

Court Rules

**Clinton County Municipal Court**

Chad L. Carey, Judge  
Sarah J. Avey, Clerk  
Jolene Hoggatt, Chief Deputy

Harold Harker, Probation  
Joseph Allen, Chief Bailiff  
Ricky Wood, Bailiff  
Danny Collins, Bailiff

(Effective January 01, 1986)  
(Revised July 01, 1990)  
(Revised April 01, 2002)  
(Revised January 01, 2006)

**Rule 1.00 Scope and Effective Date.**

These rules are adopted as the local Rules of Court governing practice and procedure in the Clinton County Municipal Court. They are adopted pursuant to the Ohio Constitution, Section 1901.14, Ohio Revised Code, the Court's inherent authority as set forth in the Ohio Rules of Civil and Criminal Procedure and the Rules of Superintendence for Municipal Courts promulgated by the Ohio Supreme Court. These rules shall be known as the "Clinton County Municipal Court Rules" and shall be cited as "C.C.M.C. Rule". They are effective as of July 1, 2002 and govern all proceedings filed subsequent to that date and may be revised periodically as required. (Amended 05-01-2002)

**Rule 2.00 Court Sessions and Hours**

The hours for court sessions and for the Clerk of Court's Office shall be from eight o'clock a.m. until 4:00 p.m. Monday through Friday, unless otherwise ordered by the judge or said day is a legal holiday. A docket schedule is attached hereto as Appendix A which is subject to change from time to time as the Court orders.

**Rule 3.00 Forms of Paper Filed**

All papers offered for filing with the Court shall be typewritten or printed on 8 1/2 inch x 11 inch paper. Original documents attached or offered as exhibits are exempt from the requirements of this rule. Only legible copies of the documents will be accepted. (Amended 7-1-90)

**Rule 4.00 Costs**

Court costs shall be determined from time to time by the judge. A copy of the current schedule of costs may , be obtained from the Clerk of Court at no charge upon request.

**Rule 5.00 Form Entries and Abbreviations**

The Court adopts abbreviations and/or symbols that may be used in Court entries as determined from time to time by the Judge as amended to these Rules (See "Appendix B-Abbreviations and/or symbols commonly used").(Amended 04-01-2002)

**Rule 6.00 Public Use of Courtroom**

Questions of the admission of persons to a courtroom shall be the province of the Judge within the guidelines of public access to all Court proceedings, consistent with the order and dignity of the Court. The court does not think it appropriate for parties to bring children to court. The Court believes that it is not good judgment to subject children to the happenings in court. Unless the child is a witness children may be asked to leave. The Court will take into consideration the age of the child the impact of the proceedings and whether the child will cause a disruption. Public statements by the Court, counsel, Court personnel, and witnesses shall be regulated by the Judge 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. No recording shall be made of any Court proceeding without approval of the Judge and within the Rules of Superintendence, Rule 9 of the Municipal Court Rules of Superintendence and Canon 3A (1) of the Code of Judicial Conduct.(Amended 04-01-2002)

**Rule 7:00 Court Reporter**

All proceedings involving the judge shall be tape recorded unless counsel or both parties waive the recording. If a court reporter is desired, counsel must request in writing a court reporter not less than five (5) business days before the trial date.

**Rule 8:00**      **Duties of Counsel**

- (A) **DESIGNATION OF TRIAL COUNSEL.** Attorneys and not parties will designate their capacity as trial counsel on all pleadings in civil and criminal cases and shall include their office address, zip code, and telephone number. Normally, a law firm should not be named as trial attorney. However, substitution of counsel within the same law firm at hearings is authorized.
- (B) **WITHDRAWAL OF COUNSEL.** Counsel shall be allowed to withdraw from trial counsel responsibility in cases where counsel was designated upon the consent of the judge. No such application will be considered unless a written motion and entry are presented stating the reasons for the application with certificate of service on opposing counsel and/or client and time and date trial, if set. Withdrawal of counsel will not be approved if application is made within (5) working days of the trial date except for good cause shown. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to his client's last known address.
- (C) **MOTIONS PRACTICE.** All motions except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Civil and Criminal Procedure. Motions will be supported by Memoranda of Law containing applicable statutory and case law citations. (Copies of significant decisions shall be attached to the original filing only). Unless the following statement appears prominently upon the first page of the motion, no oral hearing will be allowed.  
"Counsel requests an oral hearing of approximately \_\_\_\_\_ minutes at which time \_\_\_\_\_ witnesses are expected to be called."  
A date and time for oral hearing on motions must be obtained from the Clerk of Court. Parties wishing to respond in writing to such motions shall do so not later than the seventh (7th) day following service of the motion or three days prior to the oral hearing date, if an oral hearing has been requested. All motions not heard or decided prior to trial will be disposed of at trial. In MOTIONS TO SUPPRESS, the grounds must be stated with particularity and the items of evidence in question shall be specified. Any motions filed which are not in compliance with this rule may be summarily overruled. All motions, where an oral hearing is not required, should be accompanied by an entry.
- (D) **JURY TRIAL.** When a jury trial in a civil case is demanded, an advance deposit of \$200.00 in addition to regular filing costs is required at time of filing. No later than fourteen (14) days prior to the scheduled jury trial, an additional \$100 in advance deposit must be made or the civil jury trial will be deemed waived. The trial will then be heard by the Court as if no jury demand was filed. The Court will consider affidavits of hardship upon written motion timely filed. If jury trial in either civil or criminal trials is to be waived, it is the responsibility of counsel who demanded the jury trial to notify the Clerk of Court at least ten (10) days prior to the trial date. (Amended 7 -31-86)
- (E) **CONTINUANCES.** Every request for a continuance shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on opposing counsel or party. The motion shall set forth the date from which a continuance is requested and reasons for continuance. If a prior trial conflict exists, the date of scheduling shall be stated. Entries shall accompany the motions with blanks for the new trial time and date, and if agreed to by opposing counsel. No requests for continuance will be considered if made less than two (2) business days before trial except for circumstances which by reasonable diligence could not be determined two (2) or more business days prior to trial.

**Rule 9:00**      **Default Judgment**

All motions for default judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. All motions for default judgment shall also contain a list of all damages supported by documentary or other evidence if not readily identified in the complaint. An entry shall accompany the motion. An oral hearing may be required at the discretion of the Judge. A form application may be obtained from the Clerk of Court upon request at no charge.

**Rule 10:00**      **Summary Judgment**

All motions for summary judgment filed pursuant to Ohio Civil Rule 56 are hereby set for non-oral hearing on the fifteenth day following service of the Motion upon the responding party. The adverse party shall file and serve opposing affidavits and memorandum prior to the day set for the non-oral hearing. An oral hearing on a motion for summary judgment shall not be held or scheduled unless counsel so requests in accordance with M.C. Rule 8 (C) or unless the Judge so requires.

**Rule 11:00**      **Criminal Practice**

A representative is required to be present at arraignment and for arraignment from jail from the respective law enforcement agency.

No case with the exception of minor misdemeanor cases and cases where defendant is not represented by counsel shall be called for trial until it has first been pre-tried.

Criminal pre-trials shall be conducted outside the presence of the Judge unless counsel requests otherwise. The following persons are required to attend the pre-trial unless such attendance is excused by the Judge for good cause shown:

- (1) the prosecutor assigned to the case;
- (2) trial counsel for the defendant;
- (3) the defendant;
- (4) the arresting officer of the complaining witness, unless the case is on domestic violence then see 4(b).
  - 4a. If the law enforcement agency does not wish to have a representative at pre-trial the prosecutor will be considered to have full authority to negotiate case.
  - 4b. If a domestic violence witness does not show for a Pre-trial the prosecutor needs to determine if a trial can be conducted without he complaining witness, and notify the court.

It is the duty of the respective counsel to enforce the appearance of the defendant or the prosecution witness. Failure to appear may result in a case being dismissed.

The Wilmington Police Department, the Clinton County Sheriff's Department, the Ohio State Highway Patrol, and any other law enforcement agency, person, firm or corporation who regularly appears in court may submit a request to designate one or more of its members as permanent representative to attend pre-trial in criminal and traffic cases in this court. If the court approves the representative, he may attend a pre-trial in place of the arresting officer or prosecuting witness and the arresting officer or prosecuting witness is then not required to attend unless requested to do so by the court. A law enforcement agency, person, firm or corporation shall make the request for designation to the Judge, in writing, setting forth (1) the name or names of the persons to be designated and (2) a statement that the person so designated has full authority, on behalf of the agency, person, firm or corporation, to settle the pending matter. Such designation shall only be effective when approved, in writing by the Judge and be revoked after notice to the police agency, person, firm or corporation. No witness fee shall be paid to any representative appearing in accordance with this rule.

The arresting officer or the permanent representative should bring to a pre-trial or see that the prosecutor has all the following materials in the possession of or available to such person which relates to the case;

- (1) Any written or recorded statement of the defendant or co-defendant, or a summary of any such oral statement.
- (2) Any prior criminal record of the defendant, and in a traffic case, the prior traffic record of the defendant. A statewide record summary or printout is preferred.
- (3) Documents or tangible objects which may be material to the defense or used at the trial, or which were obtained from or belong to the defendant.
- (4) Reports of tests or examinations made in connection with the case; accident reports, and in OMVI cases, calibration information and alcohol influence reports.
- (5) A written list of the names and addresses of all known witnesses intended to be called at trial, together with any record of prior felony convictions of any such witnesses.
- (6) A written statement of all known evidence favorable to the defendant and material either to guilt or punishment.

- (7) Any video tapes from the stop or elsewhere in possession of state.

On application to the court made before pre-trial, the substitution of photographs or copies may be permitted.

No provision of this rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Rule 16 of the Ohio Rules of Criminal Procedure.

At the close of the pre-trial, counsel shall agree upon a trial date with the Court which shall provide written notice of said date to the parties at that time upon the Memorandum of Pre-trial form which is attached here to as Appendix C. At the completion of the pre-trial, the memorandum shall be completed, signed by the parties and the Judge and filed with the Court. No additional notice of trial shall be otherwise provided by the Court.

**(B) Continuances in criminal cases.**

Continuances, of either pre-trials or trials in criminal cases shall be allowed to a date certain in conformity with M.C. Rule 8 (E). For purposes of speedy trial determination, defense counsel shall be held to have consented to such continuance if such continuance is obtained upon that counsel's request or with that counsel's agreement.

**(C) Misdemeanor summons and arrest warrants upon complaint.**

The Court adopts the following procedure for the issuance of summons and arrest warrants upon complaint for criminal offenses classified as misdemeanors, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance:

**Summons**

Pursuant to Rule 4 (A) (1) of the Ohio Rules of Criminal Procedure and Section 2935.10 Revised Code, the Clerk of Court shall issue a summons upon a complaint for all misdemeanor offenses, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance, unless an arrest warrant is authorized or requested under paragraph two of this rule.

**Warrants**

If at all possible, all request for arrest warrants in misdemeanor cases shall be reviewed by the Judge. In the absence of the Judge, the Clerk of Court may issue arrest warrants in the following circumstances:

The Clerk of Court shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer upon the charge contained in the complaint.

The Clerk of Court shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer or confined in any type of penal facility, on a charge other than the charge contained in the complaint.

The Clerk of Court shall issue an arrest warrant for the defendant upon the written request of the Wilmington City Prosecutor or the Clinton County Prosecutor.

The Clerk of Court shall issue an arrest warrant for the defendant upon the written request of the city solicitor of a municipality for an offense under a city ordinance of that municipality or for a violation of state law occurring within that municipality. This subparagraph does not apply in cases transferred to this court from a mayor's court.

Pursuant to Section 2935.24, Ohio Revised Code, this Court hereby honors arrest warrants issued by this Court, and any other Court of competent jurisdiction of this state, and grants authority to serve such arrest warrants by teletype of all law enforcement agencies in Clinton County, Ohio, and hereby directs that any such arrest warrants issued by the clerk of the Clinton County Municipal Court pursuant to Chapter 2935 of the Ohio Revised Code, based upon probable cause that a crime has been committed and the defendant committed such crime shall carry with it the authority of this Court to be served by teletype.

**(D) Arrest warrants upon felony complaints.**

The Court adopts the following procedure for the issuance of summons, arrest warrants, or scheduling a probable cause hearing upon a complaint for a criminal offense classified as a felony under the Ohio Revised Code. If at all possible, all requests for arrest warrants shall be reviewed by the Judge. In the absence of the Judge, the Clerk of Court may issue arrest warrants in the following circumstances:

If the Clerk of Court determines that the complaint states an offense, including all fact and elements, and that there is probable cause to believe that a crime was committed and that the defendant committed that crime, the Clerk of Court may:

- (A) Issue a summons to the defendant, or
- (B) Issue a warrant for the defendant's arrest if the complainant is a law enforcement officer as defined in Section 2901.01 (K), O.R.C., or
- (C) Issue a warrant for the defendant's arrest upon written request of the Clinton County Prosecuting Attorney, or Wilmington City Prosecutor, when the complainant is not a law enforcement officer as defined in Section 2901.01 (K), O.R.C.

**Rule 12:00 Procedure in Bad Check Case**

The Court adopts the following procedure for the filing of complaints for passing bad checks under Section 2913.11, Ohio Revised Code, Section 545.09 Wilmington City Ordinances, and any other similar ordinances of municipalities located in Clinton County:

- (1) The Clerk of Court shall not file a criminal complaint for passing bad checks and assign a case number to such complaint, placing the complaint upon the Court's docket, unless the prosecuting attorney with jurisdiction to prosecute such offense has endorsed his authorization upon the complaint or unless the complaining witness has first obtained a money judgment against defendant from a Court of competent jurisdiction involving the alleged bad check.
- (2) The Clerk of Court shall accept for filing sworn criminal complaints for passing bad checks that do not meet the criteria established in section (1) above, but shall not assign a case number to the complaint. Such complaints shall be referred to the prosecuting attorney with jurisdiction to prosecute such offense for investigation and for determination if authorization should be endorsed upon the complaint.
- (3) After referral of an unendorsed complaint for passing bad checks, if the prosecuting attorney endorses authorization on such complaint, it shall be returned to the clerk's office, assigned a case number and process shall issue upon the complaint.
- (4) After referral of an unendorsed complaint for passing bad checks, if the prosecuting attorney does not endorse authorization upon such complaint, it shall be returned to the Clerk of Court. Upon return of such complaint with no authorization, the clerk shall assign a case number to the complaint, and refer the complaint to the judge who shall consider the case submitted for decision as upon a motion to dismiss pursuant to Criminal Rule 48 by the prosecuting attorney.
- (5) Absent unusual circumstances, absolutely no bad check case which has been filed shall be dismissed by the Court without provision being made first for the payment of all court costs.

**Rule 13:00**      **Minor Misdemeanors Violations Bureau**

There is hereby established in accordance with Rule 4.1, Ohio Rules of Criminal Procedure a Minor Misdemeanors Violations Bureau with authority to process and dispose of minor misdemeanors other than offenses covered by the Uniform Traffic Rules. The Clerk of Court is appointed in the violation's bureau to collect fines, give receipts therefore and render accounts of the bureau. The schedule of fines and costs for minor misdemeanors which shall be charged by the violations bureau is established, published and annexed hereto as "Appendix D-Fines and Costs in Minor Misdemeanor Cases."

**Rule 14.00**      **Traffic Violations Bureau**

There is hereby established a Traffic Violations Bureau in accordance with Ohio Traffic Rule 13 with authority to process and dispose of those traffic offenses for which no Court appearance is required. The Clerk of Court is appointed as the Traffic Violations Clerk to accept appearances, waivers of trial, pleas of guilty and payments of fines and costs for offenses within its authority. The schedule of fines and costs which shall be charged by the Traffic Violations Bureau shall be posted in a conspicuous place in the clerk's office and shall be provided upon request at no cost to any party. (Also, See Appendix E)

**Rule 15.00**      **Procedure for Granting Occupational Driving Privileges or Contesting Suspension**

No grant of occupational driving privileges to a defendant whose operator's license has been otherwise suspended shall be issued by the Court unless a written petition with accompanying memorandum and/or affidavits is filed with the Court demonstrating that the suspension seriously affects the person's ability to continue employment. Included in the Petition must be a specific description of the occupational driving privileges sought detailing the exact locations and departure times requested to be encompassed in the Court's Order. The caption of a Petition filed pursuant to Sections 4507.16(E), 4511.191 (I) (1), or 4507.191 (I) (4), Ohio Revised Code shall, also, include the first, middle and last names and the address of the petitioner. Such caption shall also include the date of birth, the social security number, and the operator's license number of the petitioner. The clerk shall not accept for filing a petition the caption of which fails to contain every item of information required by this rule. In addition, the Petitioner must demonstrate proof of financial responsibility on a form to be provided by the Clerk of Court. (See Appendix F) or such other manner acceptable to the Court. (See Appendix G as amended 9-1-93) A one time fee of \$25.00 per suspension shall be paid by Petitioner before the petition will be accepted by the Clerk for filing, said fee to be treated by the Clerk as additional court costs. (Effective 9-1-93) There will be a \$10.00 fee for any subsequent amendment. [(Amended 05-01-2001)(Effective 04-01-2002)]

**Rule 15.01**      **Procedure for Driving Privileges when Petitioner wishes to pay reinstatement fees with the installment method**

Per Section 4510 et.al. of the Ohio Revised Code, effective 01/01/04 a defendant may get driving privileges on filing proper petition and pay reinstatement fees directly to the Ohio BMV after first petitioning the Court. The fee for such petition is \$60.00. Petitioner must show proof of insurance. All monthly payments are then paid to the Ohio BMV directly. The above \$60.00 fee does not go toward any reinstatement fees but stay with this court to cover administrative costs.

**Rule 16.00**      **Civil Practice**

(A)      **Pre-trial procedure.** A pre-trial conference may be ordered by the Judge and shall be held upon request of a party. Upon notice of the scheduling of a pre-trial conference it shall be the duty of counsel to contact each other and make sincere effort to dispose of the matter by settlement and to agree on any matters of evidence about which there is no genuine dispute. Prior to the date of the pretrial conference, counsel shall exchange reports of expert witnesses expected to be called by each party and shall exchange medical reports and hospital records if such are involved.

It shall be the duty of counsel to do the following at the pre-trial hearing and failure to be prepared may result in dismissal of the case for want of prosecution or in a default judgment or such other action to enforce compliance as the Judge deems appropriate.

- (1) The counsel who will be trial counsel and who is fully authorized to act and negotiate on behalf of the party must be present and proffer in writing a statement indicating the status of settlement negotiations.
- 2) All parties in interest must be present at the pre-trial unless such presence is excused by the Judge.
- (3) Each counsel shall present to the court in writing a statement of the issues involved, of the matters stipulated and of all questions of law which it is expected will be involved in the case.
- (4) Each counsel shall bring to the pre-trial all exhibits which are to be offered in evidence at the trial.
- (5) Each counsel claiming same shall present in writing to the court an itemization of all special damages claimed.
- (6) Each counsel shall present to the court in writing a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at the trial; whether or not a view will be requested; whether or not a jury trial, if previously demanded, will now be waived, and if not, the number of jurors demanded, and whether the case is one where the issue of liability should be tried separately with a subsequent trial on the issue of damages if liability to be found.
- (7) Each counsel shall come to the pretrial fully prepared and authorized to negotiate toward settlement of the case.
- (8) The text of, and citations of authority for, instructions requested by counsel pursuant to Rule 51, Ohio Rules of Civil Procedure shall be provided the Court at least 14 days before trial. Counsel's best estimate of the time required to try the case shall be provided.
- (9) The written statement shall be filed at or before the pretrial hearing.

The court may, and on the request of either party shall, make a written order which recited the action taken at the conference. The court shall enter the order and submit copies to the parties. The order, subject to Civil R. 60(A) shall control the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

- (B) **Trial Briefs.** Trial briefs shall be required on all civil jury cases, within three (3) days of trial where there is a substantial conflict of views as to specific questions of law, and may be required from case to case as ordered by the Judge.

**Rule 17.00**     **Trusteeships**

**Trusteeships.** An application by a debtor for a trusteeship under Section 2329.70 of the Revised Code, must contain a full and complete statement, under oath, setting forth:

- (1) The names of his secured and unsecured creditors with liquidated claims, their complete address, account number and amount due and owing to each. If account is being administered by someone other than the creditor, list their name and complete address.
- (2) The disposable amount of money earned in a thirty day period by the application, as set forth in Section 2716.02 Revised Code, the annual day or days applicant receives his pay, his place of residence, the number of his dependants, their ages and relation to the applicant.
- (3) The name of the person who made a demand upon him or her in accordance with Section 2716.02 Revised Code and date of such demand.

The applicant shall arrange with the Clerk of Court for a hearing of the application and shall be present at the time of such hearing. Upon the filing of an application for trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any creditor, until such time as the application is dismissed or the trusteeship is terminated. The Clerk of Court shall notify each creditor, by registered letter or by personal service, of the time and place the application will be heard.

Such notice shall be mailed or served personally within two days after the date of filing the application. Mail service shall be supported by return registered receipts. Personal service shall be supported by affidavit or signed receipt.

If a debtor fails, through mistake or otherwise, to list a creditor, said creditor or debtor, upon motion to the court, with notice to the other party, may be listed in the trusteeship. A creditor who becomes a creditor after the appointment of a trustee, shall make application to share in any distribution made by the trustee after the next ensuing distribution.

Any trusteeship that is in arrears for payments for sixty days shall be dismissed. Any trusteeship that is inactive for six months shall be dismissed. The attorney representing an applicant for trusteeship shall be permitted to include his claim for such service in the trusteeship and said claim for attorney fees shall be given priority over all other creditors in the amount not exceeding seventy-five dollars. Upon the first distribution of funds to creditors, the claim of such attorney shall be paid in accordance with this priority and shall not exceed an amount of seventy-five dollars.

Section 2329.66 Revised Code provides for exemptions and is based upon disposable earnings. The trustee is hereby authorized to require proof of disposable earnings and eligibility for exemption of payment by affidavit or otherwise and at such times as he shall deem necessary.

An applicant may only make application for trusteeship under Ohio Revised Code 2329.70 and 2329.71 twice in one calendar year without permission of the court in advance of subsequent applications.

#### **Rule 18.00      Forcible Entry and Detainer Actions**

The following procedure shall apply in forcible entry and detainer actions when a complaint seeks not only restitution of the premises but also money damages as a second cause of action.

Plaintiffs failure to appear will result in the case being dismissed without prejudice. When residential property is involved, the Court may decide at the first hearing both causes of action. If defendant appears, the Court shall inquire whether defendant chooses to contest the second cause of action. If defendant responds affirmatively, leave may be granted, for response to the complaint. If defendant makes a knowing waiver of the right to respond to the second cause, the court may proceed to hear both causes. Trial by jury will be waived unless demand is filed before date of appearance.

Should actual, physical eviction of property be required pursuant to a writ of restitution of premises, plaintiff shall arrange for sufficient workers to be present, to accomplish the set out, under the supervision of the bailiff, at plaintiffs expense.

#### **Rule 19.00      Procedure For Release of Rent Deposits**

In cases of deposit of rent with the clerk of court pursuant to Section 5321.07, Revised Code, no money shall be released to the landlord except according to the provisions of Section 5321.09, Revised Code. Where the tenant does give written notice to the clerk, the clerk may release the rent according to the agreement between the landlord and the tenant. Where the tenant does not agree to a release of the rent, the clerk shall release no funds to the landlord; but the clerk may advise the landlord of the necessity of filing the action required by Section 5321.09 (A) (2) and (3).

#### **Rule 20.00      Disposition of Case Files**

- (A) Pursuant to Section 1901.41, Ohio Revised Code, the Court hereby authorizes the Clerk of Court to destroy from time to time all files of court cases that have been finally disposed of by this court for at least fifteen years. "Finally disposed of by the Court" shall be interpreted to mean that the case file has been closed and there exists no pending matters in the case file for resolution by the Court.
- (B) The Clerk of Court is further authorized to destroy from time to time all court case files which have been finally disposed of by this Court for at least five (5) years provided said files are copied or reproduced prior to their destruction consistent with Section 9.01 of the Ohio Revised Code. The copies or reproductions made consistent with this Rule shall be retained and preserved by the Court for 10 years after which the copies or reproductions themselves may be destroyed.

- (C) The Clerk of Court is further authorized to destroy from time to time all court case files which are solely concerned with criminal prosecutions for minor misdemeanor offense or with traffic prosecutions which have been finally disposed of by this Court for at least five (5) years, paragraph (b) herein, not withstanding.

**Rule 21.00**     **Procedure Governing Proof of Financial Responsibility**

- (A) Any defendant who pleads guilty or is found guilty of a traffic offense specified in Ohio Traffic Rule 13 (B) that requires an appearance in Court may be required, as part of the sentencing procedures, to prove that the operation of the motor vehicle was covered by proof of financial responsibility, at the time of the offense in accordance with Section 4509.101, Ohio Revised Code. Upon oral motion, all of such defendants shall be provided five (5) working days from entering of a conviction of guilty by the Court to said traffic offense to present evidence of proof of financial responsibility. The Clerk of Court shall provide each said defendants a form which must be properly completed and must be filed with the Court within (5) working days to demonstrate prima facie that proof of financial responsibility existed at the time of the offense. The form to be provided by the Clerk is annexed hereto as "Appendix F - Proof of Financial Responsibility." Failure to file the form within five (5) working days shall be deemed by the Court as a failure to demonstrate proof of financial responsibility in accordance with Section 4509.101, Ohio Revised Code.

(B)     **Procedure upon failure to demonstrate proof of financial responsibility;**

Unless an oral hearing is requested by defendant in writing within five (5) working days after the entering by the Court of a conviction of guilty, a non-oral hearing shall be conducted by the Court thereafter to determine if defendant has complied with this section. If the record fails to demonstrate that defendant has complied with this section, has failed to demonstrate proof of financial responsibility and has failed to request an oral hearing, the Court shall issue all orders required by Section 4509.101, Ohio Revised Code, ex parte. A copy of the Courts Order shall be mailed by certified mail or otherwise served upon defendant and/or counsel for defendant with appropriate notice being provided to the Bureau of Motor Vehicles. In the event a convicted defendant as described in paragraph (A) of this Rule acknowledges at trial to the Court prior to sentencing that his operation of the motor vehicle which gave rise to his conviction was not covered by proof of financial responsibility, the Court may issue all Orders required by Section 4509.101, Ohio Revised Code, forthwith.

**Rule 22.00**     **Small Claims Division**

The practice and procedure in actions in the Small Claims Division shall be as provided under applicable statutes and rules of this court as set out separately under "Clinton County Municipal Court Rules Small Claims Division."

## **Clinton County Municipal Court Rules Small Claims Division**

(A) **Establishment of Small Claims Division**

The Small Claims Division of the Clinton County Municipal Court is established pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Clinton County Municipal Court.

A Small Claims administrator and deputy clerk position are established to assist persons in filing claims, and docketing the same, setting them for hearing and receiving court cost deposit.

(B) **Purposes of Small Claims Court**

The purpose of the Small Claims Court is to allow the public to resolve minor money disputes quickly, inexpensively and fairly without requiring an attorney's involvement. If an attorney enters his appearance at hearing for a party, the court shall grant the other party a reasonable continuance to obtain legal counsel.

(C) **Types of Cases**

The Small Claims Division handles all types of cases involving amounts not exceeding \$3,000.00. (Such amounts as amended from time to time by the ORC) These include but are not limited to landlord-tenant, unpaid accounts, defective merchandise, minor traffic accident repair costs, overcharge of services, and minor property damages.

(D) **Procedure and Limitations**

A complaint is filed by plaintiff along with an information sheet. It must be for money only and not to exceed \$3,000.00. (Such amounts as amended from time to time by the ORC) Jurisdiction must be proper under the law. The Plaintiff must bring with him (2) copies of any documents supporting his claim and plaintiff must have the current address of defendant. The Clerk shall also have plaintiff sign a request for regular mail service in the event of failure of certified mail service.

(E) **Filing Fees**

\$30.00 Filing fee. (amended 05-01-01)

(F.) **Failure of Service on Defendants**

Upon failure of service on defendant, the Clerk shall notify the plaintiff that the case will be dismissed within (60) days unless plaintiff provides the Clerk a new address for defendant. Any pending case wherein service is not obtained within six months shall be dismissed by the Court sua sponte without prejudice.

(G.) **Counterclaims**

Counterclaims are claims filed by the defendant against the plaintiff for a sum arising out of the same incident not to exceed \$3,000.00. (Such amounts as amended from time to time by the ORC) The filing fee is \$10.00. The transfer to civil division is accomplished if the amount of the counterclaim exceeds \$3,000.00 and defendant deposits the filing fee with a motion, affidavit and entry. (Such amounts as amended from time to time by the ORC)(effective 03-01-2002)

(H) **Duties of Clerk and Administrator**

In addition to the duties as set forth in these rules, the administrator and Clerk shall provide the public with proper explanation of procedures and assistance in completion of all forms.

(I) **Continuances**

A request for continuance of a case set for trial should be directed to the Small Claims Division at least three (3) days prior to the trial date. Requests for continuances shall be in writing which must include (1) reasons for the request, and (2) the date and time of the current assignment. No continuance shall be granted for more than thirty days, nor shall any party be entitled to more than one continuance except for good cause shown and with the express approval of the court. Failure of the plaintiff to appear at trial unless otherwise excused shall result in a dismissal of the case without prejudice.

(J) **Trial**

The court shall administer an oath to witnesses, and proceed to a trial on the merits. Unless all parties are represented by counsel, trial shall be conducted in an informal manner with the purpose of accomplishing substantial justice. The Ohio Rules of evidence do not apply in small claims court. [(Evidence Rule 101(C)(8)](Effective 03-01-2002)

(K) **Collection of Judgments**

The employees of the court shall assist prevailing parties in the collection of judgments to the extent agreed upon between the parties.

(L) **Collection of Indigent Application Fee**

A \$25.00 application fee will be collected for Indigent Defendants and Parties in Municipal Court, Effective January 01, 2006

Rule 22.00(L) Added 01-01-06

# Clinton County Municipal Court

## **Appendix**

The following docket schedule shall take effect on April 01, 2002. This schedule provides a general outline as to when types of cases will be scheduled. The court will conduct all jury trials, unless otherwise ordered, on Saturday morning beginning at 8:30 a.m. The court will endeavor to accommodate specific scheduling problems of individuals that may conflict with this schedule upon written request; (Appendix A)

Rule 15.01 added 01-01-04

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