

**MADISON COUNTY MUNICIPAL  
COURT**

**LOCAL RULES**

**Eric M. Schooley  
JUDGE**

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CLERK**

Adopted: July 13, 2016

## ***LOCAL RULES OF COURT***

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**Rule 1. Scope and effective date**

- (A) These Local Rules of Court are adopted for the governance of the practice and procedures in the Madison County Municipal Court, pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of Rules of Superintendence for the Courts of Ohio.
- (B) The purpose of these rules is to facilitate the expeditious disposition of cases that come before the court.
- (C) Except where otherwise noted herein, these rules are effective as of August 15, 2014 and shall supersede and replace any local rules previously entered by this Court.

**Rule 2. Hours of regular operation**

The offices of the Court shall be open for transactions of business between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Except all days designated as legal holidays. 24 hour online payments can be accessed @ <http://co.madison.oh.us/munict>

**Rule 3. File management**

- (A) Paper court files may be examined at the office of the Clerk of Courts under the supervision of the clerk or deputy clerk. Once minor misdemeanors are paid they are scanned the paper file will be destroyed.
- (B) No document may be removed from a paper court file.
- (C) The use of Electronic Produced Tickets/Citation that is produced by computer or other electronic means is hereby authorized in the Madison County Municipal Court. The electronically produced ticket shall conform to in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.
- (D) Copies can be obtained at the clerk's office of scanned materials; fees assessed as applicable.

**Rule 4. Costs and filing fees**

- (A) The Court has adopted a schedule of costs and filing fees in civil cases, as well as criminal and traffic cases, and may order amendment of these costs from time to time.

**Rule 5. Pleadings and Motions**

- (A) All pleadings and motions shall be typed or legibly printed on paper approximately 8 ½ inches by 11 inches in size.
- (B) The original complaint, along with attached documents, must be filed with the court along with the payment of all filing fees, cost deposits and any other costs and fees required.
- (C) Any and all motions filed are to be accompanied with an entry.
- (D) The caption of the complaint shall state the name and address, if known, of each party. The caption on any other pleading adding or naming new parties shall state names and addresses, if known, of the new parties. All other pleadings and motions shall state the case number and the name of the first party plaintiff and the first party defendant. Every pleading, motion, or other document filed in a case shall be identified by title and shall bear the name, address and telephone number of the individual filing the same. Documents filed by an attorney shall include the name of the attorney, his/her address, telephone number, fax number and his/her Ohio Supreme Court registration number.

- (E) All pleadings and motions must be served upon the opposing counsel, or if a party is not represented, then upon the opposing party in accordance with the Ohio Rules of Civil Procedure.
- (F) Interrogatories, notices of deposition, requests for admissions, and other discovery requests shall not be filed with the court unless otherwise ordered.
- (G) Any pleading or motion filed in contravention of this rule may be stricken from the files at the court's sole discretion.

#### **RULE 6. Facsimile Filing**

- (A) All pleadings, motions, or documents, other than the original complaint or any other pleading that join or adds a new party, may be transmitted to the court by facsimile transmission. The date and time of receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission. The facsimile machine is available to receive facsimile transmissions on the basis of 24 hours per day seven days per week at (740) 852-0812, subject to the conditions set forth in this rule.
- (B) A document filed by fax shall be accepted as the original filing. The sender shall not be required to file the source document with the clerk but must maintain the same in the sender's records, and have the same available for production on request of the court with original signatures as otherwise required under these or other applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing. Moreover, the sender shall maintain the source document until the subject case is closed and all opportunities for appeal have been exhausted.
- (C) The person filing a document by fax shall also provide a cover page containing the following information:
  - (1) The name of the court;
  - (2) The title of the case;
  - (3) The case number;
  - (4) The Judge;
  - (5) The title of the document being filed;
  - (6) The date of transmission;
  - (7) The transmitting fax number;
  - (8) An indication of the number of pages included in the transmission, including the cover page;
  - (9) An indication that a judge or case number has not been assigned, if applicable;
- (D) Documents shall be filed with a signature or notation "/s/" followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.
- (E) In the event a document is sent by fax to the clerk without the cover page information listed above, the clerk may, in his/her sole discretion enter the document in the docket and file the document, or deposit it in a file of failed faxed documents with a notation of the reason for the failure. In the latter event, the document shall not be considered filed with the clerk.
- (F) Subject to the provisions of these rules, all documents sent by fax and accepted by the clerk shall be considered filed as of the date and time the clerk time-stamps the documents received, rather than as of the date and time of the fax transmission. The clerk's office shall be deemed open to receive facsimile transmission of documents on the same days and times that the court is regularly open for business.
  - (1) Fax filing may only be transmitted directly to the court for filing.
  - (2) The clerk shall not be required to acknowledge receipt of a facsimile transmission.

- (3) The risks of transmitting a document by fax to the clerk shall be borne entirely upon the sender. Anyone using facsimile filing is urged to verify receipt of such filing with the court.
- (G) The court has no limit to the number of pages being transmitted.
- (H) There is no fee for facsimile filings.
- (I) No document filed by facsimile that requires a filing fee shall be accepted for filing.

**Rule 7. Appearance and withdrawal of counsel**

- (A) All entries of appearance of counsel in an action shall be in writing or by fax.
- (B) Upon the entry of appearance of counsel, all documents filed with the court and entries of the court shall be served upon said counsel.
- (C) Once an appearance is made, counsel may withdraw from a case only by written leave of court for good cause shown.
- (D) All civil, criminal and traffic pre-trials which have been scheduled within 14 days preceding the scheduled trial date must be attended by the attorney or attorneys who will conduct the trial of said case.

**Rule 8. Continuances**

- (A) All motions for continuances shall be submitted to the court in writing with an entry and include a brief in support setting forth the reasons requiring the continuance. No continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the other party.
- (B) When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for hearing on the same date in another court, the movant shall attach a copy of the notice received from the other court. Motions for continuance sought due to conflict in the hearing or trial schedules shall be ruled upon in accordance with rule 41 (B) of the Rules of Superintendence for the Courts of Ohio.
- (C) No continuance will be considered if filed within seventy-two hours of the hearing date unless the moving party secures the consent of the other party in writing and consent is filed with the court prior to the hearing date.
- (D) Motions for continuance, when submitted in accordance with the above, will be reviewed and considered by the Judge. A continuance that has not been ruled on by the date of the hearing shall be considered to be denied.

**Rule 9. Recording of proceedings**

- (A) A record shall be made of traffic, criminal, civil and small claims proceedings by audio electronic recording device.
- (B) The court shall maintain exclusive custody and control of the electronic recordings of proceedings. The court will retain all the recordings for a period of one year. At the expiration of such period, recordings will be deleted except in the instance of appeal in which event the subject recording(s) will be retained during the pendency of the appeal.
- (C) A party may have a full or partial transcript prepared from the court recording by contacting the court reporter and so requesting. The expense relating to the transcript shall be the responsibility of the party unless said party is exempt from payment of such expense due to indigency. The fee for transcripts are \$10.00 plus the amount charged by the court reporter/agency.

**Rule 10. Decorum and conduct**

- (A) Upon the opening of any Court session, all persons in the courtroom shall stand except for those physically unable to do so. All persons in the courtroom shall conduct themselves with decorum and in such manner as to not interfere with the proper administration of the Court's business.
- (B) All persons appearing before the Court shall, to the extent practicable, appear in appropriate and clean dress.
- (C) Small children are not permitted in the courtroom while the Court is in session.
- (D) No smoking, eating or drinking is permitted in the courtroom. No one is permitted to bring food or drink into the courtroom.
- (E) No person shall loiter or behave in an unseemly or disorderly manner in the courtroom or in any hall, entryway or stairway, or otherwise interfere with the obstruction of judicial activities or proceedings.
- (F) All cell phones and tablets are to be turned off or silenced prior to entering the court room.
- (G) Failure to comply with any aspect of this rule may result in appropriate sanctions by the court, including continuance or dismissal of the matter before the court, or a contempt of court.

## **TRAFFIC/CRIMINAL DIVISION**

### **Rule 11. Appearance of the defendant**

- (A) Persons charged with traffic and/or criminal offenses must be present at the initial appearance as well as all subsequent hearings except as set forth herein. Failure to appear will result in the issuance of an arrest warrant and/or appropriate sanctions.
- (B) The requirement of the defendant's initial appearance may be satisfied by counsel for the defendant or by the defendant themselves for non-mandatory appearance cases, by filing a letter or notice of appearance with the Court prior to the date of the initial appearance and setting forth all of the following:
  - (1) Plea of the defendant
  - (2) Waiver of the time for speedy trial; and
  - (3) Request for a pretrial/trial to the court.

### **Rule 12. Motion practice**

- (A) All motions shall be made in conformity with Criminal Rule 12 Civil Rule 20 & 21.
- (B) Any motion which, by its nature, is capable of being determined without a hearing shall be ruled on without a hearing.
- (C) All motions not heard or decided prior to trial will be disposed of at trial.
- (D) In any case where a party or counsel anticipates that a motion hearing will require more than one hour, it is the responsibility of the party or counsel to notify the court so that adequate time can be scheduled.

### **Rule 13. Case management**

- (A) All criminal and traffic cases, where the defendant enters a plea of not guilty or not guilty by reason of insanity, is represented by counsel, and waives the right to speedy trial at the initial appearance may be set for pretrial hearing at the request of the parties or at the Court's discretion. Written notice of the pretrial hearing date shall be provided to the defendant and counsel, if present, prior to leaving court.
- (B) Defendant and counsel shall be required to personally attend the pretrial hearing as well as all other hearings. Failure of the defendant to appear will result in the issuance of an arrest warrant.
- (C) Cases that are not disposed of at the conclusion of the pretrial conference will be set for trial unless the Court specifically indicates otherwise. The mandatory pre-trials just before the trial must be attended by counsel who will be trying the case.

- (D) All trials will be conducted by a judge unless the defendant files a timely written jury demand or is otherwise accorded a right to trial by jury under law.

#### **Rule 14. Jury Instructions**

In jury cases, all parties desiring specific jury instructions shall, at least seven days prior to trial, file proposed jury instructions with the clerk and serve the same upon opposing counsel. Failure to file proposed instructions may result in acceptance of those instructions filed by opposing counsel and/or imposition of sanctions by the court.

#### **Rule 15. Sentencing**

- (A) Upon a finding of guilty, sentencing shall occur immediately unless otherwise permitted by the Court.
- (B) Prior to sentencing and in its discretion, the Court may refer the defendant to the probation department for a presentence investigation. Upon completion of its investigation, the probation department shall prepare a written report. Such report shall be made available for review by the prosecution and defense prior to sentencing.
- (C) Costs, fines and monies for restitution are expected to be paid immediately after sentencing unless otherwise permitted by the Court. In the event the defendant is unable to make payment in full of all sums required, the defendant may, at the discretion of the judge, be granted time to pay.
- (D) If payment is not received within the time granted by Judge; the Clerk will send owed monies to collections.

#### **Rule 16. Violations Bureau**

- (A) Pursuant to Ohio Traffic Rule 13 and Criminal Rule 4.1, there is hereby established a Violations Bureau and the Clerk of Courts is hereby appointed as clerk thereof. The Madison County Sheriff's Department is appointed to serve as Deputy Violations Bureau Clerk to act when the violations clerk is not on duty.
- (B) The Violations Bureau shall accept appearances, waivers of trial, plea of guilty, payment of fines and cost for offenses within its authority.
- (C) There is hereby established a waiver schedule of fines and costs subject to offenses. Such schedule shall be distributed to the law enforcement agencies operating within the jurisdiction of the court and shall be prominently displayed at the clerk's office of the court.
- (D) Within seven days after the date of issuance of the ticket, or the filing of the matter in court, a defendant charged with an offense that can be processed by the violations bureau may:
- (1) Appear in person at the violations bureau, sign the back of the citation and pay the total amount of fines and costs; or
  - (2) Sign the citation and mail the ticket and personal certified check or money order to the court.
  - (3) Pay online at <http://co.madison.oh.us/munict>

#### **Rule 17. Court Records Management and Retention**

- (A) Pursuant to the Ohio Rules of Court, Rules of Superintendence, Rule 26 (C) and (D), All case records filed after January 1, 2014, will be retained in electronic format, including text and digital images, as an alternative to paper file.
- (B) The Clerk will provide the computer hardware and software equipment necessary to allow for inspection and/or copy of public records, including public records that are maintained, recorded, copied and preserved by an electronic records and information management process. Paper media will be destroyed after it is imaged. Fees for copies will be assessed as applicable.

- (C) The jury commissioners shall retain the annual jury, list, supplementary list, juror excuses and action taken thereon for one year after the conclusion of the jury year for which the annual list was prepared. Thereafter, such records shall be destroyed.
- (D) Jury questionnaires and venires called for particular cases shall be maintained for one year after the conclusion of the jury year in which jurors were summoned.

**Rule 18. Reserved for future use**

**Rule 19. Reserved for future use**

**Rule 20. Reserved for future use**

## ***CIVIL DIVISION***

The monetary jurisdiction of The Civil Division is \$15,000.00.

### **Rule 21. Security for costs/deposit for jury trial**

- (A) No pleading, motion or other documents shall be accepted for filing by the Clerk of Court unless there is first deposited the filing fee set forth in the schedule of costs established from time to time by the Court.
- (B) Upon a claim of indigency, a party shall file a written motion and affidavit setting forth his/her income and expenses, and the Court shall rule upon the same.
- (C) When a judgment for costs against a party appears unsatisfied, the clerk may refuse to accept for filing any new action or proceeding instituted by or on behalf of such party unless otherwise ordered by the Court, without such party first making payment to the clerk of such unpaid costs.
- (D) When a jury trial is demanded, the party requesting the same shall make an advance deposit in the amount of \$300.00.

### **Rule 22. Leave to move or plead**

- (A) Except in actions for forcible entry and detainer, when a party is not prepared to move or plead on the answer day, one extension of time may be had upon application to the Court for a period not exceeding thirty days. Consent of counsel may be filed as a judgment entry in the case and shall be evidence of good cause shown.
- (B) Any leave to move or plead thereafter may be had only with the approval of the Court, with notice to the opposing party or counsel, and for good cause shown. Consent of the opposing party or counsel shall not, in and of itself, constitute good cause.
- (C) Applications for extensions of time, regardless of consent of opposing counsel must be filed at least one day prior to the due date.

### **Rule 23. Motion practice**

- (A) All motions and entries shall be made in conformity with the Ohio Rules of Civil Procedure.
- (B) Each motion shall include a certificate of service attesting to service upon the opposing party or, if represented by counsel, upon counsel for such party.
- (C) Motions shall be supported by a brief citing applicable case and statutory law.
- (D) Any motion, which, by its nature, is capable of being determined without a hearing shall be ruled upon without a hearing.

### **Rule 24. Disposition of motions**

- (A) Unless otherwise provided in the Ohio Rules of Civil Procedure or these Local Rules, a party opposing a motion shall have fourteen days from the date of service to file a brief in opposition citing applicable case and statutory law, with the exception of motion for summary judgment. A party shall have thirty days to file a brief in opposition to a motion for summary judgment.



- (B) A motion to extend the time for filing the brief in opposition may be requested prior to the expiration of the fourteen days.
- (C) The failure of a party to file a brief in opposition to a motion may be construed as consent to granting of said motion.
- (D) All motions not heard or decided prior to trial will be disposed of at the time of the trial.

**Rule 25. Case management**

- (A) All contested matters, except forcible entry and detainer shall be set for a pretrial.
- (B) Counsel and parties must appear before the Court at the pretrial. No appearances by telephone will be allowed unless requested and allowed by Court.
- (C) Parties will be encouraged at the pretrial to review the possibility of settlement and to simplify and narrow the issues for trial, to reach stipulations of fact to shorten the time and expense of trial and to consider such other matters in the disposition of the case.
- (D) Parties should be prepared at the pretrial to enter into a binding case management schedule setting forth a timetable for the amendment of the pleadings, the filing of motions, the exchange of witness reports and medical and hospital records, discovery and the trial of action. Such schedule shall therefore be adopted as an Order of the Court.
- (E) At the time of the pretrial, the Court may consider other appropriate matters in accordance with Civil Rule 16, as well as the imposition of sanctions as authorized by Ohio Civil Rule 37, and such other matters as will aid in the disposition of the case.

**Rule 26. Trials**

- (A) All trials shall be set before the Court unless a party to the action files a timely jury demand or is otherwise accorded a right to a jury trial pursuant to law.
- (B) Notice to the Court of the withdrawal of jury demand shall be made no later than seven days prior to the date of trial. In the event a panel of jurors appears for service and the trial is continued or postponed due to the failure of a party or his counsel to comply with this rule or to appear, such party shall be assessed the per diem cost of the panel unless waived by the Court for good cause shown.

**Rule 27. Trial Briefs and Jury Instructions**

- (A) Where a trial brief is required by order of court, counsel for each party shall file a copy with the clerk at least seven days prior to the commencement of trial.
- (B) The brief shall state the issues involved, authorities upon whom counsel intends to rely at trial, a list of witnesses the party intends to call and a list of all exhibits the party intends to introduce at trial.
- (C) In all jury cases, all parties, or the attorneys for the same desiring specific jury instructions shall, at least seven days prior to the trial, file proposed jury instructions with the clerk, and serve the same upon opposing counsel.

**Rule 28. Notification of Settlements**

- (A) In cases of settlement or voluntary dismissal the Court will accept notice of the same by telephone from the person pursuing each claim. The plaintiff must submit a judgment entry detailing the settlement terms within fourteen days of such telephone notification, unless otherwise ordered by the Court.
- (B) If no judgment entry regarding settlement is received within the time allowed the Court will issued an entry of dismissal at the cost of the plaintiff.
- (C) It shall be the responsibility of the plaintiff to notify the opposing party of the cancellation of any scheduled hearing due to voluntary dismissal unless otherwise ordered by the court.

**Rule 29. Default Judgment**

- (A) Motions and entries for default judgment shall be in writing and clearly state the date the complaint was filed, the manner in which service was perfected, proof of service and answer date.
- (B) In the event the motion is accompanied by a current affidavit setting forth the claim for relief and amount of damages, it will be ruled upon without oral hearing.
- (C) In the event the motion is not accompanied by an affidavit, the motion will be set for oral hearing. In the event an affidavit is filed prior to the hearing date, the motion will be ruled upon without oral hearing. In the event an affidavit is not filed and the movant fails to appear or produce evidence at the hearing in support of the claim and amount of damages, the matter will be dismissed without prejudice at plaintiff's costs.
- (D) In the event the defendant fails to appear or otherwise answer and no motion of default is filed, the court will set the matter for oral hearing. In the event the plaintiff files an affidavit setting forth the claim for relief and amount of damages prior to the hearing, the matter will be ruled upon on the basis of the affidavit. In the event an affidavit is not filed and the plaintiff fails to appear or produce evidence at the hearing in support of the claim and amount of damages, the matter will be dismissed without prejudice at plaintiff's cost.
- (E) All motions for attorney fees will be set for oral hearing.
- (F) Interest will be awarded in accordance with the law.

**Rule 30. Satisfaction of Judgment**

- (A) No satisfaction of judgment shall be entered by the clerk unless all court cost have been paid.
- (B) No person other than the clerk or deputy clerk may enter satisfaction of judgment upon the records of the court.

**Rule 31. Forcible Entry and Detainer actions**

- (A) Claims for forcible entry and detainer and claims for past due rent and money damages must be filed as separate counts in a single complaint and the court shall hear each count separately. *(Number of copies to be filed are 1 original, 2 per defendant, and 1 for plaintiff)*
- (B) Actions in forcible entry and detainer shall be set for hearing before a judge or magistrate at the first available date on court docket.
- (C) At the conclusion of the hearing on the first count, the judge or magistrate shall file a judgment entry and cause a copy to be served upon all parties.
- (D) If a second count for money damages has been filed, the hearing on the same shall be scheduled within sixty days of the hearing on the first count. The judge or magistrate shall file a judgment entry and cause a copy to be served upon all parties.
- (E) Jury demands in forcible entry and detainer actions shall be filed and notice given to all parties not later than three business days before the trial date. A jury demand must be accompanied by payment of jury costs in accordance with Local Rule 18 D. Such a demand automatically continues the case and the moving party must post bond in accordance with R.C. 1928.08.

**Rule 32. Garnishment of Personal Earnings or Property**

- (A) A party seeking a garnishment of personal earnings or property must comply with the provisions of Ohio Revised Code 2716.01, et seq.
- (B) When filed, sufficient copies of the affidavit shall be filed for service upon the garnishee and such parties as are required to be served, and the garnishee fee shall accompany the affidavit.

**Rule 33. Proceedings in Aid of Execution**

- (A) All proceedings in aid of execution shall comply with the provisions of Ohio Revised Code 233.01, et seq.

- (B) When filed, sufficient copies of the order shall be filed for service upon such parties as are required to be served, and the application fees shall accompany the order.

**Rule 34. Reserved for future use**

***SMALL CLAIMS DIVISION***

**RULE 35. Authority**

The Small Claims Division is established and operated pursuant to Ohio Revised Code Chapter 1925.

**Rule 36. Purpose**

- (A) The purpose of the Small Claims Division is to allow parties to resolve minor disputes quickly, inexpensively, and fairly, without requiring the service of an attorney. However, litigants are free to use an attorney if desired.
- (B) The Small Claims Division of the Court is for monetary judgments only. Complaints seeking the return of property, or an order requiring a party to perform a certain act must be filed in the Civil Division.

**Rule 37. Jurisdiction**

- (A) The monetary jurisdiction of the Small Claims Division is \$6,000.00, interest and court costs, and subject to other provisions of law.
- (B) In order to maintain a claim in the Small Claims Division, the court must have jurisdiction over the parties in one of the following manners:
  - (1) The transaction giving rise to the complaint occurred within the territorial jurisdiction of the Court;
  - (2) The defendant maintains his/her residence or maintains his/her business within the territorial jurisdiction of the court

**Rule 38. Corporation as a party**

- (A) A layperson may present a claim or defense and appear in small claims court on behalf of a limited liability company as a company officer, provided that the individual does not engage in cross-examination, argument, or other acts of advocacy.
- (B) A corporation must be represented by an attorney duly admitted to the practice in the State of Ohio in all small claims activity outside those described in the preceding sentence.
- (C) Any pleading not filed in accordance with this rule may be dismissed upon the motion of the opposing party, unless the same has been previously amended to be in accordance with this rule.

**Rule 39. Pleadings**

- (A) The plaintiff may begin a small claims action by filing a complaint and paying the required costs. *The complaint forms are supplied by the court.* All pleadings will be construed to accomplish substantial justice.
- (B) No party is required to file a responsive pleading such as an answer to the complaint, counterclaim, cross-complaint or third party complaint.
- (C) Upon the filing of the complaint, the case will be set for trial. The court reserves the option to convert the trial to a pre-trial or bifurcated trial in any instance where the court deems such conversion necessary for the effective administration of justice.

**Rule 40. Counterclaims and cross-claims**

- (A) All counterclaims and cross-claims must be filed at least seven days before the scheduled trial.

- (B) Any party filing such pleadings shall send copies to all opposing parties.
- (C) Any pleading which is not timely filed shall be stricken from the file. If the claim is timely filed, the clerk shall issue a notice of trial date to all parties.

**Rule 41. Third Party Claims**

- (A) Any party seeking to join a new party to a pending case must file a third party complaint at least seven days before the scheduled trial date.
- (B) The clerk shall serve the new party defendant with the third party complaint in the same manner as the original complaint.
- (C) Any pleading which is not timely filed shall be stricken from the file. If the claim is timely filed, the clerk shall issue a notice of trial date to all parties.
- (D) If a third party complaint is filed, the trial shall be moved to a date allowing the third party sufficient time to appear.

**Rule 42. Continuances**

- (A) A request for a continuance of a case set for trial shall be filed in writing or by fax at least seven days prior to the trial date.
- (B) The request shall be in writing and shall include:
  - (1) The case caption and case number;
  - (2) The reason for request;
  - (3) The date and time of the scheduled trial;
  - (4) A statement signed by the moving party that he or she has notified the other party in accordance with rules of service; and
  - (5) The signature of the party requesting the continuance, or of such party's attorney.

**Rule 43. Dismissals**

A person asserting a claim may dismiss the claim by written notice thereof to the clerk.

**Rule 44. Subpoenas**

All subpoenas or praecipes for subpoenas must be filed seven days prior to the scheduled trial date with the required deposit.

**Rule 45. Motions to transfer to the regular civil docket**

- (A) A motion to transfer a small claims matter to the regular civil docket shall be filed at least seven days before the scheduled trial date.
- (B) When a counterclaim, cross-claim or third party claim exceeds the jurisdiction of the Small Claims Division, it must be accompanied by a motion and entry to transfer.
- (C) An untimely motion to transfer shall be stricken from the file.
- (D) In the event the motion to transfer is not filed or is stricken from the file, the damage recovery will be limited to the monetary jurisdiction of the Small Claims Division.

**Rule 46. Other Pretrial Motions**

All pretrial motions shall be filed and served upon the opposing parties at least seven days before the scheduled trial date. Motions which are not timely filed shall be stricken from the file. Pretrial motions shall be heard at the time of trial. The filing of pretrial motions shall not excuse any party's failure to appear at trial.

**Rule 47. Trial**

- (A) The trial shall be conducted by a judge or magistrate. The parties shall be placed under oath and shall be given the opportunity to state their cases.

- (B) At the conclusion of the trial, the judge shall prepare a decision or the magistrate shall prepare a magistrate's decision.
- (C) If any party makes a request for finds of facts and conclusions of law, or if finding and conclusions of law are otherwise required by law or by court order, the magistrate's decision shall include finds of fact and conclusions of law in accordance with Civil Rule 53(E)(3).

**Rule 48. Evidence at trial**

- (A) The Ohio Rules of Evidence do not apply to small claims cases.
- (B) Any documents and witnesses that a party desires to be considered must be produced at the time of trial and cannot be produced afterwards. No continuances will be granted on the date of trial to submit additional documents or witnesses.
- (C) Witnesses must be present in court. The Court will not receive telephone calls from witnesses. Affidavits or written statements of witnesses will not be accepted as evidence.
- (D) In cases involving a motor vehicle collision, the party seeking damages must submit at trial a certificate of title demonstrating his/her ownership of the subject vehicle. Vehicle registration will not be accepted as evidence. Failure to comply with this rule will result in dismissal of the claim and denial of damages.

**Rule 49. Objections to the Magistrate's Decision**

- (A) Any objections shall be made in conformity with Civil Rule 53(E) (3). They shall be ruled upon in conformity with Civil Rule 53 (E) (4).
- (B) Any party may file written objections to a magistrate's decision within fourteen days of the filing of decision. Thereafter, any other party shall have a period of ten days to file objections. If a party makes a request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files a decision including findings of fact and conclusions of law.
- (C) Objections shall be specific and state with particularity the grounds for the objections. They shall further contain a statement signed by the filing party that copies have been served on all other parties.
- (D) Any objection to findings of fact shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available.
- (E) The filing of objections shall result in an automatic stay of the judgment entered by the court on the magistrate's decision.
- (F) In ruling upon any objections, the Court may adopt, reject or modify the magistrate's decision, hear additional evidence, recommit the matter to the magistrate with the instructions or hear the matter.