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**DARKE COUNTY MUNICIPAL COURT  
RULES OF PRACTICE**

**JOURNAL ENTRY ENACTING RULES OF COURT**

IT IS HEREBY ORDERED THAT THE FOLLOWING ARE ADOPTED AS THE RULES FOR THE DOCKETING OF CAUSES AND REGULATIONS OF PRACTICE AND PROCEDURE OF THIS COURT IN CIVIL, CRIMINAL AND TRAFFIC CASES UNTIL OTHERWISE ORDERED, AND THAT ALL PREVIOUS ORDERS ARE HEREBY REVOKED. EFFECTIVE 12.11.13.

APPROVED:

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HONORABLE JUDGE JULIE L. MONNIN

THESE RULES SHALL BE KNOWN AS THE **DARKE COUNTY MUNICIPAL COURT RULES OF PRACTICE** AND MAY BE CITED AS DARKE R. \_\_\_\_.

**COURT ADMINISTRATION AND GENERAL RULES**

RULE 1.00  
COURT SESSIONS

The sessions of this Court shall be held from 7:30 a.m. to 12 noon and 1:00 p.m. to 4:30 p.m., Monday through Friday, except legal holidays and as otherwise ordered by the Court.

A. **HOLIDAYS:** The Court shall be closed on the following days and such other days as ordered by the Court:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day & day after
- Christmas Eve (close @ noon if a Tuesday)
- Christmas Day

RULE 2.00  
CLERK OF COURTS

The office of the Clerk of Courts shall be open for the transaction of business from 7:30 a.m. to 12 noon and 1:00 p.m. to 4:30 p.m., Monday through Friday, except all legal holidays and as otherwise ordered by the Court.

By direction of the Judge, the Clerk of Courts has the power to speak for the Court with relation to personnel, bond continuances, and administrative acts of the Municipal Court.

RULE 2.01  
RECORDS

The Clerk of Court shall keep and maintain the following records which are the public records of the Municipal Court. Notwithstanding Sec. 149.39 O.R.C., the disposition of said records shall be pursuant to Sec. 1901.41 O.R.C. and the Court's Record's Retention Schedule.

- A. CIVIL DOCKET AND JOURNAL-This docket and journal contain civil cases, together with all proceedings, properly dated and numbered and are the complete and final record of each case.
- B. CRIMINAL AND TRAFFIC DOCKET AND JOURNAL-This docket and journal contain criminal and traffic cases, together with all proceedings properly dated and numbered and are the complete and final record of each case. Orders and Entries shall be shown as entered on the Journals of the Court as of the date said Judgments, Orders or Entries were announced.
- C. ADMINISTRATIVE JOURNAL-The Administrative Journal contains orders made by the Municipal Court in all administrative matters. Rules and orders regulating the business of the Municipal Court shall be entered into the Administrative Journal, which shall be reserved for that purpose.
- D. GENERAL INDEX-The General Index is an alphabetical listing of the names of the parties to any action or proceeding.
- E. TRUSTEESHIP DOCKET-This docket is a record of proceedings on behalf of debtors and accounts or creditors, administrated by the Clerk of Courts as Trustee for such debtors.

RULE 2.02  
COPIES

The Clerk, upon proper request, shall permit copying of cases, according to public record. The expense of extended records shall be paid by the party or person requesting the same.

RULE 2.03  
NUMBERING

All civil, criminal and traffic actions brought in the Municipal Court shall be numbered in accordance with the Ohio Rules of Superintendence.

RULE 2.04  
PAPERS FILED WITH THE COURT

- A. PREPARATION: The officers or employees of this Court shall not prepare or help prepare any pleading, affidavit, entry or order in any Civil or Criminal matter, except as provided pursuant to §1925.13 O.R.C.
- B. COPIES: The Clerk shall permit any person to make a copy of any of the papers filed, but original papers filed in any case shall not be removed from the office without approval of the Judge or the Clerk of Courts. Reproduction of any material shall be at a rate established by the Clerk and paid for by the party or person requesting the same. When papers are being filed, sufficient copies shall be furnished by the filing party to cover each party served, as well as an original for the Court.
- C. IDENTIFICATION: All papers offered for filing with the Court shall bear:
1. A case caption and case number;
  2. A title identifying the name and party designation of the party filing the paper and the nature of the document (e.g. Answer of Defendant, John Doe) and;

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

D. PROOF OF SERVICE: All documents (except the Complaint) offered for filing and required to be served on other parties shall contain proof of service in the form provided by Civil Rule 5(D).

RULE 2.05  
FAXES

A faxed copy shall be accepted by the Court for filing so long as a signed original is maintained by the filing party and the person making a fax, complies with the Ohio Supreme Court model rule for facsimile filing. The Court hereby adopts Superintendence Rule 27 as a local rule as of October 23, 2008, which ensured compliance with Rule 83 of the Rules of Civil Procedure. If you are filing by fax, **DO NOT** forward the original of the documents that were already filed by fax.

RULE 2.06  
COMPUTATION OF TIME

The time within which an act is required to be done shall be computed by excluding the first day, but including the last; except when the last day falls on a Saturday, Sunday or a Holiday, it shall be excluded and the next business day counted.

RULE 3.00  
TRIAL ATTORNEY OF RECORD

All attorneys of record shall file an Entry of Appearance on behalf of their client. All documents filed on behalf of one or more parties represented by counsel shall be signed by one attorney in his individual name as trial attorney and show the Supreme Court Registration Number. All notices and communications from the Court and all documents required to be served will be sent to such designated trial attorney. No attorney who has entered his or her appearance in a case may withdraw as trial attorney except upon written motion for good cause shown and after notice to the client.

RULE 4.00  
APPOINTED AND ACTING JUDGES

All appointed and acting Judges shall sit as designated by Court Order. No appointed or acting Judge shall modify any previous orders of the Court not entered by said appointed or acting Judge.

RULE 5.00  
BAILIFF

The Bailiff and Deputy Bailiff, as selected by the Judge, shall formally open session in the traffic, criminal and civil court and maintain order. All Bailiffs shall comply with the local Court job description and standard operating procedures for security.

RULE 6.00  
JURORS

A. SELECTION: Jurors shall be chosen by a jury commissioner designee as generally provided for in Section 2313.01 et seq. O.R.C. The Clerk of Courts shall serve as an alternate jury commissioner and shall have possession of the jury records. Jurors are selected at random from a computerized list of legal voters provided by the Darke County Board of Elections. A minimum of twenty (20) jurors shall be summoned for each criminal and civil jury.

B. **SUMMONS:** Unless otherwise directed by the Court, all service upon persons summoned for jury duty shall be by ordinary first class mail and mailed out at least ten (10) days before the trial date.

C. **CANCELLATION:** If a jury is cancelled after it has been summoned into court and the Clerk of Courts is unable to notify all prospective jurors of said cancellation, the Court may assess costs so incurred to the last party canceling the jury demand.

RULE 7.00  
WITNESSES AND SUBPOENAS

A. **PRAECIPE:** The praecipe (request) for subpoenas of witnesses shall be filed with the Court not later than seven (7) days before the date of trial. Praecipes requesting documents shall be in the form of a subpoena duces tecum and shall state with specificity whether the custodian of the records is required to attend with said documents, or whether such documents may be submitted in lieu of appearance.

B. **DEPOSIT:** No subpoena for witnesses in a civil proceeding shall be issued until the witness fees, costs and estimated mileage are deposited with the Clerk. A witness who testifies or is timely available for that purpose shall receive fee upon presentation of the subpoena to the Clerk of Courts.

C. **FAILURE TO APPEAR:** Failure of witnesses to appear in court may subject them to prosecution and fine for contempt of court. Failure of a witness to appear for whom the praecipe was not timely filed will not be grounds for a continuance of the case.

RULE 8.00  
RECORDING DEVICES

This Court utilizes mechanical recording devices for courtroom proceedings.

RULE 9.00  
SOLICITATION

No solicitation will be tolerated within the premises of the Municipal Court, or any of the offices or halls adjoining the same.

**RULES OF CIVIL PRACTICE**

RULE 10.00  
CIVIL RULES

The Municipal Court shall follow the rules governing the Courts of Ohio and Rules of Superintendence.

RULE 11.00  
CIVIL PROCEDURE

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

RULE 12.00  
CIVIL COSTS AND FEES

Costs in civil cases shall be assessed and payable on filing according to the Schedule of Costs, a copy of which is available upon request in the civil division of the Municipal Court.

RULE 13.00  
EXTENSIONS FOR FILINGS

Upon Motion, for good cause shown, and in accordance with the Civil Rules, the time for filing pleadings or other matters, may at the Court's discretion, be extended for such reasonable time as the Court may provide by written order.

RULE 14.00  
PRE-TRIAL CONFERENCE

In any civil action the Court may, in its discretion, assign such cause for pretrial conference. If a pretrial is ordered, the pretrial conference shall be conducted in person, unless otherwise specified by the Court.

Notice of the date, time and place of such pretrial conference shall be given by the Deputy Clerk of the civil division to all counsel of record and parties not represented by counsel. Trial counsel or the parties themselves if not represented by counsel, are to be fully prepared to discuss the following matters at the conference:

1. The possibility of settlement;
2. If a jury has been timely requested, a decision as to whether the case is to be tried by a jury or whether a jury is to be waived;
3. The setting of discovery, motion filing and other cut-off dates;
4. A narrowing of any issues, factual or legal, by means of stipulation;
5. Determination of the trial date and the probable length of time for trial.

RULE 15.00  
CIVIL JURY TRIAL DEMAND AND DEPOSIT

A party desiring a jury trial shall file a jury demand in writing in accordance with Civ. R. 28 and 39. The party making a demand for a jury shall deposit with the Clerk of Courts a sum as set forth in the Schedule of Costs. Said deposit must be paid at the time the demand is filed. The jury shall not be drawn unless there is, subject to the control of the Clerk, available and sufficient money to pay the fees of jurors and related costs.

The failure of a party demanding the jury to comply with any of the provisions of this rule shall constitute a waiver of the jury and the matter shall be submitted to, and decided by, the Court.

RULE 16.00  
BRIEFS

In all cases of trial by jury, the parties shall be required to file final pretrial briefs. All pretrial briefs shall be filed by a date set by the Judge and shall include a recitation of the undisputed facts; a recitation of disputed legal and factual issues, stipulations, if any; relevant case law and statutory authority; a list of witnesses to be called to testify; and, any proposed jury instructions.

RULE 17.00  
NOTICE OF TRIAL

When a civil case is assigned for trial, the Clerk shall mail a notice containing the date, time and place of trial to attorneys of record, or to parties if unrepresented by counsel, and shall file a copy of such notice with the original papers. It shall be the responsibility of each party, or their attorney of record, to timely notify this Court of any change in address.

The notice shall be mailed at least ten (10) days before the date of trial, except in Forcible Entry and Detainer cases (see Darke R. 23).

RULE 18.00  
MOTIONS

All Motions, other than those made in open court on the record, must be in writing, accompanied by a written memorandum containing the arguments of counsel and pertinent law and filed in accordance with the Ohio Rules of Civil Procedure. Opposing memoranda shall be filed not later than fourteen (14) days from the service of the motion or on the day prior to the trial or hearing on the motion, whichever is earlier. Motions shall be deemed submitted when opposing memoranda are filed or the time for filing expires, whichever is earlier. No oral hearing shall be held unless otherwise ordered by the Court. If the court schedules a motion for oral hearing, failure of the movant to appear for such hearing may be deemed an abandonment of the Motion.

RULE 19.00  
ENTRIES AND ORDERS

A. JUDGMENT ENTRIES: Counsel for the party in whose favor an Order or Judgment is rendered shall prepare a Judgment Entry and submit it to the Court within fourteen (14) days of said decision. No Entry shall be accepted for filing unless signed by the Judge. **ALL ENTRIES SHALL DESIGNATE THAT A COPY OF THE SAME HAS BEEN ISSUED TO THE OPPOSING COUNSEL OR PARTY, IF UNREPRESENTED.**

B. SUBMISSION: Entries and Orders shall not be submitted while Court is in trial. Entries and Orders, endorsed by all counsel involved, may be left with the Clerk.

C. CONTENT: Entries shall be drawn in language that is appropriate to the specific facts of the case in which it is filed.

D. AGREED JUDGMENT ENTRIES: Entries of settlement may be filed at any time; however, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date of trial. Any variance from this rule is subject to Court approval.

RULE 20.00  
CONTINUANCES

This Court is opposed to needless delay in the handling of its business and where a court date has been cleared with the parties, or their counsel, requests for continuances of such matters are discouraged. Every request for continuance shall be a written Motion & Entry, unless made on the record in open court. The Motion shall set forth the date from which a continuance is requested and the reasons for such request. **MOTIONS MADE FOR CONTINUANCE DUE TO SCHEDULING CONFLICTS WITH ANOTHER COURT OF RECORD MUST HAVE ATTACHED A COPY FROM SAID COURT OF THE SCHEDULING NOTICE WHICH SET THE MATTER IN CONFLICT.**

Attorneys submitting motions for continuance are encouraged to contact opposing counsel to obtain consent for said request. The movant shall submit any entry indicating the outcome of such efforts and shall provide blanks for the new trial or hearing date and time.

This rule does not restrict the court's exercise of discretion in granting or denying continuances.

RULE 21.00  
DISMISSAL FOR WANT OF PROSECUTION

All cases, not reduced to Judgment, which have remained on the docket for six (6) months without the filing of any motion, pleading or entry shall be dismissed by the Court, at Plaintiff's cost, upon giving of proper notice.

## SPECIAL PROCEEDINGS

### RULE 22.00 SMALL CLAIMS COURT

A. **FILINGS:** Small Claims Complaints, which shall be for the recovery of money only, shall be accepted for filing when submitted in accordance with Darke R. 2.04(C) and (D) and wherein the prayer of said Complaint does not exceed the monetary amount provided in Sec. 1925.02 O.R.C. All pleadings will be construed to accomplish substantial justice and may be heard by the Judge.

A Plaintiff may file up to twenty-four (24) claims in the Small Claims Division during any calendar year.

Any party wanting to file a Counterclaim or Cross-Claim shall file it with the Small Claims Division and serve it on all other parties at least seven (7) days prior to the date of the trial of the Plaintiff's claim in the original action.

B. **CONTINUANCES:** Motions for continuance must be filed in writing and the granting of a continuance shall be at the discretion of the Judge.

C. **DISCOVERY:** No depositions or interrogatories shall be taken in Small Claims cases.

D. **Transfer to Regular Civil Docket:** Upon the filing of a motion and affidavit, as required by Ohio Revised Section 1925.10 and upon payment of the required costs, the small claims complaint and any counter or cross-claims, may be transferred to the regular docket of the Civil Division at the discretion of the Court, or as otherwise mandated. Failure to comply with this rule may result in the case being retained on the Small Claims Docket.

### RULE 23.00 CIVIL COMPLAINTS

A. **ATTACHMENTS:** All complaints requesting prejudgment interest and/or judgment interest at a rate other than the current statutory rate of interest must attach the contract or agreement, signed by Defendant(s), as to the interest rate and/or prejudgment interest commencement date.

B. **PRO SE PLAINTIFFS:** As a courtesy, the Court provides blank complaint forms to the public at no charge. However, the court staff cannot give legal advice as to the completion of these forms. It is the responsibility of the pro se plaintiff to seek legal counsel elsewhere.

### 24.00 PLEADINGS

All motions filed shall include a proposed entry by the moving party. All legal cases cited in briefs or other supporting documents shall be attached to the pleading. All documents required to be returned by mail must be accompanied by an envelope with ample postage for all submitted copies to be returned. Otherwise, filings will remain at the Court for pick-up.

### RULE 25.00 FORCIBLE ENTRY AND DETAINER PROCEDURE

A. **INITIAL APPEARANCE:** All Forcible Entry and Detainer cases shall be set for an initial appearance pursuant to the time limits set forth in Chapter 1923 of the Ohio Revised Code. When a case is called, it shall be disposed of as follows, unless otherwise ordered by the Court:

If the Defendant, upon proper service, fails to appear, the Court shall receive evidence on the necessary elements, pursuant to the Ohio Rules of Evidence. Plaintiff or Plaintiff's agent shall appear and give testimony, based upon personal knowledge of the facts concerning the forcible entry and detainer; or in lieu thereof, a

sworn affidavit attesting to such facts may be submitted at the time of the hearing or no later than within seven days thereafter. The Court encourages Plaintiff to attach copies of the Notice to Vacate and an Affidavit of ownership or agency to the Complaint. If the Plaintiff or his counsel fails to appear, the case shall be dismissed.

If Defendant appears and presents a prima facie defense, the case shall be ordered set for trial, and at the Court's discretion, it may require Defendant(s) to post a reasonable deposit in the amount of rent, pending trial. If no viable defense is presented, the Court will proceed to rule on Plaintiff's request for restitution.

B. TRIAL: A notice of the trial date shall be issued by ordinary first class mail. All notices shall be mailed at least five (5) days before the date of trial in Forcible Entry and Detainer cases.

C. EXECUTION OF WRIT: Upon payment of the writ of restitution deposit, said writ shall be issued to the Darke County Sheriff's Department for further processing.

#### RULE 26.00 PROCEEDINGS IN AID OF EXECUTION

A. BANK ATTACHMENTS: Bank Attachments may be filed on forms provided by the Court for filing in Darke County Municipal Court only. Filings shall include an original (to be retained by the Clerk) and sufficient copies for service upon the financial institution, the Judgment Debtor and the Attorney or party filing same. Hearing dates shall be assigned within fourteen (14) days and notice of same shall be included in the forms served upon the appropriate parties. Service of said forms shall be accomplished by certified mail, return receipt requested, upon any financial institution and by ordinary mail to the Judgment Debtor.

B. GARNISHMENT OF PERSONAL EARNINGS: Garnishment of Personal Earnings may be filed on forms provided by the Court for filings in Darke County Municipal Court only. The filing shall include two (2) copies of the Notice to Judgment Debtor, one (1) copy of the 15-day Notice with method of mailing attached (i.e. certified mail, ordinary mail with certificate, etc.) and an original and four (4) copies of the Affidavit and Order for Garnishment. **Hearing dates shall be assigned by the clerk only upon receipt from the judgment debtor of the "Request for Hearing" form.** Said hearings shall be rescheduled within the prescribed five (5) day time limitations as set forth in 2716.06 O.R.C. Service of the Garnishment forms shall first be attempted by certified mail, return receipt requested, upon the Employer and followed by ordinary mail, if necessary.

B. DEBTOR'S EXAM: Debtor's Exams must be filed on forms submitted by the judgment creditor. Filings shall include one (1) original, which shall be retained by the Clerk of Court and three (3) copies for service per Judgment Debtor. Failure of any person, who has been properly served, to appear for a Debtor's Exam will result in a Bench Warrant being issued for their arrest, only upon request of judgment creditor and with all required identifiers of the debtor.

D. CITATION IN CONTEMPT: See Darke R. 30.00

#### RULE 26.01 EXEMPTIONS

When it is claimed that the property attached is exempt from execution or attachment, the debtor may request a hearing to establish such exemption in the manner provided by law. Then the property attached or levied upon by the Plaintiff is claimed by anyone other than the party against whom the writ was issued, the claimant shall file in the same case, a pleading designated "Third Party Claim". At least three (3) days notice shall be given to the attorney for Plaintiff of the time fixed for the hearing on the claimant's right to such property. Proof of service of notice shall be made as required by the Civil Rules.

Rule 27.00  
SALE AND CONFIRMATION

A copy of the notice of sale of personal property shall be mailed to the parties and to attorneys of record in the case; however, failure to mail such notice shall not invalidate the sale.

Entries of confirmation and distribution shall be prepared by the party who request the sale and shall contain a statement that the sale was regular and proper in every respect unless otherwise directed by the court, and also a statement of the balance, if any, still due on the judgment.

RULE 28.00  
COGNOVIT JUDGMENTS

Before an Entry is filed in the case of confession of Judgment by warrant of Attorney, the original note shall be presented to the Clerk who shall stamp or endorse thereon the fact that the note is in judgment. The entry shall not be filed until this is done.

RULE 29.00  
TRUSTEESHIPS

A. APPLICATION: The application for an appointment of a trustee shall include a complete and accurate statement, under oath, of (a) the debtor's name, address and marital status; (b) the name and address of his employer(s); (c) the amount of his gross earnings for the previous thirty (30) days; and (d) a statement indicating the name of the creditor from whom the five (5) day written notice of proceedings against his earnings was received. Upon the filing of an application the Clerk shall immediately become the trustee without formal order of the Court.

At the time of filing the application, the attorney for the debtor shall deliver or mail to the Clerk two (2) copies of a notice of the appointment for each creditor listed in the application together with a stamped envelope properly addressed to each creditor. The attorney for the debtor shall deposit such notices in the mail within twenty-four (24) hours and the Clerk shall indicate on the docket that notice was mailed to listed creditors. It shall be the responsibility of the Attorney to mail notices to the creditor.

Each notice shall contain the name of the applicant, the sum the applicant claims is owing to the creditor, the time and place that objections to said application shall be heard and a place for the certification or objection to the creditor. Additional creditors may be listed in the trusteeship only upon application and the service of a notice to each additional creditor as heretofore provided. If such application is made by a creditor, a similar notice must be given to the debtor, unless the creditor has obtained a judgment in a court of record.

B. DISTRIBUTION: The trustee shall make no distribution to anyone except a creditor or an attorney for a creditor.

The Clerk of Courts, or designee, shall supervise payments of debtors and distribute the funds in each case at least every six (6) months unless the amount available does not equal ten percent (10%) of the claims listed. Where a debtor pays directly, the Clerk shall require the debtor to produce payroll stubs or similar records and the Clerk may refuse to accept payments or installments thereof, which do not equal the amount required by law. In event payments are not made for thirty (30) days, the trusteeship shall be dismissed and the proceeds distributed.

The Clerk may not accept payments into a trusteeship where the debtor pays direct, unless the tender of payment is made by the debtor, his agent or attorney, within four (4) days after the receipt of the personal earnings by the debtor. This requirement can be waived only by the Judge of the Court.

C. DISMISSAL/REINSTATEMENT: The dismissal of a trusteeship by rule of court or upon motion of counsel for one of the creditors listed therein shall make the debtor filing said trusteeship ineligible for reinstatement or refiling of application for another trusteeship for a period of six (6) months from the date of such dismissal. Provided, however, that such trusteeship may be reinstated upon the tender and payment to the Clerk of Courts, as Trustee, the amount of money required by law to make such trusteeship current to the date of such tender, if the approval of the Judge of the court is first obtained.

30.00  
PEACE BOND/WARRANT

Actions seeking a Peace Bond/Warrant shall be filed and handled in accordance with Sections 2933.01 through 2933.10 O.R.C.

31.00  
REPLEVIN ACTIONS

Replevin actions shall be filed in accordance with the provisions in Chapter 2737 of the Ohio Revised Code.

32.00  
CITATION IN CONTEMPT

Failure of any person, who has been properly served, appear for a Debtor's Exam, or respond to a Debtor's Questionnaire, or to hold funds as directed under the Proceedings in Aid of Execution (Garnishment or Bank Attachment), can constitute grounds for the issuance of a Citation in Contempt. Contempt Citations may be filed on the forms prescribed by law and provided by party requesting such action and shall include one (1) original and four (4) copies. Hearing dates are assigned by the civil clerk and notice thereof shall be included in the forms served upon said Judgment Debtor. Personal service shall be accomplished by Special Process Server or Sheriff.

33.00  
LICENSE SUSPENSION APPEALS

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

1. Civil Complaint
2. Proof of payment of reinstatement fee(s) to BMV
3. Proof of Insurance
4. Proof of employment from employer
  - a. Confirm employment
  - b. Days of week and hours of work each day

**RULES OF CRIMINAL AND TRAFFIC PRACTICE**

RULE 34.00  
CRIMINAL PROCEDURE

All rules set forth above with reference to Civil Procedure shall, where applicable, be enforced in criminal proceedings before this Court. Further, this Court shall follow the Ohio Rules of Criminal Procedure and Ohio Traffic Rules. In addition thereto, the following rules and practices shall prevail.

RULE 35.00  
BAILIFF

The Bailiff and Deputy Bailiff, as selected by the Judge, shall formally open session in the traffic, criminal and civil court and maintain order. All Bailiffs shall comply with the local Court job description and standard operating procedures for security.

RULE 36.00  
DOCUMENTS FILED WITH THE COURT

All traffic citations shall be filed within forty-eight (48) hours of the offense and shall include a current driving record of Defendant and a statement of facts of the officer. The court permits the use of a ticket that is produced by computer or other electronic means, provided that the ticket conforms in all substantive respects, including layout and content, to the "Ohio Uniform Traffic Ticket." The provision of the rule relative to the color and weight of paper and method of binding shall not be applicable to any ticket that is produced by a computer or other electronic means.

RULE 37.00  
ARRAIGNMENTS

A. SCHEDULING: All arraignments will be held on Tuesdays. Allailable offenses shall be cited in at 8:00 a.m.; and citations for minor misdemeanors only shall be cited in at 11:00 a.m. Those Defendants who are confined, in which case, video arraignments from the jail will be held at the availability of the Court.

Arraignment sessions shall include: initial appearance of all persons charged with criminal misdemeanors and/or traffic offenses.

B. PLEAS: At arraignment, the Defendant or their counsel may enter one (1) of the following pleas: (1) guilty; (2) no contest; (3) not guilty; or (4) not guilty by reason of insanity. Prior to arraignment, Defendant's counsel may file a written appearance and a plea of not guilty pursuant to Crim. R. 10(B), except for those offenses listed in Darke R. 35(d) below. No plea or appearance will be accepted by telephone.

C. CONTINUANCES: The Court is opposed to needless delay in the handling of its business. In cases where a continuance is necessary, the Defendant must request said continuance in writing or in open court. The limit of time allowed for said continuance will be one (1) week, unless for good cause shown, a longer time must be approved by the Judge. The date of continuance, and by whom granted, shall be docketed in the case. No requests for continuances will be accepted by telephone.

D. MANDATORY APPEARANCES: All persons, regardless of residence, must appear in court if cited for the following offenses:

1. All criminal charges that are misdemeanors of the first, second, third or fourth degrees.
2. All traffic offenses that are unclassified or misdemeanors of the first, second, third or fourth degrees.
3. Driving under suspension or revocation of driver's license
4. Reckless operation
5. A third (or more) moving traffic offense within the previous twelve (12) month period
6. School bus violation (flashing Lights) or speed violation in school zone
7. Failure to yield for an emergency vehicle (§4511.213)
8. Failure to yield to a funeral procession (§4511.45)
9. Placing injurious material on highway (§4511.74)
10. Railroad crossing violation
11. Probation Violation
12. Overweight violations (10,000 lbs. or more)
13. Others by discretion of the Judge

**FAILURE TO COMPLY WITH THIS RULE WILL RESULT IN THE ISSUANCE OF A BENCH WARRANT OR A LICENSE FORFEITURE PURSUANT TO §2935.27 O.R.C.**

RULE 38.00  
PRELIMINARY HEARINGS

Preliminary hearings in felony cases will be conducted within the time limits provided by law and shall be conducted in accordance with Crim. R. 5 (B).

RULE 39.00  
COSTS, FEES AND BAIL

A. **RELEASE:** Officers in charge shall release any person arrested and/or charged with any misdemeanors, who gives bail or executes bond according to law and satisfaction of the Clerk in the amount indicated in the Bail or Bond schedule of the Darke County Municipal Court. Such persons shall be given an arraignment date in accordance with the normal procedure where an arrest is not made; **WHICH IS 8:00 A.M. THE VERY NEXT TUESDAY THAT THE COURT IS IN SESSION.**

B. **BAIL:** Cash appearance bonds can be taken at the Darke County Criminal Justice Center, 5185 County Home Road, Greenville, Ohio 45331 by appointed individuals from the Darke County Municipal Court at the hours of 8 a.m. (when court is closed) and 10:00 p.m. daily. Otherwise, cash appearance bonds shall be paid at the Court during regular operating hours. Such persons shall be given a bond hearing date **WHICH IS 8:00 A.M. THE VERY NEXT TUESDAY THAT THE COURT IS IN SESSION.**

C. **BOND FORFEITURE:** All bond or bail will be declared forfeited for failure of any appearances by the Defendant. Where bond or bail has been declared forfeited by the Court, the forfeiture may be set aside if the Defendant in such case appears before the Judge and shows good cause for non-appearance.

D. **COSTS, FEES AND BONDS:** Assessed and payable according to the schedule established by the Court.

RULE 40.00  
PRETRIAL CONFERENCES

All criminal and traffic cases classified as a misdemeanor of the first or second degrees and all unclassified misdemeanors will be set for pretrial conference at the Court's discretion. Those required to attend are: the Prosecutor assigned to the case, Trial counsel for the Defendant and Defendant. The Prosecutor shall complete in its entirety (and obtain signatures on) a Pretrial Agreement (the required form is provided by the Court and must be on blue paper) and return it to the Clerk's office for further processing/scheduling.

RULE 41.00  
PLEA BARGAINS

All recommendations for withdrawal, reduction or dismissal of charges and the reasons therefore shall be made in open court by the Prosecuting Attorney, or shall be specifically set forth in writing by a properly executed Pretrial Agreement. The Court will consider all recommendations at sentencing from the Prosecutor, Defendant and/or Defense counsel and any victim(s), if applicable. As long as there is a properly executed Pretrial Agreement on file with the Court, the Prosecutor will not be required to attend change of plea or sentencing hearings.

RULE 42.00  
MOTIONS

All motions shall set forth clearly and specifically the grounds for the Motion and supporting citations (copies of all cited cases must be attached). In Motions to Suppress, the items of evidence shall be specified with particularity. Any motions filed, which are not in compliance with this Rule, or with the applicable Rules of Criminal Procedure, or are untimely filed, shall be summarily overruled. All Motions shall be filed as a separate document from any proposed Judgment Entries. No combined Motions and Entries on the same form with same heading will be accepted.

All motions requiring oral hearing shall be set within thirty (30) days of the date such filing is made and it shall be the responsibility of each party to secure the attendance of all witnesses necessary to establish his position.

RULE 43.00  
TRIAL BY JURY

Any demand for trial jury must conform to the requirements of Crim. R. 23. Failure to demand a jury trial as provided therein shall be deemed a complete waiver of such right.

RULE 44.00  
WITNESSES

Failure of a witness to appear in court may subject said witness to prosecution for Contempt of Court.

RULE 45.00  
CONVICTION RECORDS

All traffic violations are reported to the Bureau of Motor Vehicles.

RULE 46.00  
CASE MANAGEMENT IN CIVIL CASES

A. PURPOSE: The purpose of this rule is to establish, pursuant to M.C. Sup. R. 18, a system for civil case management which will achieve the prompt and fair disposition of civil cases.

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

C. CLERICAL STEPS:

1. Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk of Court shall notify counsel immediately. If counsel fails to obtain service of summons within five (5) months after the date the cause of action was filed, then the Clerk of Courts shall notify counsel that the case will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.

2. After any responsive pleadings is filed, the Clerk of Courts shall immediately forward said pleadings and file to the Judge so that the matter may be set for pretrial or hearing. All subsequent pleadings of filings shall be immediately sent to the Judge for review.

3. If no action has been taken on a file for a five (5) month period and the case is not set for trial, then the Clerk of Courts shall notify the party that the matter will be dismissed for want of prosecution in not less than thirty (30) days unless good cause is shown to the contrary.

4. When a file has been marked "Case Settled, Entry to follow" and the Entry has not been received within thirty (30) days, then the Clerk of Courts shall notify the party that the case will be dismissed unless the entry is received within ten (10) days after such notification; however, when a case is settled within the forty (40) days immediately preceding the scheduled trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this rule is subject to court approval.

D. JUDICIAL STEPS:

1. PRETRIALS: The Court will set a pretrial conference which shall be held in person unless both parties are represented by counsel at which the attorneys are permitted to conduct their pretrial by telephone. The pretrial

(whether in person or by telephone) shall be between the parties only. The judge does not participate in pretrial conferences. Once the pretrial is concluded, Plaintiff or Plaintiff's counsel shall notify the Clerk or Deputy Clerk immediately as to the status of the case.

For the purpose of this rule "pretrial" shall mean a conference chiefly designed to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, or their attorney of record.

Notice of the pretrial conference shall be given by mail or telephone by the clerk not less the fourteen (14) days prior to the conference. Any Motion for continuance of the conference shall be addressed to the Judge. Failure to attend a scheduled pretrial conference, without just cause being shown, may be punishable for contempt of Court.

Counsel attending the pretrial conference shall be prepared, and have authority, to stipulate items of evidence, and authority to settle the case, in accordance with the best interest of their respective clients.

The Court may attempt to narrow legal issues to reach stipulations as to facts in controversy and to shorten the time and expense of trial. The Court may direct the parties to file an Entry which shall become part of the record, with designates all stipulations, admissions and other matter which have come before it in the pretrial. The Court shall determine whether or not trial brief should be submitted and shall fix a date when they are to be filed. This does not preclude a request be either party, at a later time, to file trial briefs.

The Judge shall have the authority: to dismiss an action for want of prosecution on motion of Defendant upon failure of counsel or a Plaintiff, if unrepresented, to appear as ordered at any pretrial conference; to order the Plaintiff to proceed with the case upon failure of the Defendant to appear in person or by counsel at any pretrial conference as required; to make such other orders as the Court may deem appropriate under all circumstances.

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

2. MOTIONS: All Motions must be in writing and accompanied by a written memorandum containing citations of law (with copies of all cited cases attached) and the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days after the Motion is filed. All motions will be deemed submitted at the end of said fourteen (14) day period unless time is extended by the Court. All Motions shall be filed as a separate document from any proposed Judgment Entries. No combined Motions and Entries on the same form with same heading will be accepted.

There will be no oral hearings granted on motions unless mandated by law, or unless a party requests an oral hearing in writing and the Court deems it necessary.

3. CONTINUANCES: No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance.

**MOTIONS MADE FOR CONTINUANCES DUE TO SCHEDULING CONFLICTS WITH ANOTHER COURT OF RECORD MUST HAVE ATTACHED A COPY FROM SAID COURT OF THE SCHEDULING NOTICE WHICH SET THE MATTER IN CONFLICT.** The case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial.

The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.

If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the Judge may require the trial attorney to provide a substitute trial attorney.

4. **JUDGMENT ENTRIES:** Counsel for the party in whose favor an order or judgment is rendered shall prepare an appropriate Entry and submit it to the Court within fourteen (14) days of the decision.

Entries of settlement may be filed at any time; however, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this step is subject to court approval. All Entries shall be filed as a separate document from any proposed Motions. No combined Motions and Entries on the same form with same heading will be accepted.

#### RULE 47

#### **CASE MANAGEMENT IN SPECIAL PROCEEDINGS**

A. **PURPOSE:** The purpose of this rule is to establish, pursuant to M.C. Sup. R. 18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a Judge or Magistrate, to wit: small claims, forcible entry and detainer, rent escrow, replevin, citations in contempt, garnishment hearings, debtor's exam and license suspension hearings.

B. **SCHEDULING:** The scheduling of events in cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

C. **CLERICAL STEPS:**

1. In all new cases, if counsel fails to obtain service of summons within five (5) months, the Clerk of Courts shall notify counsel that the case will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.

2. After any responsive pleading is filed (if applicable), the Clerk of Court shall immediately forward said pleading and file to the Judge so that the matter may be set for hearing.

3. If no action has been taken on a file for a five (5) month period and the case is not set for trial, the Clerk shall notify the party or their attorney of record that the matter will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.

4. When a file has been marked "Case settled, Entry to follow", and the Entry has not been received within thirty (30) days, the Clerk shall notify the party or their attorney of record that the case will be dismissed unless the Entry is received within ten (10) days after such notification; however, when a case is settled within the forty (40) days immediately preceding the scheduled trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this step is subject to court approval.

#### RULE 48

#### **CASE MANAGEMENT IN CRIMINAL CASES**

A. **PURPOSE:** The purpose of this rule is to establish a system for criminal case management which will provide the fair and impartial administration of criminal cases. These rules are to be applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

B. **SCHEDULING:** Scheduling begins after arraignment. Thereafter, the cases are managed in four (4) judicial steps.

C. **JUDICIAL STEPS:**

1. **PRETRIALS:** After arraignment, all first, second and unclassified misdemeanors shall be set at the Court's discretion, for pretrial by the Clerk within thirty (30) days. All third, fourth and minor misdemeanors shall be set for trial, unless a pretrial is requested in writing and a written speedy trial time waiver is filed.

The pretrial shall be conducted in accordance with Criminal Rule 17.1. Failure of an attorney to appear for a pretrial without just cause being shown, may be punishable for contempt of court.

If the parties cannot resolve the case, the case shall be set for trial to the Court unless, in accordance with Crim. R. 23, a jury trial is demanded.

2. **MOTIONS:** All Motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel and citations of law (copies of all cited cases shall be attached). Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. Oral hearings will be scheduled only on request of one of the parties or at the instruction of the court. Motions untimely filed shall be summarily overruled.

3. **TRIALS:** Cases not resolved at pretrial will be set for trial. If a written jury demand is timely filed, the case will be moved to the jury trial schedule. All parties shall appear for a Jury Confirmation Hearing as scheduled at the discretion of the Court (but no later than 11:30 a.m. on the second Wednesday preceding the jury trial date). The last jury case cancelled will be charged jury fees.

4. **SENTENCING:** Sentencing hearings shall be held immediately after a finding of guilt, unless a pre-sentence investigation (PSI-2) is required. If a pre-sentence investigation (PSI-2) is requested, the Court will set the matter for sentencing within twenty-one (21) days.

#### RULE 49.00 JURY MANAGEMENT

A. **OPPORTUNITY FOR SERVICE:** The selection of jurors should not be denied or limited on basis of race, national origin, gender, age, religious beliefs, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction.

B. **JURY SOURCE LIST:** The method for the selection of jurors is outlined by the laws of the State. Actual jurors are drawn under those laws by a jury commission under the supervision of the Common Pleas Court. Choice of individuals is by lot or chance. This means that some may never be called upon to exercise the privilege of serving, while others may be called several times. The jury pool schedule runs January through April; May through August; and September through December.

C. **EXEMPTION, EXCUSE AND DEFERRAL:** Reasons for exemption, excuse and deferral must be in writing (or recorded) pursuant to ORC §2323.15 and may include:

1. Statutory exemptions
2. Ability to receive and evaluate information is so impaired that they are unable to perform jury duty
3. Service would be a continuing hardship to them or to members of the public
4. Other exemptions may include firefighters, military personnel and others at the discretion of the Court.

D. **ELIGIBILITY FOR JURY SERVICE:** All persons in jurisdiction should be eligible for jury service except those:

1. Less than 18 years of age
2. Not a U.S. Citizen
3. Not a resident of jurisdiction
4. Not able to communicate in English
5. Have been convicted of felony and have not had their civil rights restored

E. **VOIR DIRE:**

1. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

2. To reduce the time required for voir dire, basic background information regarding panel members will be available to counsel in writing for each party prior to the day on which jury selection is to begin.
3. The Trial Judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
4. The Judge should ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purpose of the voir dire process.
5. In criminal cases, the voir dire process shall be held on the record unless waived by the parties.

F. REMOVAL FROM THE JURY PANEL FOR CAUSE: If the Judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the Judge.

G. PEREMPTORY CHALLENGES:

1. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
2. In civil cases, the number of peremptory challenges should not exceed three (3) for each side and one (1) additional peremptory challenge for the empanelling of one (1) alternate juror.
3. In criminal cases, the number of peremptory challenges should not exceed three (3) for each side and one (1) additional peremptory challenge for the empanelling of one (1) alternate juror.

H. ADMINISTRATION OF THE JURY SYSTEM:

1. All procedure concerning jury selection will be governed by the Ohio Rules of Court and responsibility for administering the jury system will be vested in a single administrator.
2. The notice summoning a person to jury service will explain how and when the recipient must respond and the consequences for failure to respond.
3. The Court will evaluate its jury performance on a regular basis.
4. The Court will employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
5. The Court will determine the minimally sufficient number of jurors needed to accommodate trial activity. These information management techniques should be used to adjust the number of individuals summoned for jury panels.

I. JURY FACILITIES:

1. The Court will provide an adequate and suitable environment for jurors with the entrance and registration area clearly identified and pleasant waiting facilities furnished with suitable amenities to the best of the Court's abilities.
2. The jury deliberation room will include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured and the facilities arranged to minimize contact between jurors, parties, counsel and the public to the best of the Court's abilities.

J. JURY COMPENSATION:

1. Persons called for jury service will receive a reasonable fee for their service and expenses: \$20.00 if excused; \$40.00 if seated. The fee will be paid promptly through the Darke County Auditor's Office.
2. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities or otherwise penalizing employees who miss work because of jury service.

K. JUROR ORIENTATION AND INSTRUCTIONS:

1. Each prospective juror will receive an orientation program through written material and verbal information provided by the Court. The program is designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors.

2. The Court will provide orientation and instructions to persons called for jury service:
  - a. Upon initial contact prior to service;
  - b. Upon first appearance at the court; and
  - c. Upon reporting to a courtroom for voir dire.
  
3. The Trial Judge will:
  - a. Give preliminary instructions to all prospective jurors.
  - b. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures, including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed and the basic relevant legal principles.
  - c. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
  - d. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
  - e. Recognize utilization of written instructions if preferable.
  - f. Before discussing jurors at the conclusion of a case.
    - (1) Release the jurors from their duty of confidentiality;
    - (2) Explain their rights regarding inquires from counsel or the press;
    - (3) Either advise them that they are discharged from service or specify where they must report; and
    - (4) Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
  
4. All communications between the Judge and members of the jury panel, from the time of reporting to the courtroom for voir dire until dismissal, shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and give the opportunity to be heard.

L. JURY SIZE, UNANIMITY OF VERDICT AND DELIBERATIONS:

1. Jury size and unanimity in civil and criminal cases shall conform to existing Ohio law.
2. Jury deliberations will take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.
3. The Judge will instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard K3.
4. The deliberation room should conform to the recommendations set forth in Standard 12.
5. A jury should not be required to deliberate after a reasonable hour unless the Trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
6. Training will be provided to personnel who escort and assist jurors during deliberation.