

COURT RULES

FOR

SANDUSKY MUNICIPAL COURT

March 10, 2010

COURT RULES FOR THE MUNICIPAL COURT  
OF SANDUSKY, OHIO

RULE 1  
EFFECTIVE DATE

(A) It is ordered that on and after March 10, 2010 the following be, and the same is hereby, adopted as the Rules of Court, regulating the practice and procedure of this Court until otherwise ordered. All other rules previously established are expressly revoked.

(B) The Rules of Superintendence of the Ohio Supreme Court and Ohio Rules of Civil and Criminal Procedure, under which these local rules are promulgated shall also govern the practices and procedures of this Court. Nothing in these rules shall be interpreted to conflict with such rules.

RULE 2  
SESSIONS

(A) A session of this Court shall be from 9:00 a.m. to 12:00 noon, and from 1:30 p.m. until 4:00 p.m., Monday through Friday and every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of each month at 5:30 p.m. until 7:30p.m.

Civil Pretrials will be scheduled in the Judge's chambers starting at 4:00 p.m. until completed, Monday, Tuesday and Thursday.

The office of the Clerk shall be open from 8:00 a.m. to 4:00 p.m., Monday through Friday.

(A) All times mentioned herein shall be the time in effect by Municipal authority.

### RULE 3 SECURITY

The Sandusky Municipal Court is charged with dispensing justice, resolving disputes and protecting the constitutional rights of those who appear before the Court.

Accordingly, appropriate levels of security should exist in the Court to protect the integrity of Court procedures, protect the rights of the individuals before it, deter those who would take violent action against the Court or litigants, sustain proper decorum and dignity of the Court, and assure that court facilities are secure for all those who visit and work there.

Therefore, pursuant to the Rules of Superintendence of the Municipal and County Court (Rules 18 & 18.01), the Court establishes as follows:

The Court shall appoint a Local Security Advisory Committee, consisting of representatives of each of the following groups: Judges, Municipal Probation Department, City Managers Office, Building Maintenance Department, Municipal Court Staff, and from Law Enforcement.

The Court shall implement a local Security Policy and Procedure Plan which plan shall address the Ohio Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

The Local Court Security Advisory Committee shall adopt a Security Operations Manual, which manual shall establish written directives for the purpose of ensuring security with the Court while maintaining accessibility to the community.

The Court will not permit weapons in the court facility except those carried by court security officers or by law enforcement officers acting within the scope of their employment. Those persons entering the court facility will be required to pass thru the metal detector and can be subject to search.

RULE 4  
DOCKETS AND RECORDS

The Clerk shall prepare and keep all dockets, books and public records as required by law.

RULE 5  
CASE MANAGEMENT

(A) Pursuant to Sup.R.5, this rule is to establish a system for criminal and traffic case management. This system will ensure the prompt and fair administration of criminal/traffic cases, thus eliminating the unnecessary delay and expense for everyone involved.

(B) After the initial appearance, the judge shall conduct an early case management conference. Each case may be scheduled in a four step process:

1. Pre-trials: Upon the motion of the court or a written motion of any party, the court may order one or more conferences to consider matters pertinent to the cases. The pre-trial shall be conducted in accordance with Ohio Crim. R. 17.1. The defendant and counsel shall be required to personally attend the pretrial hearing as well as other hearings. An arrest warrant will be issued upon failure of the defendant to appear at court proceedings. Any attorney who fails to appear for a pre-trial without just cause being shown may be punished for contempt of court. If the parties cannot resolve the case, then the case should be set for trial.

2. All motions shall be made in writing and accompanied by a written memorandum containing the arguments supporting the motion. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing.

3. Each case not resolved at pre-trial conference shall be set for trial to the court. If a written jury demand is timely filed then the case will be set for a jury trial.

4. Sentencing hearings shall be set within seven (7) days from trial if no pre-sentence report is requested. After the court receives the pre-sentence report, the court will set the matter for sentencing usually within seven (7) days.

RULE 6  
JUDGMENT ENTRIES-CRIMINAL CASES

(A) Every final order made by a Judge shall be evidenced by a judgment entry, which shall be signed by the Judge. The Judgment entry may be a separate instrument, by "half-sheet" or by entry on the uniform traffic or minor misdemeanor ticket.

(B) Counsel for the party in whose favor, or on whose request, any order, judgment or decree is rendered, shall at the request of the Judge, within (3) days thereafter, unless the time be extended by the Judge, prepare the judgment entry and submit it to counsel for the opposite party or parties, if any, who shall approve or reject it within twenty-four (24) hours after such presentation. If rejected, counsel so rejecting shall, within twenty-four (24) hours after rejection, prepare an entry to the Court's satisfaction, duly noting exceptions, and file the same with the Clerk.

RULE 7  
SATISFACTIONS

Satisfaction in whole or part of a Judgment may be entered on the docket by the attorney of record, attested to by the Clerk or deputy clerk, or by judgment entry signed by the party or the attorney of record and approved by the Judge.

RULE 8  
FEEES AND COSTS

(A) No action or proceeding shall be accepted for filing by the Clerk of this Court unless there first shall be deposited the filing fee required by this Court in the latest revised schedule of costs, except that upon a representation of indigency, the Clerk shall investigate the accuracy of such representation and

upon finding that such indigency does exist, the security for costs shall be waived. The Court shall maintain a current schedule of fees and costs for distribution to the public, not inconsistent with those of the Revised Code and Court of Common Pleas.

(B) Deposits and advance payments of fees and costs shall be returned only by the order of the Court and only when the same have been paid by the party against whom they are assessed by the Court.

(C) When a jury trial in a civil case is demanded, the party demanding the same shall be forthwith required to make an advance deposit as security for costs in such sum as the Clerk determines as reasonable. The cost of summoning jurors and the fees of jurors shall be apportioned to the respective proceeding and shall be taxed as part of the Court costs. The minimum deposit for jury trial shall be \$750.00. This deposit must be paid before a trial date is assigned.

(D) The Clerk of this Court shall charge a commission fee of two percent (2%) on the first ten thousand dollars (\$10,000) and one percent (1%) on all amounts exceeding the first ten thousand dollars (\$10,000) for receiving and disbursing money paid to or deposited with the Clerk of this Court pursuant to an order of Court or on Judgments, including money invested by order of this Court and interest earned on them. This shall not apply to any assessment of civil costs and/or filing fees.

## RULE 9 PLEADINGS AND MOTIONS

(A) Ohio Rules of Civil Procedure 7 through 15 shall govern the form and manner of pleading.

(B) All pleadings, orders, and entries must be presented and time stamped at the Clerk's office.

(C) No pleading after being presented to the Clerk's office shall be amended or altered without consent of the Court. (Subject to Ohio Rules of Civil Procedure on Amendment to Pleadings.)

(D) The original copy of all pleadings shall be the Court's copy, possession of which shall not leave the Court's premises.

(E) Only copies or certified copies of the files shall be taken from the Court.

(F) Sufficient additional copies of all pleadings must be filed with the Clerk's office to secure adequate coverage of all necessary parties.

(G) All requests shall be in writing or by written precipe signed by the requesting party in interest or their attorney.

(H) Attorneys must subscribe legibly all pleadings, entries and motions or in the alternative print the spelling of their name beneath the signature. The address, telephone number and Supreme Court Number of the respective trial counsel shall be placed on the pleading of first instance.

(I) Where an assignment is part of a case and is expected to be offered in evidence, a true copy of the entire assignment in unconditional form shall be attached to the complaint. The assignment shall not be used as a ruse to prevent the action from being brought by the real party in interest. The assignment must be absolute and unconditional, in order to prevent duplicity of payment.

(J) In attachment and garnishment proceedings, a true copy of affidavit shall be served with the summons and order of attachment and garnishment.

(K) In actions on an account, the account must show the name of the party charged and contain the following:

- (1) A beginning balance (zero, or a sum that can qualify as an account stated, or some other provable sum.)
- (2) Listed items (or an item, dated and identifiable by number or otherwise, representing charges, of debits and credits.)
- (3) Summarization by means of a running or developing balance, or an arrangement of beginning balance and items which permits the calculation of the amount claimed to be due.

(L) In actions on an account, interest shall be at the highest legal rate permitted upon the balance of the account as of the date of the last debit entry, unless otherwise pleaded.

(M) The filing of a Motion or a Pleading subsequent to the complaint shall be accompanied by proof of service signed and dated. The copy served upon the opposite party or his attorney shall be signed and dated.

(N) All motions shall be accompanied by a brief or a memorandum of authorities in support of said motion. In default thereof, such motions may be

stricken from the files. Opposing counsel shall have seven (7) days to file and answer brief.

(O) Motions to advance cases out of numerical order must be accompanied by affidavit showing meritorious grounds for such advancement.

(P) All motions for continuance shall be made in writing and

proof service upon opposing counsel of a copy of such motions shall be filed not less than fourteen (14) days before the trial date.

(Q) The grounds for continuance must be stated in such motion. Such motion may be set for hearing before the trial date and the Court shall give opposing counsel notice of the time of such hearing. No case will be continued on the trial date, except for good cause shown, which was not known to counsel prior to the date of the trial and provided that counsel had used due diligence to be ready for trial and has notified or made diligent effort to notify his opponent as soon as he became aware of his necessity to ask for a continuance. All continuances shall be to a date certain.

(R) The Court shall give all parties not less than fourteen (14) day advance notice of any trial date, unless all parties waive such advance notice.

## RULE 10 LEAVES TO MOVE OR PLEAD

(A) Except in actions for forcible entry and detainer or in replevin, when a party in any case is not prepared to move or plead by answer day ONE extension of time may be had upon application to the Court and without notice for a period of not exceeding thirty (30) days. Consent of counsel may be filed as a judgment entry in the case and shall be evidence of "good cause shown" for the first leave only. Any leave to move or plead thereafter may be had only with the approval of the Court and upon application to the Court, with notice to the opposite party or counsel, and for good cause shown, consent of opposing party or counsel shall not in and of itself constitute good cause.

(B) Default Judgments shall be governed by Civil Rule 55.

(C) Upon perfection of service and non-appearance of the defendant, failure to submit an entry within thirty (30) days, unless good cause is shown to

the contrary in writing, may result in the case being dismissed pursuant to Civil Rules.

RULE 11  
BRIEFS OTHER THAN TRIAL BRIEFS

(A) Counsel filing any motion or exception shall file therewith a memorandum containing a short, concise statement of the points relied upon and the authorities supporting such contentions and a true copy of it shall be served forthwith upon each opposing counsel and each party not represented by counsel.

(B) Unless the time be extended by the Court, motions directed to any pleading shall be filed within the time allowed by the Rules of Civil Procedure for a responsive pleading.

(C) Any motion or exception to be heard upon the evidence shall so state and shall be accompanied by requisite affidavits.

(D) Opposing counsel may, within fourteen (14) days after receiving a copy of such motion, file an answer brief or memorandum of like character. Copies thereof, shall be furnished and delivered as provided (A) of this rule.

RULE 12  
HEARING AND SUBMISSION OF MOTIONS:  
OBJECTIONS TO INTERROGATORIES

(A) Motions, in general, shall be submitted and determined upon the motion papers hereinafter referred to. Oral arguments of motions will be permitted on written request and proper showing, or by mutual written request of parties.

(B) The moving party shall serve and file with his motions a brief written statement of reasons in support of the motion with supporting citations of the authorities on which he relies. If the motions require the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in support of the motion.

C Each party opposing the motion may serve and file within fourteen (14) days after filing of the motion, a brief written statement of reasons in opposition to the motion supporting citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence which he desires to submit in opposition to the motion.

(D) Reply or additional briefs upon motions and submissions may be filed with leave of the court only upon showing of the necessity therefore.

(E) Objections to interrogatories shall include, immediately preceding any discussion and citation of authority, the interrogatory in full to which objection is made.

(F) All pleading and briefs containing references to statutes or regulations shall have attached thereto a copy of the statute or regulation.

### RULE 13 DISMISSALS

(A) All cases pending for a period of sixty (60) days in the docket of this Court in which service of summons or service of publication has not been made shall be dismissed by the Court unless good cause is shown to the contrary.

(B) If a party fails to comply with an order or decision of the Court, said case may be dismissed, or judgment may be rendered upon default as the case requires.

(C) Cases assigned for trial, upon which no appearance is made on trial date shall be dismissed for want of prosecution, or otherwise disposed of by the Judge.

(D) In forcible entry cases, if the plaintiff fails to appear at the time set for hearing, the cause shall be dismissed at Plaintiff's cost.

RULE 14  
TERM

There shall be no term in this Municipal Court, but for the purpose of computing time, ninety days following judgment shall be considered within term and time thereafter shall be considered after term.

RULE 15  
JUDGMENT ENTRIES-CIVIL CASES

(A) When ordered or directed by the Court, counsel for the party in whose favor an entry, order, judgment or decree is entered in a civil cause shall, within ten (10) days thereafter unless the time be extended by the court, prepare a proper judgment entry and submit the same to counsel for the opposite party who shall approve or reject the same within three (3) days after its receipt by him and may, in case of rejection, file objections thereto in writing with the court.

- (1) The judgment entry specified in Ohio Civil Rule 58 shall be journalized within thirty (30) days of the verdict, decree or decision. If such entry is not prepared and presented for journalization by counsel, then it shall be prepared and journalized by the court.
- (2) The court shall approve a judgment entry deemed by it to be proper, sign the same and cause it to be filed with the Clerk.

(B) When a request for finding of fact and conclusions of law is made, the judge shall direct the party making the written request to prepare, within five (5) days, proposed finding of fact and conclusions of law and submit them to the opposing counsel. Within ten (10) days after its receipt by the opposing counsel, the proposed findings shall be submitted to the Court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

(C) Upon motions of a party made within ten (10) days after filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made a motion to amend or a motion for judgment.

(D) The judgment entry shall state which party will pay the court costs.

## RULE 16 COURT FILES AND PAPERS

No person (except a judge of the court) without consent of the Clerk of Courts shall remove any court papers, files of the court or parts thereof from the custody of the Clerk.

## RULE 17 CASE MANAGEMENT/PRETRIAL PROCEDURE

(A) For the purpose of insuring the readiness of cases for pretrial and trial the following shall be in effect. A pretrial conference shall be conducted in all contested civil cases prior to being scheduled for trial. In addition, the judge assigned the case may for good cause shown waive the pretrial requirements stated herein.

(B) For the purpose of this rule, "pretrial," shall mean

a court supervised conference chiefly designated to produce an amicable settlement. The term "party" or "parties" sued herein after shall mean the party or parties to the action, and/or his/her or their attorney or attorneys of record.

(C) Notice of the pretrial conference shall be given to all counsel of record by mail and/or by telephone not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the judge to whom the case has been assigned.

(D) The following are required to attend all the pretrial conferences unless excused by the judge to whom the case is assigned after prior notice to opposing counsel:

- (1) All parties in interest unless the claim for relief against the party is fully covered by insurance;
- (2) An insurance company representative in all cases in which the claim for relief is covered in whole or in part by insurance;
- (3) The attorney must have full authority to present and conclude all matters involved in the case.

(E) The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit. If the court concludes that the prospect of settlement does not warrant further court supervised negotiations, then the court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions and other matter which have come before it. The court shall at that time determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. Subject to the provisions for the arbitration hereinafter provided, the court shall also stipulate in writing whether the case shall be referred to arbitration.

(F) After the pretrial conference, counsel may engage in further discovery proceedings, provided they do not result in delay of trial of the case. In the event counsel request discovery proceedings that would cause delay of trial, the right to such discovery shall be determined by the court. The court, however, reserves the right to set the case for trial before the completion of any further discovery and without additional pretrial.

(G) All questions relating to the listing, consolidating and severing of cases shall be submitted to the judge to whom the cases are assigned. The court, however, on its own motion, may consolidate or sever cases at any time before the taking of testimony begins.

(H) Any judge presiding at pretrial conference shall have authority:

- (1) To dismiss an action for want of prosecution on motion of defendant upon failure of plaintiff or his counsel to appear in person at any pretrial conference.
- (2) Upon failure of defendant or his counsel to appear at any pretrial conference, to order the plaintiff to proceed with the case and to the extent permitted by law to decide and determine all matters ex parte.

## RULE 18 TRIAL PROCEDURES

(A) Subject to Ohio Supreme Court Rules of Superintendence the court may promote the use of any device or procedure which would tend to facilitate the earlier disposition of cases.

(B) The court may provide for the selection of the petit jury outside the courtroom and establish the procedure for the examination of the prospective jurors.

(C) On trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the court.

## RULE 19

## JURY MANAGEMENT PLAN

(A) All cases shall be tried by the court unless a jury trial has been demanded in writing pursuant to the appropriate statutes and Rules of Civil and Criminal Procedure.

(B) In all civil cases said demand shall be accompanied by a deposit of \$750.00 for all cases. This rule shall be subject to the Statutes regarding indigents.

(C) To be eligible to serve as a juror, you must be:

1. Eighteen years or older
2. Resident in the jurisdiction of Sandusky Municipal Court
3. A citizen of the United States
4. Able to communicate in the English language
5. Convicted felons must have had their civil rights restored.

If a prospective juror is physically challenged, all reasonable efforts shall be made to accommodate them.

(D) All parties desiring specific jury instructions shall, at least seven days prior to trial, file the proposed jury instructions with the court and serve the same upon opposing counsel.

(E) Persons may be deferred from service by the Judge or other authorized court official upon application showing the necessity which shall be in writing or otherwise recorded. All such requests must be accompanied by supporting, appropriate documentation.

A person may be excused from jury service for the following factors:

1. Any person whose ability to reason and evaluate information is so impaired that they are unable to perform their duties as jurors.
2. Any person for whom service would be a continuing hardship to them or to members of the public.

The above is only a partial list and not meant to be exclusive, No person shall be excused from jury service, except by the Judge or an individual specifically authorized to excuse jurors.

- (F) All prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such personnel for appropriate instruction.
- (G) From the time of reporting to the court through dismissal, any and all communications between the Judge and members of the jury shall be in writing or placed on the record in open court. The counsel for both parties shall be informed of any of communications. Under no circumstance shall counsel, either party, or any witnesses, have any contact with the jury.
- (H) All deliberations shall be held in the designated deliberating room. Appropriate court personnel shall arrange and conduct all activities so as to minimize any chance of contact between all parties, as well as the public. All jurors shall remain in the care of court personnel and shall not be permitted to leave the court without permission.

RULE 20  
DISCOVERY

(A) Discovery shall be conducted in accordance with Civil Rules 26 through 37.

(B) Pretrial Objectives:

- (1) Settlement of the case;
- (2) Agreement upon and simplifications of the issues;
- (3) Obtaining admissions and stipulations of fact and making them part of the record;
- (4) The exchange, if necessary, of
  - (a) The names and addresses of witness;
  - (b) The names, addresses and specialties of expert witnesses;
  - (c) Reports of expert witnesses;
  - (d) Medical reports and hospital records.

- (5) Itemization of special damages and expenses;
- (6) Determination of the number of witnesses and exhibits to be introduced at trial and the probable length of trial;
- (7) Such other matters as may aid in the disposition of the case.

(c) At the pretrial conference, if no settlement has been reached, the judge may assign a further pretrial date or a firm trial date.

## RULE 21 CONTINUANCES IN CIVIL AND CRIMINAL CASES

- (A) Continuance of Civil and Criminal Cases accordance with the Rules of Superintendence.
- (B) All request for the continuance of a trial must be by written motion which complies with Civil Rules. Continuances shall be granted only by the judge to whom the case is assigned and only upon receipt of the \$15.00 continuous fee.
- (C) If a party or counsel appears for trial but shows good cause as to why he is not ready for trial, the court shall make such order or orders as it deems proper. If a party or counsel appears for trial but indicates that he is not ready for trial without showing good cause for his unreadiness, the court, if such party is one seeking affirmative relief, shall enter an order dismissing the claim for want of prosecution, or if a party defending a claim, shall order the party seeking relief to proceed with the case and shall determine all matters ex parte.
- (D) If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the court shall enter an order dismissing the claim for want of prosecution. If a party defending a claim, either in person or by counsel, fails to appear for trial and the party seeking affirmative relief

does appear, the court shall order such party to proceed with the case and shall determine all matters ex parte.

(E) If a case set for trial is settled, the trial counsel shall immediately notify the court and thereafter, as provided by these rules, file a stipulation of dismissal or other proper entry within 30 days or the case will be dismissed for want of prosecution.

## RULE 22 PROCEEDINGS IN AID

(A) When utilizing foreign forms provided by the Courts for the purpose of Proceedings in Aid, unless the foreign forms are neatly and appropriately altered to indicate to the Garnishee the required mandate and order, said foreign forms will be returned to the counsel by the Clerk with a copy of this Court rule.

(B) Unless a certified return receipt, United States Post Office Form PS 3811 is received or a properly completed and stamped certificate of mailing is received, and with a copy of the fifteen (15) day demand, the Proceedings in Aid shall be returned to the party filing the same.

## RULE 23 ENTRIES, ETC. PART OF REGULAR FILE

Stipulations, final entries, and other similar documents filed with the Clerk must be entered upon the regular docket as filed and become a part of the regular files of the case.

RULE 24  
JURY LIST

(A) The Clerk shall provide a jury list and be the custodian thereof when provided by Erie County Common Pleas Court.

(B) The fees to be paid to the jurors shall be the same rate as paid by the Common Pleas Court of Erie County.

(C) When a jury of six (6) is demanded, not less than fifteen (15) names shall be provided and when a jury of eight (8) is demanded, not less than twenty (20) names shall be provided.

(D) If by challenge or otherwise, there shall not be left upon said venire a sufficient number of persons to make up the panel, or if the array be challenged and set aside, the Court may order the Clerk to provide the desired panel from bystanders on the street.

RULE 25  
TRUSTEESHIPS

(A) An application by a debtor for a trusteeship under Section 2329.70 of the Ohio Revised Code must contain a full and complete statement, under oath, setting forth:

- (1) The names of the secured and unsecured creditors with liquidated claims, their complete address, account numbers, and amount due and owing to each. If account is being administered by someone other than the creditor list their name and complete address.
- (2) The disposable amount of money earned in a thirty (30) day period by the applicant, as set forth in Section 2329.62 of the Ohio Revised Code, the usual day or days applicant receives his pay, his place of residence, the

number of his dependants, their ages and relation to the applicant.

- (3) The name of the person who made a demand upon him or her in accordance with Section 1911.40 of the Ohio Revised Code and date of such demand.

(B) An order shall be prepared appointing the Clerk of Court to act as Trustee and shall be approved by the Judge.

(C) The applicant shall mail notice of the appointment of each creditor showing the amount owed said creditor and the amount of total indebtedness. Notices to be mailed by the applicant with notice for the creditor to answer within ten (10) days of mailing, or they will be included in the Trusteeship in the amount stated.

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

(E) Upon the filing of an application for Trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any listed.

(F) Any trusteeship that is arrears for payment for sixty (60) days may be dismissed. Any trusteeship that is inactive for six (6) months shall be dismissed.

(G) The attorney representing an applicant for trusteeship shall be permitted to include his claim for such service in the trusteeship.

(H) Sections 2329.62 through 2329.69 of the Ohio Revised Code provide for exemptions and are based upon disposable earnings. The Trustee is hereby authorized to require proof of disposable earnings and eligibility for exemption of payment by affidavit or otherwise and at such times as he/she shall deem necessary.

RULE 26  
AUTOMATIC BANKRUPTCY STAY

Upon written notification to the Court of any pending bankruptcy proceeding and the bankruptcy case number affecting any litigant in this Court, there shall be a judgment entry as follows:

“Defendant having filed a Petition in the U.S. Bankruptcy Court, the Bankruptcy Act establishes an automatic stay of proceedings against the debtor, in 11 U.S.C. 362 (a). It is hereby ordered that the commencement or continuation of any action to obtain or enforce any judgment against the Defendant/Debtor or his property is hereby stayed until the bankruptcy case is closed, dismissed, or a discharge granted or denied, or until Defendant/debtor’s property is no longer property of the bankruptcy estate or until the Bankruptcy Court grants relief from its stay. Clerk to send copy to counsel of record.”

Unless motion to the contrary is filed, the pending action will be dismissed after one hundred eighty (180) days.

RULE 27  
NOTIFICATION PRIOR TO DEFAULT JUDGMENT  
FOR APPEARING PARTIES

Each party litigant shall be charged with the responsibility of maintaining a correct mailing address. In the event a forcible entry and detainer entry is issued causing the defendant to be removed from their residence, it will be deemed sufficient service and adequate notice for the Clerk to mail, by regular mail to the defendant, date of hearing to last known address notwithstanding the fact that said litigant does not reside at that address.

RULE 28  
APPEARANCE AND WITHDRAWALS OF COUNSEL

An attorney, having entered an appearance or being of record in a case, shall be deemed responsible to appear in all hearings pursuant to notices or call therefore, unless a court entry of withdrawal is timely filed and approved by a Judge of the Court. If the subject case and time has been assigned for hearings, that fact and the hearing date shall be set forth in the entry. Proof of service on the client and opposing counsel shall be indicated on such entry when submitted to the Court.

RULE 29  
NON APPEARANCE OF COUNSEL

Counsel must provide substitute counsel as provided in M.C. Rule 16 (C).

RULE 30  
AUDIO AND VIDEO TAPES

All audio and video tapes of proceedings, trial, and hearings in the Court shall remain in the exclusive care and control of the Judges and the Bailiff of said Court. A transcript of the tape recordings may be obtained by a certified court reporter obtaining permission of the Court to transcribe the tape recording into a typewritten transcript. Audio and video transcription of original tapes shall not be permitted without court approval.

RULE 31  
SMALL CLAIMS CASES

(A) A small claim action is commenced by filing a small claims

petition, pursuant to Ohio Revised Code Section 1925.04. No defendant is required to file an answer or statement of defense. However, should the defendant fail to appear for the hearing, after being duly served, then a default judgment will be entered against said defendant. All pleadings will be construed to accomplish substantial justice.

(B) Upon filing of motion and affidavit, as required by Ohio Revised Section 1925.10, and upon payment of the required cost, the small claim will be transferred to the regular docket. No transfer will be granted until the filing costs and all outstanding fees are paid.

(C) The hearing in small claims court shall be conducted by the referee. The referee shall place all parties who plan to offer evidence under oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in small claims court.

(D) The referee shall, at the conclusion of each case, if judgment is not announced at the time serve a copy of his finding upon the plaintiff and defendant and inform the parties that they may file objections to the referee's findings within fourteen (14) days, on a form available from the Clerk. The objections to the referee's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion. The court shall, after consideration of the reasons in the objections to the referee's findings; rule on said objections to referee's findings within thirty (30) days of the filing of the objections.

(E) The employees of the court shall assist the prevailing parties in collecting their judgments pursuant to Ohio Revised Code Section 1925.13.

(F) The Clerk of this Court shall charge a commission fee of two percent (2%) on the first ten thousand dollars (\$10,000) and one percent (1%) on all amounts exceeding the first ten thousand dollars (\$10,000) for receiving and disbursing money paid to or deposited with the Clerk of this Court pursuant to an order of Court or on Judgments, including money invested by order of this Court and interest earned on them. This shall not apply to any assessment of civil costs and/or filing fees.

RULE 32  
CELL PHONES AND PAGERS

The use of any type of cell phone and/or pagers is prohibited in the courtroom, probation offices and in the Clerk of Court offices. Make sure your cell phones and pagers are turned off. Failure to do so may result in confiscation of the device.

# FACSIMILE FILING RULE FOR SANDUSKY MUNICIPAL COURT

The provisions of this local rule are adopted under Civ.R 5(E) and Crim.R 12(B).

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to 419.627.5950 (Criminal/Traffic) or 419.627.5916 (Civil) subject to the following conditions:

## APPLICABILITY

- 1.01 These rules apply to civil, criminal and small claims proceedings in the Sandusky Municipal Court.
- 1.02 The following documents will be the only ones accepted via facsimile for civil and small claims cases: continuances, garnishment releases, satisfaction entries (involving no fees), and representation letters.
- 1.03 Exhibits will not be accepted for fax filing.

## ORIGINAL FILING

- 2.01 A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- 2.02 The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

## DEFINITIONS

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

- 3.01 A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.
- 3.02 A “facsimile machine” means a machine that can send and receive a facsimile transmission.
- 3.03 “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

## COVER PAGE

- 4.01 The person filing a document by fax shall also provide therewith a cover page containing the following information:
  - (I) the name of the court;
  - (II) the title of the case;
  - (III) the case number;
  - (IV) the assigned judge;
  - (V) the title of the document being filed
  - (VI) the date of transmission;
  - (VII) the transmitting fax number;
  - (VIII) an indication of the number of pages included in the transmission, including the cover page;
  - (IX) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available.
- 4.02 If a document is sent to the Clerk of Court without the cover page listed above, the Clerk will enter the document in the Case Docket and file the document.
- 4.03 The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing.

## SIGNATURE

- 5.01 A party who wishes to file a signed source document by fax may fax a copy of the signed source document.
- 5.02 A party may fax a copy of the document without the signature but with the notation of “/s/” followed by the typed name of the signing person where the signature appears in the signed source document.

## TIME OF FILING

- 6.01 Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
- 6.02 Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.
- 6.03.1 The Clerk of Court need not acknowledge receipt of a facsimile transmission. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

## FEES AND COSTS

- 7.01.1 No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Documents tendered to the Clerk without payment of court cost and fees or which do not conform to applicable rules will not be filed.
- 7.02 No additional fee shall be assessed for facsimile filings.

#### LENGTH OF DOCUMENT

- 8.01 Facsimile filings shall not exceed six pages in length. The filer shall not transmit service copies by facsimile.

#### EFFECTIVE DATE

- 9.01 These local rules shall be effective March 1, 2005, and shall govern all proceedings in action brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

## APPENDIX

1. Sample Facsimile Filing Cover Page

## FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF  
COURT: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

SENDING PARTY INFORMATION:

NAME:

SUPREME COURT

REGISTRATION NO. (if applicable): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (if available): \_\_\_\_\_

CASE INFORMATION:

TITLE OF THE CASE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

JUDGE: \_\_\_\_\_

FILING INFORMATION:

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (including this page): \_\_\_\_\_