

**DARKE COUNTY
MUNICIPAL COURT**

RULES OF PRACTICE

JUDGE JULIE L. MONNIN

REVISION DATE: 08.31.2021

Index for Rules of Practice

Court Administration and General Rules

- 1.00 Court Sessions
- 2.00 Clerk of Courts
 - 2.01 Records
 - 2.02 Copies
 - 2.03 Numbering
 - 2.04 Papers filed with the Court
 - 2.05 Faxes
 - 2.06 Computation of time
 - 2.07 Request of Court Transcript
- 3.00 Trial Attorney of Record
- 4.00 Appointed and Acting Judges
- 5.00 Bailiff
- 6.00 Jurors
- 7.00 Witness and Subpoenas
- 8.00 Recording Devices
- 9.00 News Media in the Courtroom
- 10.00 Weapons Confiscation
- 11.00 Lost and Found
- 12.00 Exhibits, Depositions and Transcripts
- 13.00 Solicitation

Rules of Civil Practice

- 14.00 Civil Rules
- 15.00 Civil Procedures
- 16.00 Civil Costs and Fees
- 17.00 Extensions for Filing
- 18.00 Pre-trial Conference
- 19.00 Civil Jury Trial Demand and Deposit
- 20.00 Briefs
- 21.00 Notice of Trial
- 22.00 Motions
- 23.00 Entries and Orders
- 24.00 Continuances
- 25.00 Dismissal for Want of Prosecution
- 26.00 Online Dispute Resolution Rule
- 27.00 Mediation (Effective 07.01.2021)

Special Proceedings

- 28.00 Small Claims Court
- 29.00 Civil Complaints
- 30.00 Pleadings
- 31.00 Forcible Entry & Detainer Procedure
- 32.00 Proceedings in Aid of Execution
 - 32.01 Exemptions
- 33.00 Sales and Confirmation
- 34.00 Cognovit Judgments
- 35.00 Trusteeships
- 36.00 Peace Bond/Warrant
- 37.00 Replevin Actions
- 38.00 Citation in Contempt
- 39.00 License Suspension Appeals

Rules of Criminal & Traffic Practice

- 40.00 Criminal Procedure
- 41.00 Bailiff
- 42.00 Documents filed with the Court
- 43.00 Arraignments
- 44.00 Preliminary Hearings
- 45.00 Costs, Fees and Bail
- 46.00 Pre-trial Conferences
- 47.00 Plea Bargains
- 48.00 Motions
- 49.00 Trial by Jury
- 50.00 Witnesses
- 51.00 Conviction Records

Case Management

- 52.00 Case Mgmt. in Civil Cases
- 53.00 Case Mgmt. in Special Proceedings
- 54.00 Case Mgmt. in Criminal Cases
- 55.00 Jury Management

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 08.31.2021.

APPROVED:

/s/ Julie L. Monnin

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.

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	Juneteenth	Independence Day
Labor Day	Columbus Day	Veteran's Day
Thanksgiving Day & day after		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. The disposition of said records shall be pursuant to [O.R.C. §1901.41](#) and the Court's Record's Retention Schedule. The electronic version of documents, whether filed electronically in the first instance or received by the Clerk's Office in paper format and subsequently scanned into electronic format, constitutes the official record in the case.

- A. CIVIL DOCKET & JOURNAL: Contains civil cases, together with all proceedings, properly dated and numbered and are the complete and final record of each case.
- B. CRIMINAL/TRAFFIC DOCKET & JOURNAL: Contains 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: 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: Contains an alphabetical listing of the names of the parties to any action or proceeding.
- E. TRUSTEESHIP DOCKET: Contains 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 make a copy of any pleadings filed with the Court. All original pleadings 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 copies.

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 [O.R.C §1925.13](#).
- B. REQUIRED COPIES: 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 self-represented, 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 & PHONE NUMBER.**

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 [Civ.R. 5\(D\)](#).

Rule 2.05 – Faxes

Faxed filings are accepted by the Court if no filing fee is required. When filing by fax, **DO NOT** send the original document to the Court.

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 2.07 – Request of Court Transcript

Audio transcripts of a Court proceeding must be requested in writing. The request must include: case caption, type of trial or hearing, date and time of hearing, name and phone number of the requesting party and any additional information requested by the Court. The cost of the transcript is to be paid by the requesting party. This cost is not determined by the Darke County Municipal Court, the request is filed and forwarded to the Court Reporter for cost determination and transcription.

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 [O.R.C. §2313.01](#) et seq. 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 at least 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 – News Media in the Courtroom

- A. POLICY: To provide a plan pursuant to [Sup. R. 12](#) to handle news media presence during Court proceedings.
- B. PURPOSE: To establish guidelines and procedures that will enable the Bailiff/Deputy Bailiff to act according to policy in regards to the handling of news media requests and their presence in the Courtroom during Court proceedings.
- C. DEFINITION: For the purpose of this rule “news media” shall mean individuals who work as reporters, journalists, and/or photographers for news media outlets. The term “news media” is defined as an umbrella term for all the sources and presentation of news and information, including but not limited to: TV, radio, newspaper, magazines, web pages and blogs.
- D. NEWS MEDIA REQUESTS: Any member of the media wishing to be present for a Court proceeding in order to broadcast, televise, record, or take still photographs must have permission of the presiding Judge. All news media requests shall be submitted in a written request at least twenty-four (24) hours prior to the scheduled Court proceeding. The Bailiff shall contact and notify the news media outlet of the Judge’s ruling.
- E. NEWS MEDIA IN THE COURTROOM: On the day of the Court proceeding, the news media representative(s) will be escorted into the Courtroom by the Bailiff to set up their equipment.

They will not be permitted to move or walk around the Courtroom during the Court proceeding and are to remain in their designated area until excused by the presiding Judge or Bailiff.

Rule 10.00 – Weapons Confiscation

All weapons, deadly ordinances and illegal items that are confiscated by the Darke County Municipal Court shall be ordered to be released to the Darke County Sheriff's Office for the destruction, sale of said items and/or held for any further investigation deemed necessary by the Darke County Sheriff's Office. Confiscated weapons, deadly ordinances or illegal items shall not be returned to any individual.

Rule 11.00 – Lost and Found

Property found on the Darke County Municipal Court premises shall be kept for safekeeping as follows: The Bailiff shall make reasonable efforts to investigate and locate the owner to return the property. A written incident report should be prepared by the Court Bailiff for property valued over \$25.00, if it has not been returned to the owner by the end of the business day. Any cash found shall be turned over to the Darke County Municipal Court Clerk.

Disposition of Property:

1. Contaminated and unhygienic items will be destroyed immediately, not stored in lost and found.
2. Unclaimed property that has been in lost and found for more than ten (10) days shall be destroyed.
3. Written documentation is required for disposal of all cash or items over \$25.00 in value.

Rule 12.00 – Exhibits, Depositions and Transcripts

The Municipal Court shall follow the rules governing the Courts of Ohio and Rules of Superintendence pursuant to [Sup. R. 26 \(F\)](#).

Rule 13.00 – Solicitation

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

Rules of Civil Practice

Rule 14.00 – Civil Rules

The Municipal Court shall follow the rules governing the [Courts of Ohio and Rules of Superintendence](#).

Rule 15.00 – 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 [O.R.C. §1923](#) and [O.R.C. §5321](#) as to Forcible Entry and Detainer Actions and [O.R.C. §1925](#) as to Small Claims actions.

Rule 16.00 – Civil Costs and Fees

Costs in civil cases shall be assessed and must be paid at time of filing according to the [Schedule of Costs](#), a copy of which is available upon request in the civil division of the Municipal Court.

Rule 17.00 – 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 be extended at the Court's discretion.

Rule 18.00 – Pre-trial Conference

In any civil action the Court may, at its discretion, assign such cause for pre-trial conference. If a pre-trial is ordered, the pre-trial conference shall be conducted by phone, unless otherwise specified by the Court.

Notice of the date and time of the pre-trial conference shall be given by the Deputy Clerk of the civil division to attorneys of record, or parties self-represented by counsel. Attorneys of record, or the parties themselves, if self-represented by counsel, are to be fully prepared to discuss the following matters at the conference:

- A. The possibility of settlement;
- B. 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;
- C. The setting of discovery, motion filing and other cut-off dates;
- D. A narrowing of any issues, factual or legal, by means of stipulation;
- E. Determination of the trial date and the probable length of time for trial.

At the conclusion of the pre-trial, attorney of record for the Plaintiff, or the Plaintiff themselves if self-represented, must file a Status Report with the Court.

Rule 19.00 – 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 [Civ. R. 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](#). The 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 to comply with any of the provisions of this rule by the party demanding the jury shall constitute a waiver of the jury and the matter shall be submitted to the Court for decision.

Rule 20.00 – Briefs

In all cases of trial by jury, the parties shall be required to file final pre-trial briefs. All pre-trial 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 21.00 – Notice of Trial

When a civil case is assigned for trial, the Clerk shall mail or e-mail (when available) a notice containing the date, time and place of trial to attorneys of record, or to parties if self-represented 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 or e-mailed (when available) at least ten (10) days before the date of trial, except in Forcible Entry and Detainer cases in [Darke R. 31\(B\)](#).

Rule 22.00 – 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 23.00 – 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 the decision. **ALL ENTRIES SHALL DESIGNATE THAT A COPY OF THE SAME HAS BEEN ISSUED TO THE OPPOSING COUNSEL OR PARTY, IF SELF-REPRESENTED.**
- 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 24.00 – 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 MUST HAVE A COPY OF THE CONFLICTING COURTS SCHEDULING NOTICE ATTACHED TO THE MOTION TO BE CONSIDERED BY THE JUDGE.**

Attorneys submitting motions for continuance are encouraged to contact opposing counsel to obtain consent for this 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 25.00 – Dismissal for Want of Prosecution

All cases, not reduced to Judgment, which have remained on the docket forty-five (45) days prior to the expiration of the allowable time permitted by the [Ohio Supreme Court Rules of Superintendent](#) shall be dismissed by the Court, at Plaintiff's cost, upon giving proper notice.

Rule 26.00 – Online Dispute Resolution

A. ONLINE DISPUTE RESOLUTION REQUIRED: Unless exempt as provided in paragraph (B), Eviction and Small Claims case types shall be referred to Online Dispute Resolution.

B. EXEMPTIONS:

1. Certificate for Exemption from Online Dispute Resolution form may be filed if any of the following apply to you:
 - a. I am representing myself and do not have the Internet or a computer in my home. My only access is through a public terminal at a courthouse, library or other location and travel poses a financial or other hardship;
 - b. I am representing myself and have trouble reading, writing or speaking in English;
 - c. This matter involves a petition for an Order of protection or a civil no contact/stalking Order that has been ordered or is pending in another Court;
 - d. I tried Online Dispute Resolution, but I was unable to complete the process because the equipment or assistance I need is not available;
 - e. I am in jail or prison; or
 - f. I have a disability defined by the Americans with Disabilities Act of 1990, which prevents me from using Online Dispute Resolution.
2. The Certification for Exemption from Online Dispute Resolution, shall be filed with the Court by:
 - a. Mail to: Darke County Municipal Court 504 South Broadway, Suite 7, Greenville, OH 45331;
 - b. Email to: aroyer@co.darke.oh.us;
 - c. Fax to: (937) 547-7378; or
 - d. In person by contacting the Court at (937) 547-7340 (Opt. 4) for drop off hours.
3. The parties shall be required to use the "Certification for Exemption from Online Dispute Resolution" form provided by the Court.
4. Judges retain discretion to determine whether good cause is shown. If the Court determines that good cause is not shown, the Court shall enter an order to that effect stating the specific reasons for the determination and ordering the litigant to participate in Online Dispute Resolution. Judges retain discretion to determine whether, under particular circumstances, good cause exists without the filing of a certificate, and the Court shall enter an order to that effect.

C. FILER RESPONSIBLE FOR ELECTRONIC SUBMISSIONS: The filer is responsible for the accuracy of data entered and document(s) submitted for Online Dispute Resolution. The Court and the clerk of Court are not responsible for the accuracy of the data or documents submitted for Online Dispute Resolution.

D. EFFECTIVE DATE: This rule is effective 07.01.2021 for proceedings in the Darke County Municipal Court.

Rule 27.00 – Mediation (effective 07.01.2021)

- A. OHIO UNIFORM MEDIATION ACT AND DEFINITIONS: The [O.R.C. §2710.01](#) “Uniform Mediation Act” (UMA), including all definitions found in [O.R.C §2710.01](#), are incorporated by reference and adopted by this Court through this local rule. Frequently used definitions include:
1. “Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching voluntary agreement regarding their dispute.
 2. “Mediator” means an individual who conducts a mediation.
 3. “Mediation Communication” means a statement, whether oral, in a record, verbal or non-verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
 4. “Nonparty participant” means a person other than a party or mediator that participates in a mediation.
- B. CASES ELIGIBLE FOR MEDIATION: The Court has discretion to encourage parties to use mediation in Eviction and Small Claims cases filed in this Court. A case may be submitted to mediation as provided in this rule. The Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator.
- C. CONFIDENTIALITY: Except as provided in [O.R.C. §121.22](#) and [O.R.C. §149.43](#), mediation communications are confidential to the extent agreed by the parties or provided by other sections of the Revised Code or rules adopted under any section of the Revised Code. Parties desiring confidentiality of mediation communications shall advise the mediator as soon as practical and all mediation participants shall execute any confidentiality agreement prior to the start of mediation. If you are a nonparty participant, as defined by [O.R.C. §2710.01\(D\)](#), participating in mediation, you must submit to the Court’s jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the same rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.
- D. Referral to Resources: The Court Mediation Services will maintain information for the public, mediators, and other staff as appropriate. The information will include:
1. Attorney referral contact information;
 2. Information regarding children’s services; and
 3. Resource information for local domestic violence prevention, counseling, substance abuse and mental health services.
- E. MEDIATOR TRAINING AND EDUCATION: A mediator shall meet the qualifications of and comply with all training requirements of [Sup. R. 16.23](#) and adopted pursuant to [Sup. R. 16.22](#) governing mediators and mediation.
- F. MEDIATOR SELECTION AND ASSIGNMENT: The Court may randomly assign a mediator to the case from the court’s roster of approved mediators.

- G. **OBJECTIONS:** A party opposed to either the referral or the appointed mediator must file a written objection with the court within seven days of receiving notice of the referral or provider and explain the reasons for any opposition.
- H. **PARTY/NONPARTY PARTICIPATION:**
1. Parties who are ordered to mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.
 2. If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet joined as a party in the pleadings, they shall promptly inform the mediator, as well as the assigned judge or magistrate.
 3. The parties and their counsel have a duty to disclose the below information to the mediator and have a duty to participate in any screening required by the court, if the opposing parties to any case are:
 - a. Related by blood, adoption or marriage;
 - b. Have resided in a common residence; or
 - c. Have known or alleged domestic violence at any time prior to or during the mediation.
 4. By participating in mediation, a nonparty participant, as defined by [O.R.C. §2710.01\(D\)](#), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by [O.R.C. §2710.03\(B\)\(3\)](#) and [O.R.C. §2710.04\(A\)\(2\)](#).
- I. **TERMINATION:** If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he/she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.
- J. **STAY OF PROCEEDINGS:** All remaining Court Orders shall continue in effect. No order is stayed or suspended during the mediation process except by written Court Order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.
- K. **CONTINUANCES:** It is the policy of this Court to determine matters in a timely way. Continuances of a scheduled mediation will be granted only by the Judge for good cause. Extension of time for compliance with deadlines not involving a Court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case. Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Continuances and extensions requested with excessive frequency or insubstantial grounds will be resolved at the Court's discretion.
- L. **FEES AND COSTS:** The Court may impose upon the parties the fees and costs for mediation. If there is a fee for mediation, unless otherwise agreed by the parties, the mediation fees shall be shared equally. The Court may waive fees and costs for an indigent party. Mediation shall not be ordered if a party is indigent, unless the mediation is available at no cost to the party.

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

Special Proceedings

Rule 28.00 – 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 the Complaint does not exceed the monetary amount provided in [O.R.C. §1925.02](#). All pleadings will be construed to accomplish substantial justice and shall 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.
- 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 [O.R.C. §1925.10](#) and upon payment of the required costs, the small claims complaint and any counter or cross-claims, shall 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.
- E. CORPORATE PARTIES: In Small Claims cases, when the Plaintiff is a corporation or similar legal entity, non-attorneys may file the complaint. However, this exception does not apply to contested proceedings or to any actions taken after judgment has been obtained. Once a judgment is obtained in a Small Claims case, all efforts to collect said judgment on behalf of the corporate entity must be conducted by an attorney. This includes, but is not limited to, requests for debtor's examinations and garnishments/attachments. Non-compliance with this rule may result in a delay in processing the complaint, a dismissal of the complaint and/or a denial of any post judgment collection efforts.

Rule 29.00 – Civil Complaints

- A. ATTACHMENTS: All complaints requesting pre-judgment 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 pre-judgment interest commencement date.
- B. SELF-REPRESENTED PLAINTIFFS: As a courtesy, the Court provides blank Small Claims Complaint forms and Forcible Entry and Detainer 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 self-represented Plaintiff and/or Defendant to seek legal counsel elsewhere.

C. CORPORATE PARTIES: When the Plaintiff is a corporation or similar legal entity, the complaint and all subsequent pleadings or filings must be signed and filed by an attorney. Non-compliance with this rule may result in a delay in processing the complaint, a dismissal of the complaint and/or a denial of any post judgment collection efforts.

Rule 30.00 – 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.

Rule 31.00 – 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 [O.R.C §1923](#). 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. The Court requires Plaintiff to attach copies of the Notice to Vacate to the Complaint. If the Plaintiff or their 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 32.00 – 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 by the clerk only upon receipt from the judgment debtor of the "Request for Hearing" form.** Garnishment hearing shall be scheduled within twelve (12) days of receipt of Request for Hearing. Service of forms shall be accomplished by certified mail, return receipt requested, upon any financial institution and by certified 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. Garnishment hearing shall be scheduled within twelve (12) days of receipt of Request for Hearing. Service of the Garnishment forms shall first be attempted by certified mail, return receipt requested, upon the Employer and followed by ordinary mail, if requested.

C. **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, one (1) to return to the Plaintiff, and one (1) per Defendant being served. 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. 38.00](#)

Rule 32.01 – 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) day 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 33.00 – 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 34.00 – 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 35.00 – Trusteeships

A. **APPLICATION:** The application for an appointment of a trustee shall include a complete and accurate statement, under oath, of:

1. the debtor’s name, address and marital status;
2. the name and address of their employer(s);
3. the amount of their gross earnings for the previous thirty (30) days; and
4. a statement indicating the name of the creditor from whom the five (5) day written notice of proceedings against their 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, their 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 refile 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.

Rule 36.00 – Peace Bond/Warrant

Actions seeking a Peace Bond/Warrant shall be filed and handled in accordance with [O.R.C. §2933.01](#) through [O.R.C. §2933.10](#).

Rule 37.00 – Replevin Actions

Replevin actions shall be filed in accordance with the provisions in [O.R.C. §2737](#).

Rule 38.00 – Citation in Contempt

Failure of any person, who has been properly served, to 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.

Rule 39.00 – License Suspension Appeals

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

- A. Civil Complaint
- B. Proof of payment of reinstatement fee(s) to BMV
- C. Proof of Insurance
- D. Proof of employment from employer
 - 1. Confirm employment
 - 2. Days of week and hours of work each day

Rules of Criminal and Traffic Practice

Rule 40.00 – 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, the following rules and practices shall prevail.

Rule 41.00 – 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 42.00 – 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 43.00 – Arraignments

- A. SCHEDULING: All arraignments will be heard by the Court on Tuesdays. All jailable offenses shall be cited in at 8:00 a.m.; and citations for non-jailable offenses and minor misdemeanors shall be cited in at 11:00 a.m. Arraignments for jail inmates will be heard by video at the availability of the Court. All Bond Hearings and Continuances will be heard by the Court at 10:00 a.m.

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. 43(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 submit a written request for continuance to the Court or in open Court for the Judge's approval. No requests will be accepted by phone.

D. MANDATORY APPEARANCES: All persons, regardless of residence, must appear in Court if cited for the following offenses, unless a written request by the Defendant is submitted to the Court for the Judge's approval prior to their hearing time:

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 ([O.R.C. §4511.213](#));
8. Failure to yield to a funeral procession ([O.R.C. §4511.45](#));
9. Placing injurious material on highway ([O.R.C. §4511.74](#));
10. Railroad crossing violation;
11. Probation Violation;
12. Overweight violations (10,000 lbs. or more);
13. Distracted Driver;
14. Texting while Driving; and/or
15. 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 [O.R.C. §2935.27](#).

Rule 44.00 – Preliminary Hearings

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

Rule 45.00 – 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 10:00 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 8:00 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 10:00 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 46.00 – Pre-trial Conferences

All cases with not guilty pleas will be set for trial. If needed, pre-trials are to be conducted prior to trial date privately between the parties. Pre-trial Agreements filed with the Court must be completed in their entirety using the required format and printed on blue paper.

Rule 47.00 – 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 pre-trial 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 pre-trial Agreement on file with the Court, the Prosecutor will not be required to attend change of plea or sentencing hearings.

Rule 48.00 – 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 their position.

Rule 49.00 – Trial by Jury

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

Rule 50.00 – Witnesses

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

Rule 51.00 – Conviction Records

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

Case Management**Rule 52.00 – Case Management in Civil Cases**

- A. PURPOSE: The purpose of this rule is to establish 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 and have remained on the docket forty-five (45) days prior to the expiration of the allowable time permitted by the [Ohio Supreme Court Rules of Superintendent](#), the Court shall issue Notice of Dismissal. Upon expiration of allowable time, the case shall be dismissed by the Court, at Plaintiff's cost.
 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 pre-trial or hearing. All subsequent pleadings of filings shall be immediately sent to the Judge for review.
 3. All cases, not reduced to Judgment, which have remained on the docket forty-five (45) days prior to the expiration of the allowable time permitted by the [Ohio Supreme Court Rules of Superintendent](#) shall be dismissed by the Court, at Plaintiff's cost, upon giving proper notice.
 4. On files marked "Case Settled, Entry to Follow" if the Entry has not been received within thirty (30) days, the Clerk of Courts shall notify the party that the case will be dismissed, unless the Entry is received within ten (10) days of notice. Variance to this rule is subject to Court approval.
 5. When a case is settled within forty (40) days before the trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry or by placing the agreement on the record at the trial. Variance to this rule is subject to Court approval.
- D. JUDICIAL STEPS:
1. PRE-TRIALS: The Court will set a pre-trial conference which shall be held by phone privately between parties, the Judge does not participate in initial pre-trial conference. Once the pre-trial is concluded, Plaintiff or Plaintiff's counsel shall notify the Court immediately as to the status of the case by filing a status report.

For the purpose of this rule “pre-trial” shall mean a conference designed to produce a 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 pre-trial conference shall be given by mail, e-mail (when available), 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 pre-trial conference, without just cause being shown, may be punishable for contempt of Court.

Counsel attending the pre-trial 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 matters which have come before it in the pre-trial. The Court shall determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. This does not preclude a request by either party, at a later time, to file trial briefs.

The Judge shall have the authority to:

- a. Dismiss an action for want of prosecution on the motion of the Defendant if Plaintiff or their counsel fails to appear as ordered at any pre-trial conference;
- b. Order the Plaintiff to proceed with the case if Defendant or their counsel fails to appear as ordered at any pre-trial conference; and
- c. Make other orders as the Court may deem appropriate under all circumstances.

If a case cannot be settled at pre-trial, 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 their counsel stating the reason for the continuance.

MOTIONS MADE FOR CONTINUANCE DUE TO SCHEDULING CONFLICTS WITH ANOTHER COURT MUST HAVE A COPY OF THE CONFLICTING COURTS SCHEDULING NOTICE ATTACHED TO THE MOTION TO BE CONSIDERED BY THE JUDGE. 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 53.00 – Case Management in Special Proceedings

- A. PURPOSE: The purpose of this rule is to establish 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: All cases, not reduced to Judgment, which have remained on the docket forty-five (45) days prior to the expiration of the allowable time permitted by the Ohio Supreme Court Rules of Superintendent, the Court shall issue Notice of Dismissal. Upon expiration of allowable time, the case shall be dismissed by the Court, at Plaintiff’s cost.

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.

On files marked “Case Settled, Entry to Follow” if the Entry has not been received within thirty (30) days, the Clerk of Courts shall notify the party that the case will be dismissed, unless the Entry is received within ten (10) days of notice. Variance to this rule is subject to Court approval.

When a case is settled within forty (40) days before the trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry or by placing the agreement on the record at the trial. Variance to this rule is subject to Court approval.

Rule 54.00 – 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. PRE-TRIALS: After arraignment, all not guilty pleas shall be set for trial, unless a jury trial is demanded in accordance to [Crim. R. 23](#). If needed, pre-trials are to be conducted prior to trial date privately between the parties. Pre-trial Agreements filed with the Court must be completed in their entirety using the required format and printed on blue paper.

If a pre-trial is needed, it shall be conducted in accordance with [Crim. R. 17.1](#).

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: 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 (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), risk assessment or victim notification is required.

Rule 55.00 – 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 [O.R.C. §2313.15](#) 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; or
 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; and
5. Have been convicted of a 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 empaneling 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 empaneling 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. The Court will verbally provide information to each prospective juror. This 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 empanelment 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.
 - e. Recognize utilization of written instructions if preferable.
 - f. Before dismissing jurors at the conclusion of a case:

- (1) Release the jurors from their duty of confidentiality;
 - (2) Explain their rights regarding inquiries 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 Darke R. 53(K)(3).
4. The deliberation room should conform to the recommendations set forth in the law.
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.