section 5147.29 at seq. of the Ohio Revised Code and shall be designated as Work-Release Administrator."
 - (A) A person participating in a work-release program shall surrender his/her earnings, less standard payroll deductions required by law, to a person designated by the Court, which has established the work-release program.
 - (B) The person designated by the Court to collect the earnings of the prisoners shall maintain complete and accurate records as to all prisoners employed in the work-release program with respect to all monies received and disbursed.
 - (C) The Court may establish rules to determine the amount of the payments that are required to be made from a prisoner's earnings

to reimburse the county or city for the costs of boarding the inmates while on the work-release program. The rules shall require the payment for each day of boarding to be based upon the number of persons actually dependent upon the inmates for their support. The payment may be less than, but shall not exceed, the actual cost of boarding the inmate for a day.

- (4) A prisoner participating in a work-release program shall surrender his/her earning, less standard payroll deductions required by law, and his/her pay stub or copy thereof, to the work-release administrator.
- (5) Said work-release administrator shall collect the earnings of the prisoner, shall maintain a complete and accurate record as to all prisoners employment in the work-release program in respect to all monies received and disbursed. A written statement of his/her account shall be furnished at least every thirty (30) days, and at any time requested. All monies collected by work-release administrator will be deposited in the bank daily as prescribed by the Auditor of the State of Ohio. Work-release disbursement order is as follows:
 - (A) All participants in the work-release program will be charged twenty-five percent (25%) of their gross pay in order to satisfy their room and board cost. This is in accordance with division (D) of ORC 5147.29.
 - (B) Payment of restitution, fines and court costs. A minimum of \$10.00 per week is required for each until outstanding balance is satisfied.
 - (C) Necessary travel expense to and from work and other incidental expenses of inmate.
 - (D) Payment for all pay-to-stay obligations as determined by the Sheriff subject to the Sentencing Judge approval.
 - (E) Inmates who are serving ten (10) days or less will be required to pay their room and board fee up front as determined by the Sentencing Judge and the Sheriff.
 - (F) The balance to the prisoner or designated person agreed upon by order of the Sentencing Judge on a weekly basis.
 - (1) Any prisoner under the work-release program shall be permitted to leave the jail thirty (30) minutes before the time he/she is required to report to his job and said prisoner shall report back to the jail within thirty (30) minutes after the completion of his/her work for that day, subject to Court Order in each particular case concerning distance to and from work and subject to the necessity of obtaining meals both before, after and during said employment.

- (2) Each prisoner on the work-release program shall provide his/her own transportation to and from his employment.
- (3) No prisoner on the work-release program shall be required to work in an establishment where legally constituted strike is in progress.
- (4) All prisoners will provide to the work-release administrator a written record of earnings on a weekly basis while on work-release program. All inmates will provide the work-release administrator all earnings less standard payroll deductions on a weekly basis while on the work-release program. All inmates are required to provide the work-release administrator their final written record of earnings and earnings to settle their obligations prior to or after discharge.
- (5) All prisoners on the work-release program shall be kept incarcerated under the minimum-security conditions as soon as the same are available.
- (6) Employment in another County will not be permitted under the work-release program unless specifically authorized by the sentencing Court.
- (7) Any prisoner gainfully employed by this work-release program shall be provided adequate and nourishing meals by the jail only if said employment allows her to be incarcerated during the serving of meals, and if this is not the case, then each prisoner shall provide his/her own meals.
- (8) Any prisoner on the work-release program who fails to abide by the rules and regulations of such program shall be discontinued on such program and remanded to the County Jail until a hearing is had on such violation and said prisoner shall not be reinstated except by the sentencing Court. Such prisoners shall be monitored by the Probation Officers of Auglaize County Common Pleas Court to insure that such rules and regulations are being complied with.
- (9) Any prisoner who desires to become eligible to participate in the Auglaize County work-release program shall subscribe to a separate and independent Work-Release Agreement.

Rule 37

STANDARD CONDITIONS OF COMMUNITY CONTROL

All persons subject to supervision by the Auglaize County Municipal Court Probation Office in all cases in this court, whether by reason of a conviction and sentence to Community Control Sanctions, or by reason of Intervention in Lieu of Conviction, shall be subject to the special conditions ordered in that individual case, IN ADDITION TO the following standard conditions of supervision:

1. I will obey federal, state, and local laws and ordinances, including laws and court orders pertaining to the payment of support, and all orders, rules, and regulations of the Auglaize County Municipal Court. Further, I agree to conduct myself as a responsible law-abiding citizen.
2. I will always keep my Probation Officer informed of my residence and place of employment. I will obtain permission from my supervising officer before changing my residence or my employment. I understand that if I abscond supervision, I may be prosecuted for the crime of escape, under section 2921.34 of the Ohio Revised Code.
3. I will comply with all orders, verbal or written, given to me by my Probation Officer or other authorized representatives of the Court.
4. I will not use, possess, purchase, or have under my control any narcotic drugs or other controlled substances, illegal drugs, dangerous drugs or harmful intoxicants, including any instrument, device, or other object used to administer drugs or to prepare them for administration, unless it is lawfully prescribed to me by my physician. I agree to inform my Probation Officer promptly of any such prescription.
5. I shall submit to any drug and alcohol testing whenever requested by his probation officer, drug counselor, or any other law enforcement officer. I shall not attempt to manipulate the result of any test given to him. The offender shall be immediately incarcerated upon any manipulation or refusal to test.
6. I will not use, purchase, have under my control, or be in the presence of any mind altering substances which include, but are not limited to, methylenedioxypyrovalerone (MDPV), Mephedrone (also known as 4-methylmethacathinone [4-MMC], or 4-methylephedrone) which are chemicals in "Bath Salts", K-2 or synthetic cannabis (cannabicyclohexanol, JWH-018, JWH-073, or HU-210) unless it is lawfully prescribed to me by my physician.
7. The offender shall not use medical marijuana without written permission of the Court even with a valid marijuana card or prescription.

8. I will report any arrest, citation of a violation of the law, conviction or any other contact with a law enforcement officer to my Probation Officer no later than the next business day. Further, I will not enter into any agreement or other arrangement with any law enforcement agency which might place me in the position of violating any law or condition of my supervision, unless I have obtained permission in writing from the Auglaize County Adult Probation Department, or from the Court.
9. I agree that I will submit my person, property, place of residence, vehicle, personal effects, to search at any time, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer.
10. I agree to sign a release of confidential information from any public or private agency if requested to do so by my Probation Officer.
11. I agree to comply with all financial obligations, including child support as ordered by any Court and/or Department of Rehabilitation and Correction. Further, I agree to give all information regarding my financial status to assist in determining my ability to pay specific financial obligations, to my Probation Officer.
12. I agree to participate in any type of rehabilitation, educational, or treatment programs as deemed appropriate by my Probation Officer and successfully complete those programs.
13. I agree to abide by any and all rules and regulations of the Auglaize County Correctional Facility or other facility in which I am incarcerated.
14. I agree to report as directed by my Probation Officer. It is my responsibility to contact my probation officer to reschedule any missed office visits. Contact must be made within 2 business days.
15. I agree to fully participate in, and successfully complete the Sanctions/Special Conditions as ordered by the Auglaize County Municipal Court and Probation Department.

Rule 38

Trusteeship

Trusteeships established pursuant to Revised Code §2339.70 shall be subject to the following rules:

- (A) No payment will be accepted without a current payroll check or payroll statement.
- (B) All payments must be made in case, with bank drafts or by money order.
- (C) The debtor must notify the Clerk immediately of any change in work statutes or address.
- (D) The debtor must make a minimum payment of at least \$5.00 from each pay received unless the Court has waived the payment for good cause shown.
- (E) Creditors may only be added to the trusteeship with the approval of the Court.
- (F) A trusteeship account will be automatically terminated if there has been no payment received or change of work status reported within thirty days of the last recorded payment. The trusteeship clerk shall, after such termination, distribute all monies held and notify all creditors of such termination.

Rule 39

Transfer from Small Claims Docket

Except for good cause shown, no case shall be transferred from the small claims docket to the regular docket of the Court except up a motion by the moving party filed at least five days prior to the scheduled trial date and approved by the Judge. The motion shall set forth the defenses claimed and shall include an affidavit stating facts consistent with the defense alleged. Failure to timely file the motion or to attach the affidavit of facts shall be sufficient grounds for the denial of the motion.

Rule 40

Weddings

The Auglaize County Municipal Court conducts weddings under the following rules, subject to the discretion of the presiding Judge:

- (A) Weddings are to be scheduled every other Friday from 1:15 p.m. to 2:00 p.m.
- (B) No more than four (4) weddings shall be scheduled on any given day.
- (C) One of the persons being married must be a current resident of Auglaize County.

Rule 41

Clerk Acceptance of Proof of Insurance

In all traffic cases before the Auglaize County Municipal Court, the Clerk of Courts may accept paper, email, and electronic proof of insurance that demonstrates the Defendant was insured on the date of the citation.

Rule 42

Special Projects Fund and Supervision Fees

- (A) The Court orders the Court costs assessed in all cases before the Court have a fee of \$15.00 per case assessed. Said funds are necessary for the Court's Special Projects fund.
- a. Pursuant to ORC §1901.26(B)(1) the fee is necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, the training and education of judges, acting judges, and other related services.
 - b. The additional costs in civil cases shall be collected as a \$15.00 increase in the deposit made for the filing within each civil action.
 - c. The funds collected by the Clerk shall be paid over to the County Treasurer for deposit into an account for the Municipal Court's Special Projects Fund.
- (B) A Supervision Fee of \$10.00 per month shall be assessed to all individuals sentenced to supervised Community Control to this Court's Probation Department.
- a. The fund is to be used to pay for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including alcohol and drug addiction services certified under section 5119.36 of the Revised Code, determined to be appropriate by the chief probation officer of the department of probation, and other similar expenses related to placing offenders under a community control sanction.
 - b. The supervision fee shall accrue monthly but shall be paid by each supervised individual at a rate and time as set by the Chief Probation Officer.
 - c. The funds collected by the Clerk shall be paid over to the County Treasurer for deposit into an account for the Account 199: Municipal Court's Probation Services Fund.
 - d. Pursuant to ORC 2951.021(E), the Clerk of Courts may retain 2% poundage from each fee paid.

- e. On all cases, the Clerk shall apply payments collected in the following order: 1st to Restitution, 2nd to supervision fees, 3rd to fines, and then court costs.

APPENDIX

**AUGLAIZE COUNTY MUNICIPAL CIVIL DEPOSITS
Effective March 9, 2020**

A) COMPLAINT, ANSWER & COUNTER CLAIM, CROSS COMPLAINT, COUNTERCLAIM, THIRD PARTY COUNTER COMPLAINT, CERTIFICATE OF JUDGMENT TRANSFER,	\$ 100.00
B) FORCIBLE ENTRY AND DETAINER -EVICTION	\$ 150.00
C) SMALL CLAIMS	\$ 100.00
(Personal Service may require additional deposit)	
D) SMALL CLAIMS TRANSFERRED TO CIVIL DOCKET	\$ 100.00
E) PETITION FOR DRIVING PRIVILEGES	\$ 100.00
POST JUDGMENT MOTION FOR DRIVING PRIVILEGES	\$ 25.00
F) RENTAL ESCROW	\$ 100.00 +FIRST MONTHS RENT
G) SATISFACTION	\$ 5.00
H) SATISFACTION W/ JUDGE'S SIGNATURE	\$ 7.00
I) CERTIFICATE OF JUDGMENT	\$ 5.00
J) CERTIFIED COPY	\$ 1.00
K) JUDGMENT DEBTORS EXAMINATION	\$ 75.00

L) PERSONAL EARNINGS GARNISHMENT	\$ 75.00
M) OTHER THAN PERSONAL EARNINGS GARNISHMENT	\$ 75.00
N) WRIT OF RESTITUTION	\$100.00
O) WRIT OF EXECUTION (May require additional deposit as costs accrue.)	\$100.00
P) MOTION TO REVIVE	\$ 75.00
Q) APPEAL TO COURT OF APPEALS	\$150.00