

RULES OF PRACTICE AND PROCEDURE

For

Fairfield Municipal Court

675 Nilles Road

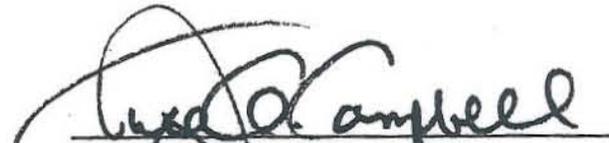
Fairfield, Ohio 45014

Civil, Criminal, Traffic Divisions

It is hereby ordered, pursuant to Rule 18 of the Ohio Supreme Court Rules of Superintendence for Municipal Courts and County Courts, that the following Rules be adopted for the regulation of practice and procedure of the Fairfield Municipal Court in Civil, Criminal, and Traffic cases, effective January, 1, 2009. All previous rules are hereby rescinded.

These Rules and Orders shall be recorded by the Clerk in the Journal of the Court, and after said recording the Clerk shall cause a copy of these Rules to be made available to members of the Bar and litigants, upon request. And further, a copy shall be forwarded to the Ohio Supreme Court in accordance with Sup.R5(A)(3) of the Rules of Superintendence.

By Order of:



Joyce A. Campbell, Judge
Fairfield Municipal Court

GENERAL PROVISIONS

Rule 1. Jurisdiction of the Court

The geographical and monetary jurisdiction of the Fairfield Municipal Court shall be as provided by law.

Rule 2. Schedule of the Court

The offices of the general division of the Court shall be open between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday, legal holidays excepted. Sessions of the Criminal, Civil, and Small Claims Divisions of the Court shall be conducted on days Monday through Friday. The specific times may be amended by special order of the Court.

Should a trial be continuing after 4:30 p.m., in order to facilitate the issuance of papers as might be necessary, the Clerk is instructed to keep the Clerk's office facilities available, and is to have at least one (1) Deputy Clerk remain in the Clerk's office until the conclusion of the trial for that day.

The Judge shall have full discretion in the regulation and assignment of the work of his/her office and shall have the right to make his/her own rules with respect to the time of convening and adjourning all court sessions, pre-trial matters, and the operation of the Small Claims Division.

Rule 3. Dockets and Records

The Clerk shall prepare and maintain a general index, Civil and Criminal cashbooks and Civil and Criminal dockets, and such other records as the Court may require, all of which shall be the public records of the Court.

The Clerk shall not permit original papers, files, books, or depositions to be removed from his/her office, unless the same are to be delivered to the Judge of this Court or unless an entry authorizing the same is made by this Court and entered upon the journal.

Rule 4. Cases Numbered

All actions brought in this Court shall be assigned identifiers and numbered consecutively as filed and shall be entered upon the docket as identified and numbered. In the filing of any papers with this Court, the assigned identifier and number shall be referenced.

Rule 5. Duties of Trial Attorney

- A. Counsel shall, by personal signature and by Supreme Court of Ohio attorney registration number, designate his/her capacity as trial attorney on all filings in Civil and Criminal/Traffic cases. Designation of a law firm alone will not be accepted.
- B. As a convenience to trial counsel, initial appearance may be entered by telephone call, followed by a facsimile of appropriate filings, i.e. designation of counsel, waiver of arraignment, motion and entry requesting a continuance. An original copy of filings shall be promptly mailed to the Clerk's office by regular mail.
- C. No requests for continuance or other contact with cases shall be permitted by counsel until he/she has entered a written appearance (designation of counsel) filing.
- D. Counsel shall be permitted to withdraw from trial counsel responsibility in cases where counsel was designated **only** with the consent of the Court.

Such consent shall not be considered until:

1. A written Motion is presented setting out the reason thereof, the date of trial, if set, certification that opposing counsel has been served with notice of the Motion, certification that the client has been served with notice of the Motion, and counsel's professional statement that, if granted, a copy of the entry will be mailed immediately to the client at their last known address.

2. Such consent shall not be considered if made within five (5) days of any hearing date set.
- E. Once trial counsel has been designated, such designation shall remain until termination of the case. Change of trial counsel may be permitted by the Court upon the filing of an entry containing designation of new trial counsel and the agreement of prior trial counsel; and providing such change will not then; (a) cause unreasonable delay of the trial of the case or; (b) serve as a detriment to the opposing party (ies) or counsel.
 - F. No person who is not admitted to the practice of law before the Ohio Supreme Court may appear on behalf of another individual or entity in Court, except as provided by Section 1925.17 of the Ohio Revised Code or Rule II of the Supreme Court Rules for the Government of the Bar of Ohio. An executed power of attorney does not confer, upon a person who is not an attorney, the right or ability to represent some other person in Court. Nothing in this Rule shall prohibit an employee or agent of a party from appearance in a civil action to provide testimony on behalf of his or her employer regarding information within that employee's or agent's personal knowledge, regardless of the presence or absence of the party.

Rule 6. Filing of Motions

Every motion filed in the Fairfield Municipal Court shall be on a separate sheet from the entry. The entry granting or denying the Motion will be filed after it has been approved by the Court. The entry may be submitted at the time the Motion is filed and the entry shall be marked as "received", but will not be entered as "filed" until the Motion is ruled upon, either granted or denied.

Rule 7. Facsimile Filings

To comply with the Ohio Supreme Court guidelines prescribing rules to facilitate and effect just results without undue delay and unnecessary expense, and to otherwise remove impediments to the expeditious

administration of justice, the Fairfield Municipal Court herein directs the Clerk to accept facsimile pleadings and other documents that would otherwise be accepted for filing so long as said filings do not require costs to be paid at the time of filing. Upon the acceptance of said facsimile filings, the party sending the filings shall then have four (4) working days to submit the original documents. The original documents will then be filed by the Court to conform with the filing of the facsimile documents. If counsel does not submit the original(s) for filing within the four (4) days as provided herein, the Clerk is instructed to mark the facsimile documents to reflect that the original was not received and an entry will be filed that orders the facsimile document to have no effect and that same is not to then be considered a pleading, or otherwise be considered a proper document before the Court.

Rule 8. Attorneys Not to Act as Sureties

No practicing attorney shall be received as surety on any bond or recognizance in any action or proceeding, civil or criminal.

Rule 9. Court Employee Referrals

No employee of the Court shall at any time, whether by request or otherwise, refer or direct any person to an attorney, interlock device provider or to a bail bondsman or bail bond company or agent. Any violation of this order shall subject the violator to suspension or dismissal by the Court.

CRIMINAL/TRAFFIC RULES

FORWARD

It is hereby ordered that the following be, and the same are hereby adopted as the rules for regulation of the practice and procedure of this Court in criminal causes, until otherwise ordered. For purposes of these Rules, all traffic matters are considered criminal in nature and are therefore subject to these rules. In the event there is any conflict between these rules and the Ohio Rules of Criminal Procedure and/or the Ohio Traffic

Rules, the Ohio Rules of Criminal Procedure and/or the Ohio Traffic Rules shall prevail.

Rule 10. Costs Assessed

On every criminal and traffic case docketed, the Clerk of the Fairfield Municipal Court shall collect court costs in an amount to be determined from time to time, to include a computer maintenance fee and special projects fee as permitted by law.

In addition to the Fairfield Municipal Court costs, in all cases the Clerk shall add all other amounts required by law such as the State of Ohio Reparations Rotary Fund and the Public Defenders Fund. The additional sums for the State of Ohio Reparations Rotary Fund and Public Defenders Fund shall not be collected for parking violations and in all cases where the defendant is not convicted of an offense (case dismissed or warrant withdrawn). In cases with forensic referral, appointment of counsel, subpoenaed witnesses, etc., the Clerk shall collect such additional costs as approved by the Court.

Rule 11. Bail

The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings. All persons are entitled to bail, except in capital cases where the proof is evident or the presumption great (Criminal Rule 46). Pretrial Release shall be in accordance with Criminal Rule 46.

The Court has established a bail schedule, which will be reviewed from time to time, and changes made when warranted.

Further, pursuant to Criminal Rule 46(D), the Clerk is hereby ordered to make all reasonable efforts to obtain an agreement with credit card issuers that are recognized and established, for the purpose of allowing defendants to make bail under Criminal Rule 46 (D1&3) by use of the established credit card(s). No credit card agreement shall be permitted when a service charge is made against the Court and/or the Clerk.

Pursuant to Criminal Rule 46(D)(3), prior to the Court considering a request for a bond secured by real estate, the defendant and/or counsel must provide the Court with satisfactory evidence of ownership, value, liens, and net equity in the real property, so the Court can then rule on accepting a "property bond". No property bond shall be granted without the Court's approval.

Rule 12. Community Service

As an alternative to serving jail terms imposed by the Court, those persons receiving a jail sentence, with approval of the Court, may substitute eight (8) hours of satisfactory and uncompensated work as directed by the Probation Department for each day to be served in jail or as otherwise directed by the Court.

Each person, who is otherwise eligible for the community service program in lieu of jail, shall sign a requisite form for such community service alternative.

The community service alternative shall be permitted in cases where the person is convicted under the City Ordinances, and will not apply for convictions under State Statutes, and shall otherwise be applicable and shall be administered within the guidelines set forth in Section 333.99(C10) of the Fairfield Codified Ordinances.

Persons assigned to community service must abide by the rules governing the time(s), place(s), and duration of such referral, and all other rules pertaining to the community service program.

Each such person shall be assigned by the Probation Department for work assignment. The hours, days, and duties such person works shall be determined jointly by the Probation Officer and the appropriate personnel.

The Probation Officer shall keep records of the names and other identifying information of such persons, i.e., the hours, days, work assignments, and manner of performance of said assignments. This information shall become a permanent part of the Court's records.

The duties assigned shall be such as are within the physical and skill capabilities of such persons.

Rule 13. Probation Supervision & Diversion Fees

If the Court places an offender on probation under the control and supervision of the Probation Department, as a condition of probation, pursuant to 2951.021 O.R.C., the offender shall pay a Reporting Probation Fee in the sum of \$360.00; or a \$100.00 Non-Reporting Probation Fee, in addition to all other court costs. The supervision fee shall be paid to the Clerk of Court, to be deposited in the Municipal Probation Services Fund.

Any offender ordered by the Court to attend a Diversion program in lieu of a conviction, or otherwise, shall pay the sum of \$150.00 in addition to all other court costs. The Diversion Fee shall be paid to the Clerk of Court, to be deposited in the Municipal Probation Services Fund.

Rule 14. Case Management in Criminal/Traffic Cases

The purpose of this rule is to establish, pursuant to M.C.Sup.R18, a system for criminal/traffic case management, which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

The scheduling of events begins at the arraignment. Thereafter, the case is managed in five (5) judicial steps as follows:

1. Arraignment: At arraignment, in all misdemeanor cases, other than minor misdemeanor matters, the defendant will be granted a continuance of a maximum of two (2) weeks and a minimum of one (1) week to seek advice and/or representation from legal counsel. The Court, in its discretion, shall determine the docket date for the defendant to appear and report that time to the designated attorney.
2. Pretrial: At the docketed appearance date, the Court shall be informed of counsel's designation, and shall review at that time counsel's request for a pretrial, and any other requests for

particular motions. Upon a request by counsel for a pretrial, the Court shall schedule a pretrial with the prosecutor within two weeks.

All minor misdemeanor cases shall be immediately set for plea or for trial to the Court unless the Judge orders a pretrial in said case.

If a defendant, who has been granted a continuance to seek counsel, appears on the scheduled "counsel" date *without* counsel having been designated, the matter shall immediately be set for trial within two (2) weeks.

Defendants charged with minor misdemeanor traffic offenses may continue their cases by telephone with the Clerk's office for one (1) week. Unrepresented Defendants charged with misdemeanors of the fourth, third, second, and first degree, or felonies, must appear in Court for arraignment. A Defendant who is represented by counsel may enter a written plea of not guilty with consent of the prosecutor, pursuant to Criminal Rule 10(B) and Traffic Rule 8(C), and request a continuance. This should be accomplished within four (4) days of service of the warrant or ticket/summons. The Assignment Clerk shall set the matter for trial within two (2) weeks pursuant to the Not Guilty plea, or upon request of counsel, a pretrial may be set prior to scheduling the trial date. For pretrial hearings, all private complainants, victims, and officers involved in felony arrests shall be notified to appear before the prosecutor on that date.

The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a Court form of the matters agreed upon in the pretrial shall be presented to the Court and filed in said case. Any attorney, who fails to appear for a pretrial hearing without just cause being shown, may be punished for Contempt of Court. If the pretrial conference does not result in a plea of guilty or a plea of no contest to the charge, or to an acceptance by the Court of a request for a dismissal and/or withdrawal of the charge, or to an acceptance by the Court of a request to

permit the defendant to plead to an amended charge, then the case shall be set for trial.

3. Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing.
4. When a trial brief is required by order of the Court, counsel for each party shall deliver a copy to the Court and all other counsel at least one weekday prior to commencement of trial unless otherwise ordered by Court. The briefs shall relate to the issues referred to in the order and contain authorities supporting the propositions which counsel intends asserting during trial. Delivery may be made by ordinary mail with a proof of service appended to each brief.
5. Trials: Each case not resolved at pretrial, shall be set for trial to the Court two (2) weeks after the scheduled pretrial if possible. If a jury demand is **timely** filed (Criminal Rule 23), then the case shall be moved to the jury trial schedule.

Written Jury Demands shall be filed with the Clerk and the matter set on the Court's jury trial docket.

In jury trials, all attorneys or defendants shall notify the Court by 9:00 a.m., three (3) days prior to the scheduled jury day of any change in plea; otherwise, any change of plea after that time will result in jury costs being assessed as part of costs in the case.

6. Sentencing: Sentencing shall be immediately upon conclusion of the case, unless the prosecutor, or defense counsel, or the Court requests any pre-sentence evaluations, probations reports, or any other pre-sentence reports. In the event of the Court's decision to seek any reports prior to sentencing, either on its own motion or on the motion of counsel, then sentencing

shall be set not later than five (5) weeks from the date of conviction.

Rule 15. Continuances in Criminal and Traffic Cases

The Deputy Clerks in a traffic/criminal matter shall grant only one (1) continuance of one (1) week to a defendant. The Assignment Clerk may grant further continuances to designated counsel upon request, not to exceed three (3) weeks. All further continuances must be granted by the Judge.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in another court, 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 continuance, other than the first continuance, is a matter within the discretion of the 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 Court may require the trial attorney to provide a substitute trial attorney.

CIVIL RULES

FORWARD

It is hereby ordered that the following be, and the same are hereby adopted as the rules for the regulation of the practice and procedure of this Court in civil cases, until otherwise ordered. In the event there is any conflict between these rules and the Ohio Rules of Civil Procedure, the Ohio Rules of Civil Procedure shall prevail.

Rule 16. Examination of Files

No person except authorized Court personnel, parties, or their attorneys shall be permitted to examine the complaint filed in any case, until after service of summons.

Rule 17. Costs Assessed

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 its schedule of costs, except that upon representation of indigency, the Clerk of this Court shall investigate the accuracy of such representation, and upon finding that such indigency does exist, the security for costs shall be waived.

On every ordinary complaint, complaint in F.E.D., complaint and attachment, and replevin, the Clerk of the Fairfield Municipal Court shall collect court costs in amounts determined from time to time; and an additional five dollars (\$5.00) for each additional defendant to be served by certified mail. The Clerk shall also collect ten dollars (\$10.00) extra for personal or residential service. The Clerk shall add such additional costs for witness fees, sheriff's fees, and appraisal fees.

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

Rule 18. Fees for Additional Services

Any reasonable charge, when approved by the Court, shall be taxed as part of the costs of the action and any property seized under any writ or process of the Court need not be released until said charges are approved and paid.

Rule 19. Additional Costs/Procedure in Disbursement for Trusteeships

Prior to disbursements, the Clerk shall collect a one dollar (\$1.00) fee for each creditor to whom he/she disburses trustee funds; deduct that

amount from the monies collected for that period and disburse the balance among the creditors in proportion to the amount their respective claims bear to the sum to be distributed.

To avoid issuing checks for nominal amounts, each creditor shall first have credited to his disbursement the sum of five dollars (\$5.00). Thereafter, the balance to be disbursed shall be allocated among the creditors as herein stated.

Rule 20. Case Management in Civil Cases

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

The scheduling of a civil case begins when a civil case is filed. Thereafter, the case is managed in four (4) clerical steps and five (5) judicial steps:

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 civil clerk shall notify counsel immediately. If counsel fails to obtain service of summons within six (6) months from the date the cause of action has been filed, then the civil clerk shall notify counsel that the case will be dismissed in fourteen (14) days unless good cause is shown to the contrary. Said notice and dismissal shall be in accordance with Ohio Civil Rule 41 and shall be a dismissal without prejudice unless otherwise stated in the notice to counsel.
2. After any responsive pleading is filed, the Clerk shall immediately schedule the matter for a docketed "initial conference" before the Court.
3. After perfection of service, and after the time has elapsed for the filing of a responsive pleading, if Plaintiff's counsel does not otherwise move for default, or otherwise take some action in

the case within six (6) months thereafter, then the Clerk shall notify counsel that the case will be dismissed in fourteen (14) days unless good cause is shown to the contrary. Said notice and dismissal shall be in accordance with Ohio Civil Rule 41, and shall be without prejudice unless otherwise specifically stated in the notice to counsel.

4. When a file has been marked "settlement entry to be submitted", the Clerk shall docket the matter on the Court's Civil "Reports" docket for thirty (30) days after the date marked on the file, which indicates a "settlement entry to be submitted". At said docketed date, if the Entry has not been received, the Clerk, upon the Court's instruction, shall issue an Ohio Civil Rule 41 notice to all counsel to the effect that if an Entry is not submitted within fourteen (14) days, the matter will be dismissed with prejudice by the Court, unless all or any of the parties show good cause why additional time should be granted for the filing of the Settlement Entry.

Judicial Steps:

1. Initial Conference Hearing: After an answer has been filed, or in the case where there is an Answer and a Counterclaim and/or a Cross-Claim and/or Third Party Complaint filed, and upon all parties having pleaded or having otherwise having answered, the Clerk shall docket the case for an "Initial Conference Hearing". The purpose of this initial conference hearing is for the Court to discuss with counsel the issues of the case; set a cutoff date for discovery and set a cutoff date for any motions that counsel may desire to file. An Order shall be made cutting off discovery and the time for filing of motions.
2. Status Report Hearings: At the initial conference, the Court may set a "Status Report Hearing". Said hearing will be set, in the discretion of the Court, when there is a strong likelihood of settlement, or there are other concerns about the continuing process of discovery.

3. Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions shall be considered submitted at the end of said fourteen (14) day period, unless time is extended by the Court. There shall be no oral hearings granted concerning said motions unless a party requests an oral hearing in writing and the court deems it necessary, or unless upon the Court's own motion, the parties are requested to orally argue the motion.

4. Motions for Default Judgment: Motions for Default Judgment shall be in writing and filed with the Court. In any motion for Default Judgment in which the amount claimed is five hundred (\$500.00) or more, the claimant shall establish his/her claim or right to relief by evidence satisfactory to the Court. By way of explanation and not by way of limitation, an affidavit containing suitable information may be submitted; for example, to establish such claim or right to relief. Affidavits submitted as sworn to and signed by counsel of record will not be accepted as suitable evidence of the claim(s). Counsel shall submit with the Motion for Default Judgment, an Entry to be approved by the Court.

5. Pretrials: For the purpose of this rule, "pretrial" shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and/or, his/hers, or their attorney of record.

Any attorney for a party to the action who fails to attend at a scheduled pretrial conference, without just cause being shown, may be punished as and for Contempt of this Court. Any other persons ordered to attend a pretrial who fail to attend without just cause shown, may also be punished for Contempt of Court.

Notice of pretrial conference shall be given to all counsel of record and to all parties unrepresented by regular mail, not less than fourteen (14) days prior to the conference. Any request to

continue a scheduled pretrial conference must be made in writing and will only be granted for good cause shown.

Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.

The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy at issue. The Court shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. Depending upon the difficulty of the issues presented, the Court may file a pretrial statement embracing all stipulations, admissions, and other matters which have come before it in the pretrial.

If the Court has not already ordered, prior to pretrial, for the parties to submit pretrial briefs and special jury instructions, the Court shall, at the time of pretrial, determine whether or not trial briefs and special jury instructions should be submitted and if so, shall order a date certain when they are to be filed prior to trial.

Further, at the pretrial conference, the Court shall have the authority to dismiss the action for want of prosecution or any portion of the matter for want of prosecution upon failure of the party and/or his/her attorney to appear in person at the pretrial conference; or to make such other order as the Court may deem appropriate under all the circumstances.

If the matter has not already been docketed for trial, and if the matter cannot be settled at pretrial, then the case shall be set for trial and the trial date set when reasonable and possible for all parties.

Trial Briefs:

In all civil jury cases, attorneys for all parties to the action shall, at least eight (8) days before date of trial, furnish to the Court a

brief of the issues and the law they expect the Judge to present to and charge the jury. All trial briefs and proposed jury instructions are required to be exchanged with opposing counsel at the time of filing.

Jury Trials:

A Jury Demand will not be accepted for filing unless, or until the Defendant(s) posts a suitable bond in accordance with Ohio Revised Code Section 1923.08, due to the judicially noted fact that the Court's docket is such that a demand for a jury trial will necessarily delay the proceedings more than eight (8) days. A filing fee of three hundred (\$300.00) dollars is required at the time of the filing of the Jury Demand, seventy-five (\$75.00) of which is non-refundable.

Rule 21. Continuances in Civil Cases

No party shall be granted a continuance of a trial without a written motion from the party or his/her counsel stating the reason for the continuance.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in another court, 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 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 Court may require the trial attorney to provide a substitute trial attorney.

Rule 22. Judgment Entries

Counsel for the party in whose favor an order or judgment is rendered, shall prepare a journal entry. That entry shall be submitted to opposing counsel within ten (10) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days. Within twenty (20) days of the decision, the journal entry shall be submitted to the Court, or thereafter the Court will prepare the journal entry.

Rule 23. Entries of Settlement

Entries of Settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed in accordance with Rule 18(C)(5), and may also be dismissed for failure to file a settlement entry in accordance with the above rule. The journal entry shall state which party is responsible for payment of court costs.

In the Settlement of a Scheduled Jury Trial, if the Court is informed that the scheduled civil jury trial has been settled, but the notice of said settlement is after 9:00 a.m. three days preceding the scheduled trial, then in said event, unless for good cause shown, the jury costs will be assessed.

Rule 24. Statutory Demands

(A) A person seeking an Order of Attachment against personal earnings or an Order in Aid of Execution against personal earnings in an action shall comply with the provisions of Section 2716.02 of the Revised Code of Ohio. A failure to comply with this provision will render the proceedings voidable.

(B) Where the statutory demand is served personally, or by leaving it at the debtor's usual place of residence, proof of such service shall be made by the affidavit of the person serving same.

(C) When such demand is served, or attempted to be served, by registered or certified mail, and shall be accompanied by the signed registered or certified mail receipt, or proof of refusal of

service, or by a photocopy thereof, or the certified mail envelope endorsed "unclaimed."

(D) A copy of the statutory demand made on Defendant, together with proof by affidavit of service of the statutory demand, shall be filed with the affidavit.

(E) Failure to comply with the requirements of Subdivision (C) hereof shall not render the proceedings void; but shall effect the taxing of the cost only. Said cost shall be assessed against the party failing to comply with this Rule.

SPECIAL PROCEEDINGS

Rule 25. Forcible Entry and Detainer

Actions in F.E.D. shall be filed and proceeding conducted in accordance with provisions of the Ohio Revised Code Sections 1923.01 through 1923.15 and amendments thereto.

Pursuant to the Ohio Civil Rules, when a written lease is in effect in the F.E.D. action, a copy of such lease must be attached to the complaint when filed. A copy of the Notice to Leave the Premises must also be attached to any F.E.D. complaint filed with the Court.

Hearings:

All Forcible Entry and Detainer cases shall be set for hearing before the Magistrate, unless the Magistrate is absent, in which case the Court may hear said matters. Said matters shall be docketed within the time limits set forth in the Ohio Revised Code. The Magistrate shall, at the conclusion of the hearing, sign the Restitution Entry and cause copies to be served on both parties.

Judgment Entries:

The Court shall review the Restitution Entries within twenty-four (24) hours after the Magistrate has conducted the hearing and

signed same, and the Court shall thereupon enter the appropriate Judgment Entry.

Rule 26. Demand Notice on Garnishees

A copy of a Demand Notice and proof of service of that Demand Notice shall be filed with all garnishees that are filed in the Fairfield Municipal Court.

Rule 27. Case Management in Special Proceedings

- A. Purpose: The purpose of this rule is to establish, pursuant to M.C.Sup.R.18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings and shall be heard by the Magistrate, and in the Magistrate's absence may be heard by the Court, as follows, to-wit: Small Claims, Forcible Entry and Detainer, Rent Escrow, Replevin, Motions to Cite, Garnishment hearings, and Debtor's Examinations. The following criminal matters are considered special proceedings and they are to be heard by the Court, to-wit: Preliminary Hearings, Extradition Hearings, and B.M.V. Hearings.

- B. Scheduling of Events: Cases that have a time limit 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: In all new special proceedings cases, if counsel fails to obtain service of summons within six (6) months, the Clerk shall notify the party/counsel that the case will be dismissed in fourteen (14) days unless good cause is shown to the contrary. Said dismissal shall be without prejudice unless otherwise indicated in the notice.

It is counsel's responsibility to file for default, and failure to do so within six (6) months shall cause the Clerk to notify counsel that the case will be dismissed in fourteen (14) days unless good cause is shown to the contrary. Said dismissal shall be without prejudice unless otherwise indicated in the notice.

After any responsive pleading is filed, the Clerk shall immediately docket the matter for hearing with notice to the parties and/or their counsel.

- D. Judicial Steps: Rule 18(D) above applies to these proceedings. Particularly of importance for their application herein are Rule 18(C)(5), Rule 18(D6,7) and (B) as they address Continuances, Judgment Entries, and Settlement Entries.

SMALL CLAIMS DIVISION

Rule 28. Small Claims

A Small Claims Division is hereby established, in accordance with the provisions of Section 1925.01, et. Seq., of the Ohio Revised Code.

A Magistrate appointed by the Court shall conduct the Small Claims Division proceedings. In the absence of the Magistrate, the Court may hear said cases. Otherwise, the Magistrate shall conduct such proceedings, in accordance with the Statutes and Rule 53, Ohio Rules of Civil Procedure.

- A. Complaint commenced: A small claim action is commenced by filing a small claims petition and the payment of the required court costs, pursuant to the 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 the Defendant, upon the Magistrate having heard evidence from

the Plaintiff. All pleadings will be construed to accomplish substantial justice.

- B. Transfer: Upon filing of a Motion and Affidavit, as required by the Ohio Revised Code Sec. 1925.10, and upon payment of any required cost, the small claim will be transferred to the regular docket.
- C. Hearing: The hearing in small claims division shall be conducted by the Magistrate (in the Magistrate's absence, the Court may hear the matter). The Magistrate shall place all parties and witnesses under oath and then allow the parties to state their respective cases and to call their witnesses to testify. The Magistrate shall, at the conclusion of each case, or within a reasonable time thereafter, serve a copy of said Magistrate's findings, conclusions, and recommendations upon the Plaintiff and Defendant and the parties will be informed that they may file objections to the Magistrate's findings within fourteen (14) days, in writing.

The objections to the Magistrate's findings should state, with any written memorandum of law and/or argument, with specificity, the reason(s) why the Court should reverse, modify, or remand for another hearing.

No hearing, other than as provided above, shall be conducted in connection with any objections to such report. The Court shall listen to the recording of the evidence and arguments submitted to the Magistrate, read and consider the objections and written arguments and memorandum of law submitted to it, and thereby consider the objections and rule thereon. The Court shall rule on said objections within thirty (30) days of the filing of the objections.

- D. Limited Clerk Assistance: No employee of the Court shall advise any petitioner in the Small Claims Division as to the legal basis/status of his/her claim. Assistance shall be limited to supplying a petitioner with the necessary forms and any explanation only as to the portions thereof to be completed by the complainant on his own initiative.

- E. Court Review: The Court shall review the findings of the Magistrate each week, and enter the appropriate judgment.
- F. Collection of Judgment: The Clerk of Court shall assist the prevailing parties in collecting their judgments pursuant to Ohio Revised Code Section 1925.13.

Rule 29. Media

(A) Definitions; Applications:

(1) For the purpose of these rules, the term "media recording" shall be understood to encompass broadcasting, televising, recording or photographs. The term "trial" shall be understood to apply to any public hearing held by the Court.

(2) Application for media recording shall be made in writing (unless otherwise waived) to the Judge prior to the commencement of the trial. No special form of application will be required, but the application must specify the type of equipment to be used, and must identify and be signed by the applicant. The "pooling" required by Superintendence Rule 9 for Municipal Courts and County Courts shall be accomplished prior to submission of the application. The positioning of the cameras shall be at a location to be determined by the trial judge.

(3) In the event the Judge approves the application he/she shall prepare and sign a journal entry setting forth the conditions of media recording and such journal entry shall be made a part of the record of the case. Before preparing the journal entry, the Judge shall confer with media representatives regarding the positioning of the operators and equipment.

(4) The journal entry shall state whatever portions of the trial shall not be open to media recording. In the event that any time subsequent to the signing and filing of the journal entry the Judge shall decide to withhold media recording of any part of the trial, such decision and order shall be entered into the record of the case.

(5) In the event of a continuance of the trial for a period of more than thirty (30) days, a new application shall be required.

(6) At any arraignment session, application in writing may be made anytime before the session. The Court may give permission for the reporting or recording of any portion of the session without a formal journal entry. Positioning of any equipment shall be at the complete discretion of the Judge.

(B) Limitations:

(1) Any equipment which is non-portable shall be set up and ready for operation prior to the commencement of court sessions. In no event will persons be permitted to bring equipment into the courtroom during trial unless such equipment can be easily carried by a single person and without causing a distraction or disturbance.

(2) No media recording of proceedings in the Judge's chambers or accesses shall be permitted except with the express permission of the Judge. No media recording shall be permitted in jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors may be taken at any time.

(3) Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client, between counsel and the Judge at the

bench, or between counsel and official court reporter as in the case of a proffer.

(4) The Judge, counsel, and witness shall not address any remark to the media when the Court is in session. In all respects, the trial shall proceed in exactly the same manner as though there was no media recording in process.

(5) No media recording shall be made of any document or exhibit before or after such document or exhibit is admitted into evidence, except those which are clearly visible to spectators, e.g., maps, charts, blackboards, etc.

(6) The Judge shall inform victims, witnesses and jurors of their right to object to being filmed, videotaped, recorded or photographed. Upon objection, the media are prohibited from employing any means to record the victim or witness.

(7) No photographic or electronic equipment may be used in the courtroom which causes distracting sound or light.

(C) Sanctions:

(1) Upon failure to comply with the order of the Judge or with the Superintendence Rules for Municipal Courts and County Courts, the Judge may revoke any permission previously granted.

RULE 30 - Preparation of Transcripts

1. All civil and criminal proceedings shall be recorded by electronic means unless a party on a civil or criminal matter requests the use of a stenographic reporter, which will be at the requesting party's expense and will not be calculated as an element of Court costs.

2. Definitions
 - a. Transcript – the transcript of proceedings is the part of the record that reflects the events in the trial not represented by the original papers. Essentially it is the testimony of witnesses and the oral participation of counsel and the trial Judge as recorded on the electronic audio recording.
 - b. Reporter – a person appointed by Court entry to transcribe Court proceedings which have been recorded by audio electronic means into type written format.
 - c. Transcription – the process of converting the audio recording (transcript) into a typed format.
3. The Court has custody over the electronic audio recordings of proceedings. The Bailiff will maintain custody and be responsible for the storing of the recordings. By appointment, the Court may permit a party to hear the audio transcript of proceedings on file with the Court. Any person may request an electronic copy of the record of proceedings, or a portion thereof by submitting a request to the Bailiff and payment of the cost to reproduce the disc to the Clerk of Courts. Upon receipt of the proof of payment, the Bailiff shall make a copy of that portion of the disc on which the requested proceedings are recorded and furnish a copy of the disc to the requesting party.
4. Any special equipment or software required to play back the transcript will be provided by the Reporter for use in transcribing transcripts. The reporter shall file a written request to obtain a copy of the audio recording from the Bailiff at no cost with the Clerk of Courts with a copy to the Judge. The written request shall specify whether a transcription of the entire audio recording or a portion of the recording is required. The Reporter is required to safeguard the transcript while in his/her possession and shall return the recording to the Bailiff upon completion of the transcription.
5. In the case of indigent appeals, the Reporter shall prepare and submit the appropriate documentation for compensation. In all

other cases the Reporter will bill the person ordering the transcription and other recipients of the transcription.

6. Transcriptions for appellate purposes shall be prepared in accordance with Appellate Rule 9(A) and (B) and the scheduling order issued by the Twelfth District Court of Appeals.
7. All transcriptions ordered for any appeal of a trial of a civil or criminal matter, shall not include the voir dire examination of the jurors, opening statements or closing arguments unless error is predicated upon voir dire examination, opening statements or closing arguments. Transcription of the above-mentioned voir dire examination, opening statements or closing arguments shall only be made upon the approval of the Judge.
8. The Official Court Reporter and any Assistant Court Reporter appointed hereunder, shall serve without compensation except for that permitted herein for transcribing testimony or proceedings in this Court on a per folio basis. The Official Court Reporter for the Fairfield Municipal Court shall be Fitch Reporting, Inc., until further notice. Any Assistant Court Reporter shall be appointed on a case-by-case basis as needed. The compensation permitted shall be \$2.50 per page for the original, and \$1.75 per page for copies when requested by litigants or their counsel. The costs for said transcriptions shall be taxed as provided by law.

Rule 31. Specialized Dockets

A. OVI Docket (STARS Program)- Specialized Docket for Multiple OVI Offenders

In order to provide supervision and effective treatment of multiple OVI offenders, the Court hereby establishes the "Fairfield Municipal Court OVI Docket – STARS Program."

The Judge, Defense Counsel, Prosecutor, or Arresting Officer may refer an individual to the OVI Court Team for consideration for participation in the STARS Program. The OVI Court Team will determine appropriateness for participation in the Program based upon specific

eligibility criteria and make recommendations to the Judge. The Judge shall then determine whether to accept the Defendant into the Program. If admitted, the case shall be transferred to the OVI Docket for further proceedings. If terminated from the STARS Program, the Defendant shall be sentenced by the Judge according to the criminal sentencing laws as contained in the Ohio Revised Code and Fairfield Codified Ordinances.

B. Treatment Alternative Court – Specialized Docket for Mentally Ill Defendants

Effective, January 1, 2002 the Court established the "Treatment Alternative Court" specialized docket which is a pretrial diversion program for Defendants who suffer from mental health disorders. The costs to the Defendant for participation in the Program will be a diversion fee of \$150.00 and any other fines/costs the Court may assess. The goal of TAC is to divert these Defendants into court monitored treatment at the earliest stage of the criminal proceedings. Referral to the TAC Docket may be made by the Judge, Defense Counsel, Victim, Prosecutor or Arresting Officer. The TAC Team will determine appropriateness for participation in the program based upon specific clinical and legal criteria and make recommendations to the Judge. The Judge shall then determine whether to accept the Defendant into the Program. If admitted, the case shall be transferred to the TAC Docket for further proceedings.

In accordance with Rule 83 of the Ohio Rules of Civil Procedure, the following rules of local practice in this Court were filed with the Supreme Court of the State of Ohio on the 2nd day of January, 2009.



Judge Joyce A. Campbell