

**WARREN COUNTY COURT**

550 Justice Drive  
Lebanon, OH 45036  
Ph: 513.695.1370  
Judge Gary A. Loxley  
Judge Robert S. Fischer

**LOCAL RULES**

**1. SCOPE, AUTHORITY AND EFFECTIVE DATE**

- 1.01 AUTHORITY. These rules are adopted as the local Rules of Court governing practice and procedure in the Warren County Court. They are adopted pursuant to Article IV, Section 5(B) of the Ohio Constitution; Rule 5 of the Rules of Superintendence for Courts of Ohio; Rule 83(B) of the Ohio Rules of Civil Procedure; Rule 57(A)(2) of the Ohio Rules of Criminal Procedure.
- 1.02 SCOPE. These Local Rules of the Court shall apply in all proceedings in the Warren County Court unless inconsistent with rules promulgated by the Supreme Court of Ohio, with Ohio law or an order of the Judge specific to the case. These local rules are not to be interpreted in any way which conflicts with the various Ohio rules. Should any conflict exist, the Ohio Rules shall govern. These rules are intended to be supplemental and used in conjunction with:
- a) The Ohio Rules of Civil procedure as amended,
  - b) The Ohio Rules of Criminal procedure as amended, and
  - c) The Ohio Rules of Superintendence for the courts of Ohio as amended.
- 1.03 CITATION. These rules shall be known as the "Warren County Court Rules" and shall be cited as "W.C.C. Rule XX".
- 1.04 EFFECTIVE DATE. These Rules are effective as of January 1, 2014 and govern all proceedings filed subsequent to that date and may be revised periodically as required.

**2. COURT ADMINISTRATION**

- 2.01 OFFICE HOURS. The office of the Court shall be open for the transaction of business Monday through Friday, 8:00 AM to 4:30 PM, with designated holidays, unless otherwise ordered by the Judge presiding at the session. The Court will also be in session on each Tuesday and Thursday until completion of business.
- 2.02 COURT SCHEDULE. The Court Schedule shall be as follows:
- a) MONDAY
    - i) 1:00: Civil Court

- b) TUESDAY
  - i) 8:30: Final pretrials
  - j) 9:00: Public defender plea and sentences
    - ii) 10:00: Video arraignments
    - iii) 10:30: Public defender contested matters
    - iv) 1:00: Preliminary hearings, motion hearings and trials
- c) WEDNESDAY
  - i) Pretrials
- d) THURSDAY
  - i) 9:30: Weddings
  - ii) 10:00: Video arraignments
  - iii) 10:30: Plea and sentences;
  - iv) 11:30: Final pretrials
  - v) 1:00: First calls and arraignments;
  - vi) 2:00: Public defender pretrials;
  - vii) 3:00: Reviews, preliminary hearings and probation violations.
- e) CRIMINAL JURY TRIALS. Jury trials shall take place on Fridays. A final trial conference will be held on the Tuesday before the scheduled trial date. The Defendant must appear at the final trial conference.
- f) PROBATION AND FINES AND COSTS REVIEWS. Second or third Monday of each month beginning at 10:00 a.m. as needed.
- g) CIVIL JURY TRIALS. Scheduled as needed.

2.03 HOLIDAYS. The following days shall be scheduled holidays:

- a) New Years Day - January 1
- b) Martin Luther King Day - Third Monday in January
- c) President's Day - Third Monday in February
- d) Memorial Day - Fourth Monday in May
- e) Independence Day - July 4
- f) Labor Day - First Monday in September
- g) Veteran's Day - November 11
- h) Thanksgiving Day - Fourth Thursday in November
- i) Day after Thanksgiving - Fourth Friday in November

- j) Christmas Eve (1/2 day) - December 24 (or the work day preceding the observance of Christmas Day)
- k) Christmas Day - December 25

**3. AREAS OF SEPARATE JURISDICTION**

- 3.01 DIVISION OF JURISDICTION. Pursuant to Revised Code § 1907.15, the County Court District shall be divided into two areas of separate jurisdiction, which shall be known as Area I and Area II.
- 3.02 AREA I. The territory of Area I shall consist of Clearcreek, Massie, Washington and Wayne Townships.
- 3.03 AREA II. The territory of Area II shall consist of Hamilton, Harlan, Salem and Union Townships.
- 3.04 AUTHORITY NOT LIMITED. The separate areas shall in no way restrict or alter the authority of both judges to exercise judicial jurisdiction in the boundaries of the entirety of the county court jurisdiction.

**4. RECORD OF THE PROCEEDINGS**

- 4.01 COURT REPORTER. The Court does not employ a court reporter or stenographer pursuant to RC §1901.33. Parties who wish a court reporter for appeal purposes will be required to supply and pay for such service.
- 4.02 RECORDING OF PROCEEDINGS. The video and audio of all proceedings before the Court shall be recorded via digital recording equipment. Copies of all such recordings will be retained for one year after the final disposition of the case is made by the Court.
- 4.03 COPIES. A copy of the digitally recorded audio and video of the proceedings, or a portion thereof may be requested by written Praecept filed with the Clerk. Once the required cost deposit is made, the copy shall be provided within seven (7) business days, or sooner upon order of the Court.
- 4.04 EXPENSE OF ELECTRONICALLY RECORDED TRANSCRIPTS OF PROCEEDINGS. The expense of copies of electronically recorded audio and video or such portions as are considered necessary by a party shall be borne by the requesting party or as provided by law. If a party is indigent, the party shall file a motion demonstrating that a valid affidavit of indigency has been filed with the Clerk's office or that the party otherwise qualifies as indigent pursuant to indigency guidelines and request that the transcript be produced at the Court's cost.

**5. COURT RECORDS**

- 5.01 DOCKETS AND RECORDS. The Clerk shall prepare and maintain the case files, an alphabetical index to the docket, a docket, and such other records as the Court, by rule, may require.

- a) CASE FILES. The clerk shall keep all pleadings, documents and filings together in 8 ½ x 11-inch folders in order in which the cases are numbered on the Docket.
  - 1) Except as set forth in W.C.C. 5.01(b), the Case File shall contain all pleadings, reports, entries, orders (including requests and orders for Temporary Protection) and other filings, which shall be public records of the Court.
  - 2) These documents shall be maintained on the right side of the file.
- b) PRESENTENCE REPORT AND JUDGE'S NOTES. The clerk shall keep the Presentence Report and any notes made by the Judge separately within the case file.
  - 1) The Presentence Report may include, but is not limited to, Pretrial Services Report, Presentence Investigation, LEADS data, Mental Health reports, or other confidential documents, which shall be separately maintained within the Case File.
  - 2) The documents contained in the Presentence Report and the Judge's notes shall not be file stamped and shall not be public records of the Court.
  - 3) The Presentence Report shall be maintained on the left side of the file.
- c) DOCKET. The Docket shall contain the names of the parties, the names of the counsel, and the nature of the petition, issuing of summons, or other process, returns, and/or pleading. All reports (excluding victim's personal information and those documents set forth in W.C.C. Rule 5.01(a)(2)), verdicts, orders, judgments and proceedings of the Court shall be entered by the court officer designated by the Court so as to specify clearly the relief granted or orders made in each section. The Docket shall be a public record of the Court.
- d) DOCKET INDEX. The Docket Index shall contain the names of the parties to each judgment direct and reverse. The names of the parties shall be entered in the index in the alphabetical order of the first letter of the family name. The Clerk shall number the cases progressively on the docket, and shall correspondingly number the papers in each case. The Docket Index shall be a public record of the Court.
- e) PRIVACY. At no time, shall the docket contain social security numbers of defendants, victims, complainants, protected persons, etc. At no time, shall

the docket contain any personal information which is not mandated by O.R.C. 149.43 to be considered "public record".

f) VIDEO ARRAIGNMENT DOCKET. For each Tuesday and Thursday which Court is in session, the Clerk shall prepare a list of defendants to appear for Video Arraignment.

- 1) Defendants who are in the Warren County Jail and/or otherwise in the custody of the Warren County Sheriff who have not yet been arraigned or appeared following issuance of an arrest or bench warrant shall appear before the Court at the first court date following his/her arrest. The Clerk shall review the daily list of inmates provided by the jail to ensure compliance with this section.
- 2) This list shall be provided to the Judge, Prosecutor, Assignment Commissioner, Court Bailiff and other individuals designated by the Court.

5.02 ORIGINAL RECORDS. No papers, dockets or books on file in the Clerk's office shall be removed therefrom for purposes other than use in court. The Clerk shall permit any party to an action, their counsel or agent to make copies of any pleading or other papers in the file, but without removing the original papers from the office of the Clerk.

5.03 NOTARY SERVICES. Officers or employees of the Warren County Court shall not prepare or help to prepare any pleading, affidavit, entry, or order in any civil matter, except as provided under Revised Code § 1925.04.

5.04 ORIGINAL PAPERS FILED WITH THE COURT. All papers offered for filing with the Court shall be typewritten or printed and shall be 8-1/2 by 11 inches. Original documents attached or offered as exhibits and official court forms supplied by the Clerk are exempt from the requirements of this Rule.

5.05 REQUIRED FILING INFORMATION. All papers offered for filing with the Court shall be identified by including:

- a) Case number
- b) If judge already assigned, whose last name shall appear below the case number
- c) Title, containing the name and party designation of the party filing it, nature of the document (i.e. Answer, Motion, Interrogatories, etc.)
- d) The typed name, signature, office address, telephone number, facsimile number, email address and Supreme Court Number of the designated Trial Attorney or party *pro se*.

5.06 FILING BY FACSIMILE. All documents filed by facsimile will be accepted by the Court effectively as an original. The original with original signatures must be maintained by the sender and be available upon demand by the Court until such

time as the case is closed. The sender bears the risks of transmitting a document by facsimile.

- a) Anyone using facsimile filing is urged to verify receipt and filing by the Clerk.
- b) No additional fee shall be assessed for facsimile filings.
- c) Facsimile filings shall not exceed ten (10) pages in length, not including cover sheet. The filer shall not transmit service copies by facsimile.

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

5.08 COPIES OF THE COMPLAINT. Plaintiff(s) shall tender, along with the original complaint, a sufficient number of service copies for all defendants to be served.

5.09 CLERK'S DUTY The Clerk shall, upon receiving papers for filing, docket same and place the original of said papers in the file jacket without delay. Upon the filing of a complaint, summons shall be forthwith issued, signed by the Clerk or Deputy Clerk, and shall bear the seal of the Court.

5.10 LEGIBLE COPIES. All documents filed with the Court shall be sufficiently legible. The Court may order stricken any filed paper which does not comply with legibility.

5.11 COMPUTER REPORTS AND COPY FEES. In accordance with the Public Records Act, Warren County Court shall provide upon request copies of anything deemed by the Court to be a public record. These public records may be copied in printed or electronic format, depending on what format is available and copying fees may apply according to the current County Court Fee Schedule.

## **6. COUNSEL OF RECORD**

6.01 DESIGNATION OF COUNSEL / PRO SE LITIGANT. Attorneys engaged in civil or criminal practice before the Court shall be registered with the Clerk of Court. Said registrations shall be kept in permanent volumes and shall include counsel's name, office address, zip code, telephone number, email address, and Supreme Court of Ohio Bar Registration Number. Attorneys are requested to provide the Clerk of Court with any changes of address or telephone number.

6.02 INITIAL APPEARANCE. An attorney making an initial appearance on behalf of a criminal defendant before any judge or magistrate of the Court shall provide his or her name and Supreme Court of Ohio Bar Registration Number for the record and inclusion in the case file.

6.03 SUBSTITUTION OF COUNSEL. Once counsel has been designated, such designation shall remain until termination of the case. A request to substitute counsel must be made by written motion and submitted to the Court accompanied by an entry containing the designation of new counsel, and where possible, the agreement of retiring counsel. Substitution of counsel may be permitted only by the Judge upon good cause shown.

6.04 WITHDRAWAL OF COUNSEL. Counsel shall be allowed to withdraw from the case with the consent of the Judge assigned to the case. No such application shall be considered unless:

- a) a written motion is presented stating the reasons for the application;
- b) the motion contains certification of service on opposing counsel and on the client;
- c) the motion states the date and time of the next scheduled court action (pretrial, motion hearing, trial, etc.) if any has been set;
- d) the motion contains counsel's statement that if the request is allowed, a copy of the journal entry granting the request will be mailed immediately to the last known address of the client;
- e) the motion is filed seven (7) calendar days prior to the hearing date or such shorter period as the Court may allow.

## **7. BEHAVIOR AND CONDUCT**

7.01 PROPER ATTIRE. All individuals using the Court, including but not limited to Court employees, attorneys, prosecutors, defendants, jurors, media, or observers will be properly attired. No shorts, tank tops or shirts exposing midriffs shall be permitted.

7.02 BEHAVIOR. It is hereby declared to be the duty of every person in the courtroom to give respectful attention to the Court at all times when in session. It is declared to be contempt of court and subject to the reproof or punishment by the Court for any person or persons, by conversation or otherwise, to disturb the attention of the court or Jury while Court is in session.

7.03 ELECTRONIC DEVICES. Individuals entering the courtroom will turn electronic devices such as cell phones, pagers, PDA's or portable computers to silent mode or off. No cellular telephone calls shall be initiated or received while in the courtroom while Court is in session.

7.04 CONDUCT OF ATTORNEYS. Attorneys in proceedings before the Court shall refrain from manifesting, by words or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel or others. This prohibition does not preclude legitimate advocacy when race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, or other similar factors, are issues in the proceeding.

7.05 SANCTIONS. Failure to comply with the required behavior and conduct may result in contempt of court.

7.06 CONTEMPT OF COURT. To insure that decorum and dignity which should characterize the practice of the law and to aid the Court at all times in the discharge of its duties, it is hereby declared to be contempt of the Court for any person to use insulting, vulgar, or profane language in the presence of the Court while Court is in session.

## **8. CASE MANAGEMENT IN CRIMINAL CASES**

- 8.01 FILING OF CRIMINAL COMPLAINT. Pursuant to Rule 4 of the Ohio Rules of Criminal Procedure, the Court designates the Warren County Prosecutor(s) assigned to this Court, as an officer of the Court, to make an initial determination there is probable cause to believe that an offense has been committed, and, that the defendant has committed it, before the Clerk is authorized to issue warrant for the arrest of the defendant, or the summons in lieu of a warrant.
- a) The Clerk of Court may make a probable cause of determination for charges filed by duly authorized law enforcement officers.
  - b) No process, either by way of warrant or summons, shall be issued until such probable cause determination has been made and probable cause been found.
- 8.02 PRIVATE CRIMINAL COMPLAINT. If a private individual elects to file an Affidavit or Complaint charging a person with a crime, and the Prosecutor finds that probable cause does not exist, the Prosecutor shall complete a "Nonapproval" form and file it with the charge(s). The Clerk shall notify the complainant of the time and date at which the prosecutor will request leave of court, pursuant to Criminal Rule 48 and Revised Code § 2941.33, to enter a nolle prosequi, in order that the private complainant may be heard in opposition to the Prosecutor's request for a dismissal of the charge.
- 8.03 CONTENTS OF A CRIMINAL COMPLAINT. The Complaint shall contain specific facts that adequately inform the accused and the Court of the nature of the offense charged, the date and time of the offense, and the identity of the victim(s) of the offense, if any, except where protected by law. It shall not be merely a recitation of the statute or ordinance upon which it is based. Each criminal complaint shall contain or be accompanied by a concise, written summary of the events which form the basis of the offense charged prepared either by the Prosecutor, law enforcement officer or private complainant.
- 8.04 ISSUANCE OF PROCESS (SUMMONS OR WARRANT). In misdemeanor cases other than domestic violence, summons as opposed to warrant shall be the preferred method of original process. This policy shall in no way prohibit the Clerk or other issuing authority from the issuance of a warrant, if in the discretion of the issuing authority, a warrant is deemed necessary.
- 8.05 SERVICE OF PLEADINGS. Service of pleadings shall be accomplished by following the applicable Rules of Criminal Procedure. No pleadings shall be deemed served by leaving a copy with the Clerk or any Court personnel. Neither the Clerk nor any other personnel of the Court have an obligation to forward pleadings left by counsel for the opposing party.
- 8.06 WRITTEN NOT GUILTY PLEAS. A plea of Not Guilty may be entered in writing prior to the date of arraignment. Once the written plea of Not Guilty has been filed, neither counsel nor the defendant need appear unless any of the following apply:
- a) The written plea of Not Guilty does not contain a time waiver;
  - b) The offense is domestic violence or an offense of violence;



- c) The judge requires a personal appearance by the defendant.
- 8.07 GUILTY AND NO CONTEST PLEAS. Pleas of guilty and no contest shall be received only by personal appearance of the defendant in open court. Upon a showing of exceptional circumstances, a defendant may enter a plea of guilty by written motion with the approval of the Court pursuant to Ohio Traffic Rule 12.
- a) The following shall be considered "exceptional circumstances" in all traffic cases the defendant has previously appeared personally or through counsel:
    - i) The defendant is not a resident of Warren County, Ohio.
    - ii) The defendant is a resident of Warren County, Ohio, but defendant's personal appearance in court would cause the defendant to lose one half (1/2) day or more of gainful employment.
  - b) A Written Guilty Plea shall be signed by the Defendant and contain:
    - i) An acknowledgement the Defendant understands and waives his constitutional rights to a trial, to confront witnesses, to compulsory process and to remain silent;
    - ii) An acknowledgement the Defendant understands the maximum penalties;
    - iii) An attorney's trust check, money order, certified check or bank check covering the total amount of the unsuspended portion of any fine and the court costs.
    - iv) Proof that defendant's operation of the vehicle was covered by insurance or other proof of financial responsibility.
- 8.08 DISCOVERY. A defendant shall make his motion for discovery within twenty-one days after arraignment or seven days before the date of trial, whichever is earlier. The prosecuting attorney shall make his motion for discovery within seven days after defendant obtains discovery or three days before trial, whichever is earlier.
- a) All discovery disputes shall be brought to the attention of the Court by written motion within seven (7) days after the pretrial conference, or seven (7) days before trial, whichever is earlier.
  - b) The Court encourages liberal, informal discovery between the parties.
- 8.09 EXHIBITS. All exhibits shall be marked prior to trial. Plaintiff shall use numbers; Defendant shall use letters.
- 8.10 PRETRIAL CONFERENCE. In cases where the defendant is represented by an attorney, a pretrial conference may be conducted in criminal cases prior to being scheduled for trial. The purpose of a pretrial shall be for the exchange of discovery, discussion of trial issues and possible resolution of the case by negotiated plea agreement.
- 8.11 FINAL PRETRIAL. Upon request of the Defendant or counsel, the case may be scheduled for Final Pretrial with the Judge to whom the case is assigned. Final

Pretrials with unrepresented parties shall be conducted in the courtroom and on the record.

8.12 PRETRIAL MOTIONS. Prior to trial, any party may raise by motion any defense, objection, evidentiary issue, or request that is capable of determination without the trial of the general issue. The following must be raised before trial:

- a) Defenses and objections based on defects in the institution of the prosecution;
- b) Defenses and objections based on defects in the indictment, information, or complaint.
- c) Motions to suppress evidence, including but not limited to statements and identification testimony, on the ground that it was illegally obtained.
- d) Requests for severance of charges or the severance of co-defendants.

8.13 TIME FOR PRETRIAL MOTIONS. All pretrial motions except for requests for discovery and/or bill of particulars shall be made within thirty-five days after arraignment or seven days before trial, whichever is earlier. The Court in the interest of justice may extend the time for making pretrial motions.

8.14 SUBPOENA. A praecipe for subpoena of witnesses shall be filed with the Clerk no later than five (5) days (excluding intervening Saturdays, Sundays, and holidays) before the date of trial. The failure to appear of a witness for whom the praecipe was not filed in accordance with this rule will not be grounds for a continuance of the case.

8.15 CRIMINAL JURY TRIAL. In all misdemeanor cases, the defendant shall be tried by the Court unless he or she demands a jury trial.

- a) A demand for trial by jury must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later.
- b) Failure to demand a jury trial as provided herein is a complete waiver of the right thereto.
- c) The jury shall be selected and summoned in the same manner as is provided for the selections and notification of jurors in civil cases in this Court.
- d) Eight (8) jurors and one (1) alternate are to be selected.
- e) After a jury demand has been filed, should the defendant determine that a jury trial is not desirable, the defendant must waive the jury demand in writing.
- f) If a jury canceled after it has been summoned into Court and the Clerk of Courts is unable to notify all jurors of said cancellation, the Court may assess costs so incurred to the party canceling the jury demand.

8.16 CONTINUANCES IN CRIMINAL CASE. No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel,

provided that the trial judge may waive this requirement upon a showing of good cause.

- a) All requests for continuances must be filed seven (7) calendar days prior to the trial or hearing date, except for circumstances which by reasonable diligence could not be determined and the request is made as soon as possible after the circumstances are known.
- b) All requests for continuance shall certify opposing counsel or party has been notified of the continuance and state the opposing party's position on the continuance.
- c) Entries shall accompany the motions with blanks for the new trial time and date.
- d) If a continuance is granted, the Court shall set a new date for the trial or hearing.
- e) When a continuance is requested due to a conflict in counsel's schedule, the prior trial conflict shall be cited with specificity including the court, case name and case number of the conflict. In the event of conflict, Ohio Sup. R. 41 shall control which case is to be continued.
- f) Continuances will only be granted upon a showing of good cause.

8.17 DRIVING PRIVILEGES. No Driving Letter shall be issued, except where granted by the Judge following a written request or motion.

- a) No Driving Letter shall be issued unless proof of financial responsibility is shown.
- b) When the Defendant has paid all fines and/or costs in full, the Clerk shall issue a Driving Letter for privileges consistent with the Judge's Order with no expiration date.
- c) When the Defendant has not paid his/her fines and/or costs, the Clerk shall issue a Driving Letter for privileges consistent with the Judge's Order that shall expire on the date and time set for the Fines and Costs Review Hearing. If there is no date and time set for the Fines and Costs Review Hearing, the Driving Letter shall expire in 30 days. Once the Defendant has paid his/her fines and costs in full, a Driving Letter with no expiration date shall issue.

8.18 COLLECTION OF FINES AND COSTS. All fines and costs must be paid on the date of sentencing, unless otherwise specified by the Judge.

8.19 FAILURE TO APPEAR. The Court may order a Bench Warrant for any Defendant who fails to appear for his/or Court date. Prior to the issuance of any Bench Warrant ordered by the Court, the Clerk shall determine whether the failure to appear was due to the defendant's incarceration in the Warren County Jail, and if so, return the file with a notation to that effect to the Judge for further action.

## **9. CASE MANAGEMENT IN CIVIL CASES**

9.01 COURT COSTS DEPOSIT: Any person filing a civil action or proceeding shall deposit with his or her Complaint the corresponding court cost deposit set forth in attached Exhibit A unless an affidavit or other evidence of such party's inability to make the required deposit is approved by the Court. The clerk shall refuse to accept the filing of any complaint if the required deposit is not included.

9.02 COSTS DEPOSIT FOR JURY TRIALS IN CIVIL CASES: Any party demanding trial by jury in a civil case shall deposit, in addition to the usual court cost deposit, the sum of \$200.00 with their written demand unless an affidavit or other evidence of such party's inability to make the required deposit is approved by the Court. The clerk shall refuse to accept the filing of a jury demand if the deposit is not included. The party shall also file the number of Jurors requested consistent with Civil Rule 48.

9.03 SERVICE OF SUMMONS. Upon the filing of each new civil case, the Clerk of Courts shall prepare a Summons, which shall be served in accordance with the Ohio Rules of Civil Procedure consistent the praecipe for service, if any, contained on the complaint. In the event no method of service is specified, the Clerk shall serve all defendants by certified mail. In the event there is a failure of service, the clerk shall notify counsel immediately.

9.04 PLEADINGS AND MOTIONS. All motions shall be in accordance with Ohio Rules of Civil Procedure.

- a) Motions will be supported by Memoranda of Law containing applicable statutory and case law citations.
- b) Pretrial motions shall not be set for oral hearing unless requested, in writing.
- c) All motions not heard or decided prior to trial will be disposed of at trial.
- d) All motions where an oral hearing is not required shall be accompanied by a proposed entry.

9.05 CONTINUANCES IN CIVIL CASE. No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided that the trial judge may waive this requirement upon a showing of good cause.

- a) All requests for continuances must be filed seven (7) calendar days prior to the trial or hearing date, except for circumstances which by reasonable diligence could not be determined and the request is made as soon as possible after the circumstances are known.

- b) All requests for continuance shall certify opposing counsel or party has been notified of the continuance and state the opposing party's position on the continuance.
- c) Entries shall accompany the motions with blanks for the new trial time and date.
- d) If a continuance is granted, the Court shall set a new date for the trial or hearing.
- e) When a continuance is requested due to a conflict in counsel's schedule, the prior trial conflict shall be cited with specificity including the court, case name and case number of the conflict. In the event of conflict, Ohio Sup. R. 41 shall control which case is to be continued.
- f) Continuances will only be granted upon a showing of good cause.

9.06 PRETRIAL CONFERENCE. All civil cases, except Forcible Entry and Detainer and Small Claims actions, shall be set for pretrial conference.

- a) The Pretrial Conference shall be attended by the attorney who will try the case, and by whomever is authorized to act and negotiate on behalf of the party.
- b) Parties or representatives of liability insurance carriers shall be present or available for immediate telephone conference unless the Court grants permission in advance for a party to be absent. A corporate party may appear by an officer or employee having knowledge of the subject matter of the case and authority to settle the case. A party who is insured concerning the claim may appear by a claim representative from his liability carrier.
- c) Telephone conferences may be arranged with prior approval of the Judge or Magistrate.
- d) Trial counsel has a duty to make a full and fair disclosure of his/her views on the issues at pretrial.

9.07 PRETRIAL STATEMENT. At least seven (7) days prior to the pre-trial conference, trial counsel shall file a pretrial statement. Each pretrial statement shall contain a statement from the trial counsel covering each of the following items as are appropriate to the litigation:

- a) Discovery. Counsel shall advise the Court of the status discovery and, if not completed, that nature of additional discovery and the time anticipated as necessary to complete.
- b) List of Witnesses. Counsel shall list all lay and expert witnesses who will testify at trial. Failure to list a witness in the pretrial statement may result in the witness being excluded from testimony at trial, unless excused by the trial judge for good cause shown.
- c) Settlement Negotiations; status of settlement negotiations.

- d) Exchange of Medical and/or Expert Reports. A copy of each expert's written report or summary of the expert's report where no written report is available to counsel prior to the pretrial shall be furnished to all counsel and the Court.
  - e) Special Damages. Where appropriate, trial counsel shall list all special damages and furnish opposing counsel verification of those damages.
  - f) Exhibits. Trial counsel shall set those exhibits that he/she expects to introduce into trial. All exhibits shall be marked prior to trial. Plaintiff shall use numbers; Defendant shall use letters.
  - g) Unusual Issues of Fact or Law. Trial counsel shall set forth any unusual issues of fact or law he/she expects to arise at trial which are not made apparent by the pleading. (i.e. Request view scene, possible delays, amendments)
  - h) In addition to those sanctions provided in Rule 37, the Court may order the dismissal of an action or the granting of all or part of the relief sought in the complaint or such other orders as the Court deems appropriate for failure of trial counsel to comply with the pre-trial order including the exclusion of certain evidence or the disallowance of the testimony of any witness.
- 9.08 SUBPOENA. A praecipe for subpoena of witnesses shall be filed with the Clerk no later than five (5) days (excluding intervening Saturdays, Sundays, and holidays) before the date of trial. The failure to appear of a witness for whom the praecipe was not filed in accordance with this rule will not be grounds for a continuance of the case.
- 9.09 VIEW OF THE SCENE. A request for a view by the Judge or Jury will be made at the time of the pretrial conference. It is at the discretion of the Judge whether or not to permit a view.
- 9.10 JUDGMENT ENTRIES. Counsel for the party or parties in whose favor an order or judgment is rendered shall prepare a judgment entry unless the Court agrees to prepare the judgment entry. That entry shall be submitted to opposing counsel within five (5) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days. Within fifteen (15) days of the decision, the judgment entry shall be submitted to the judge or the Court will prepare the judgment entry.
- 9.11 SETTLEMENT ENTRIES. 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 within thirty (30) days or the case may be dismissed for want of prosecution.
- 9.12 DEFAULT JUDGMENT. Where appropriate under the Rules of Civil Procedure, counsel shall submit an application for default judgment within fifteen (15) days or the case may be dismissed for want of prosecution. All motions for default judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. All motions for default judgment shall also contain a list of all damages supported by affidavit, documentary or other evidence. A proposed entry shall accompany the motion as well as an affidavit addressing issues concerning age, competence and military

service. An oral hearing may be required in the discretion of the Judge or Magistrate, or where an appearance has been made.

9.13 COURT COSTS. All judgments and/or entries which represent the final appealable order of the Court shall state which party will pay the court costs.

9.14 DORMANT CASES. If no action has been taken on a file for a three (3) month period and the case is not set for trial, then the clerk shall notify the party that the matter will be dismissed within one (1) week unless good cause is shown.

9.15 TRIAL BRIEFS AND JURY INSTRUCTIONS. Trial Briefs and Jury Instructions shall be filed in the Judge's Office on all jury cases seven (7) days prior to trial and shall include the text of, and citations of authority for any instructions requested by counsel. If there is no compliance with this rule, the jury will be deemed waived. Trial Briefs are also required for

non-jury cases when there is a substantial conflict of views as to specific questions of law or when the judge so requests.

## **10. CASE MANAGEMENT IN SMALL CLAIMS CASES**

10.01 INITIAL PROCEDURE UPON FILING. Upon filing a small claim petition, notice to the defendant will be issued by certified mail. In addition to the hearing date information contained in the petition, the Clerk shall stamp instructions on the petition regarding defendant's requirement to contact the Court seven (7) days prior to the scheduled hearing date if he or she intends to contest the claim.

10.02 CONTESTED CLAIMS. Upon notification of the Court by the Defendant who intends to contest a case, the Court shall notify in writing all parties that the matter is contested and that all parties must appear. Plaintiff is not required to appear unless notified by the Court that their appearance is required. Failure of defendant to appear will result in default judgment in favor of plaintiff.

10.03 APPEARANCE WITHOUT NOTIFICATION. Should the Defendant appear on the scheduled hearing date without prior notification to the Court, the matter will be reset. Should the defendant notify the Court less than seven (7) days prior to the scheduled hearing date, their appearance will be required and the Court will reset the matter.

## **11. CASE MANAGEMENT IN FORCIBLE ENTRY AND DETAINER CASES**

11.01 APPEARANCE. Plaintiff's failure to appear will result in the case being dismissed without prejudice. Defendant's failure to appear after having been duly served will result in a Writ of Restitution for the premises.

- 11.02 PRAECIPE FOR WRIT OF RESTITUTION. The plaintiff shall file with the Clerk a praecipe for a Writ of Restitution within 15 days after the date of the judgment unless the Magistrate or Judge issues the writ at the time of the hearing.
- 11.03 WRIT OF EXECUTION. Upon the receipt of the praecipe or order of the Court, the Clerk shall issue to the Bailiff a Writ of Execution for the premises and the Bailiff shall execute the writ within ten days unless a written motion for stay has been filed.
- 11.04 SET-OUT PROCEDURE. Should actual, physical eviction of property be required pursuant to a Writ of Restitution of premises, plaintiff shall arrange for sufficient workers to be present to accomplish the set out, under the supervision of the Bailiff; subject to the appropriate security deposits.

## **12. CASE MANAGEMENT IN SPECIAL CASES**

- 12.01 SMALL CLAIMS - DEBTORS EXAM. Upon filing of an order for debtor's exam, the Clerks office shall issue by ordinary mail to the defendant An Order Requiring Defendant to List Assets, Earnings & Liabilities and Return Information to the Court. The Order shall contain a show cause hearing date by which time defendant must comply with completion of, and return to, the Court of the Order or appear. Failure to comply will result in a bench warrant for contempt. Plaintiff will not be required to appear unless notified by the Court. Upon receipt of the completed list of Assets, Earnings & Liabilities by the Clerk from the Defendant, the Clerk shall forward a copy to the Plaintiff for their use in collection of their judgment.
- 12.02 PROCEEDINGS IN AID OF EXECUTION. Proceedings in aid of execution shall be filed on forms provided by the Court and shall consist of the original, to be retained by the Clerk, as many copies thereof as there are parties to be served in the proceedings, and one copy for the Return of Service. The name of the attorney filing the proceedings shall appear at the place provided on the original and upon all copies. In all cases in which an Order Of Attachment of An Order in Aide Of Execution is filed against personal earnings, a copy of the written demand and proof of service thereof, as required by Section 2716.02 O.R.C. shall be attached to the original copy of the proceedings to be filed with and retained by the Clerk.
- 12.03 FAILURE TO APPEAR. Should the plaintiff or his attorney fail to appear at the time for examination set forth on the order, the presence of anyone summoned to appear shall be noted on the docket and the party excused. In such event, the costs of those proceedings shall be taxed to the party who filed the proceedings and be so reflected on the docket, and, counsel may be subject to appropriate action by the Court.



### **13. FIREARMS OR DANGEROUS WEAPONS IN THE COURT FACILITY**


- 13.01 Warren County Court property includes the space defined by the perimeter walls that fall within the domain of the security force and includes but limited to any and all adjacent sidewalks to the facility. Furthermore this order will extend to any other facilities that the Court may deem, from time to time necessary, for its efficient operation.
- 13.02 Weapons include but are not limited to handguns, firearms, explosives, knives or ordinances, or any item that can be used as a weapon.
- 13.03 If employees or visitors have questions regarding whether items are prohibited by this rule, they should contact the Court Services Officer before bringing the items onto or into the Court facility.
- 13.04 Any employee failing or refusing to comply with any aspects of this rule will be subject to discipline, up to and including immediate termination.


### **14. COURT COSTS**

- 14.01 **COMPUTERIZATION.** The Court has made a determination that for the efficient operation of the Court, additional funds are required to make available computerized records of all cases in the clerk's office, for purposes of docketing, notices, Supreme Court reports, Bureau of Motor Vehicle reports, various monthly reports, and financial distribution, etc., and for computerized legal research services. The Clerk is hereby authorized and directed to charge an additional fee of \$5.00 on the filing of each criminal, traffic, civil and small claims action. All moneys collected under rule for this purpose shall be paid to the Treasurer of Warren County to be disbursed upon an order of the Court for the costs of such computerization and maintenance.
- 14.02 **COMPUTERIZED LEGAL RESEARCH.** The Clerk is hereby authorized and directed to charge a fee of \$5.00 on the filing of each criminal, traffic, civil and small claims action for computerized research, and \$1.00 for legal research. All moneys collected for this purpose shall be paid to the Treasurer of Warren County to be disbursed upon an order of the County in an amount no greater than the actual cost of such services to the Court in procuring and maintaining computerized legal research hardware, software, and expenses of maintenance.
- 14.03 **SPECIAL PROJECTS COSTS.** The Court has determined that, for the efficient operation of the Court, additional funds are necessary to acquire and pay for special projects of the court pursuant to O.R.C. 1907.24(B)(1). In addition to all other court costs, effective January 1, 2000, the Court will assess an additional \$5.00 in costs to each criminal case, civil action or proceeding, or judgment by confession. All moneys collected shall be paid to the county treasurer for deposit into a special projects fund or a fund established for a specific project shall be disbursed upon an order of the Court.

**15. BAIL**

- 15.01 BAIL GUIDELINES. All persons are entitled to bail except in capital cases where the proof is evident or the presumption great. On Domestic Violence and Violation of Temporary Protection Order offenses, the Defendant shall be held without bond until he or she appears before the Judge and bond is set. At the time of arrest, the officer is given discretion to either issue a summons or accept a cash bond or a surety bond. The only time this would not be the case is when the Judge has approved a specific bond. At times, the Judge will order a bond of a higher amount than usual for a certain degree.
- 15.02 BOND SCHEDULE. The Court has adopted a bond schedule for the purpose of setting bonds prior to arraignment.
- 15.03 Officers in charge shall release any person arrested and charged with any of the offenses listed, who give bail or executes bond according to law and satisfactory to the Clerk in the amount indicated after each offense in the Bond Schedule, Appendix II attached, for appearance in the Warren County Court. Those persons shall be given an arraignment date in accordance with the normal procedure where an arrest is not made.
- 15.04 In all misdemeanor cases (except Domestic Violence Offenses), any police officer, deputy sheriff, trooper, or constable on duty in the County shall have the power to admit the defendant to bail and fix the amount of bond in accordance with a court approved bond schedule (Appendix II attached), except that the Judge, Clerk, or in the absence of the Clerk, the Chief Deputy Clerk shall have the sole authority to approve the proposed sureties if not previously on file.
- 15.05 CREDIT CARDS. In accordance with the Ohio Rules of Criminal Procedure, Rule 46, the Clerk of Court is authorized to accept for purposes of bail or any other lawful use, credit cards (VISA/MASTER CARD) or debit cards, as long as no service charge is made against either the Court or the Clerk. In addition, the Clerk is further authorized to accept, where applicable, American Automobile Association cards or any other nationally recognized travel club that the Clerk deems appropriate. A service charge may be imposed against the payor.
- 15.06 No attorney, officer, or employee of the Court or member of his/her immediate family shall be accepted as principal or as agent for bail or surety.

5-27-14  
Gary A. Loxley Date  
Administrative and Presiding Judge, Warren County Court

5/27/14  
Robert S. Fischer Date  
Judge, Warren County Court