

# MASON MUNICIPAL COURT

## *Local Court Rules*

### **ARTICLE I. AUTHORITY, SCOPE, AND EFFECTIVE DATE**

Section 1.01      **AUTHORITY.** These rules are adopted as the local Rules of Court governing practice and procedure in the Mason Municipal 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. These rules shall be known as the "Mason Municipal Court Rules" and shall be cited as "M.M.C. Rule XX". Where these Rules refer to "Judge," they shall by reference incorporate magistrates where appropriate.

Section 1.02      **SCOPE.** These Local Rules of the Court shall apply in all proceedings in the Mason Municipal 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.

Section 1.03      **EFFECTIVE DATE.** These Rules are effective as of February 1, 2009 and govern all proceedings filed subsequent to that date and may be revised periodically as required.

### **ARTICLE II.      COURT ADMINISTRATION**

Section 2.01      **OFFICE HOURS.** The office of the Court shall be open for the transaction of business Monday through Friday, 7:30 AM to 4:00 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.

Section 2.02      **COURT SCHEDULE.** The Court Schedule shall be as follows:

- (a) **MONDAY**

9:00 am: Prisoners, First calls, Criminal Arraignments;

10:00 am: D.U.S. (License Intervention Program)

(b) TUESDAY

8:00 am: Reviews (Money, Programs), Traffic Arraignments;

9:00 am: Trials, Video Arraignments;

10:00 am: Pretrial Diversion, Motion Hearings, OVI and Criminal Arraignments;

11:00 am: Pretrials

1:00 pm: Prisoners, Preliminary Hearings, and Resentencing;

1:30 pm: Pleas and Sentencing;

2:30 pm: Trials;

4:00 pm: Motion Hearings;

4:15 pm: Motions to Suppress.

(c) THURSDAY

8:00 am: Reviews (Money, Programs), Traffic Arraignments;

9:00 am: Trials, Video Arraignments;

10:00 am: Pretrial Diversion, Motion Hearings, OVI and Criminal Arraignment;

11:00 am Pretrials

1:00 pm: Prisoners, Preliminary Hearings, and Resentencing;

1:30 pm: Pleas and Sentencing;

2:30 pm: Trials;

4:00 pm: Motion Hearings;

4:15 pm: Motions to Suppress.

(d) CRIMINAL JURY TRIALS. Jury trials shall take place on the third Friday of each month. Final pretrial conference will be held two Thursdays prior to the Friday Jury Trial of each month at 12:30 pm. The Defendant must appear at the final pretrial conference.

(e) CIVIL JURY TRIALS. Scheduled as needed.

Section 2.03 HOLIDAYS. The following days shall be scheduled holidays:

- 1) New Years Day January 1
- 2) Martin Luther King Day Third Monday in January
- 3) President's Day Third Monday in February
- 4) Good Friday Friday before Easter Sunday
- 5) Memorial Day Fourth Monday in May
- 6) Independence Day July 4
- 7) Labor Day First Monday in September
- 8) Columbus Day Second Monday in October
- 9) Veteran's Day November 11
- 10) Thanksgiving Day Fourth Thursday in November
- 11) Day after Thanksgiving
- 12) Christmas Eve (1/2 day) December 24 (or the work day preceding the observance of Christmas Day)
- 13) Christmas Day December 25

### **ARTICLE III. RECORD OF THE PROCEEDINGS**

Section 3.01 COURT REPORTER. The Court does not employ a court reporter or stenographer pursuant to RC §1901.32. Parties who wish a court reporter for appeal purposes will be required to supply and pay for such service.

Section 3.02 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.

Section 3.03 COPIES. A copy of the digitally recorded audio and video of the proceedings, or a portion thereof may be requested by written Praecipe 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.

Section 3.04 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.

## **ARTICLE IV. COURT RECORDS**

Section 4.01 **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 the order in which the cases are numbered on the Docket.
  - (i) The Case File shall contain all pleadings, reports, entries, orders (including requests and Temporary Protection orders) and other filings, which shall be public records of the Court.
- (b) **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.
  - (i) 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.
  - (ii) This list shall be provided to the Judge, Prosecutor, Assignment Commissioner, Court Bailiff and other individuals designated by the Court.

Section 4.02 **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.

Section 4.03 **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.

Section 4.04 **REQUIRED FILING INFORMATION.** All papers offered for filing with the Court shall be identified by including:

- (a) Case number

- (b) The last name of the judge, if already assigned, 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.

Section 4.05      **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.

Section 4.06      **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).

Section 4.07      **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.

Section 4.08      **CLERK'S DUTY.** The Clerk, upon receiving papers for filing, shall 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.

Section 4.09      **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.

Section 4.10      **COMPUTER REPORTS AND COPY FEES.** Upon any oral or written request for copies, the Court will provide, as required by the Public Records Act, copies of anything considered public record when the appropriate fee of \$.05 per page accompanies such request. When a governmental unit in connection with official business such as police agencies, a prosecutor's office or another court makes such request, the fee is waived.

## **ARTICLE V. COUNSEL OF RECORD**

Section 5.01 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.

Section 5.02 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.

Section 5.03 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.

Section 5.04 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.

## **ARTICLE VI. BEHAVIOR AND CONDUCT**

Section 6.01 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.

Section 6.02 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.

Section 6.03 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.

Section 6.04 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.

Section 6.05 CONDUCT OF PRO SE LITIGANTS. Attorneys and Pro Se Litigants alike shall conduct themselves at all times in conformity with the Ohio Rules of Professional Conduct.

Section 6.06 SANCTIONS. Failure to comply with the required behavior and conduct may result in contempt of court.

Section 6.07 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.

## **ARTICLE VII. CASE MANAGEMENT IN CRIMINAL CASES**

Section 7.01 FILING OF CRIMINAL COMPLAINT. The Clerk of Court may make a probable cause determination for charges filed by duly authorized law enforcement officers. No process, either by way of warrant or summons, shall be issued until such probable cause determination has been made and probable cause to believe that an offense was committed has been found.

Section 7.02 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.

Section 7.03 ISSUANCE OF PROCESS (SUMMONS OR WARRANT). In misdemeanor cases other than domestic violence, a summons as opposed to a 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.

Section 7.04 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.

Section 7.05 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 an unlimited time waiver;
- (b) The offense is domestic violence or an offense of violence, a sexually oriented offense, an OVI second or higher in six years, or an OVI third or higher in twenty years;
- (c) The judge requires a personal appearance by the defendant.

Section 7.06 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.

Section 7.07 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.

Section 7.08 EXHIBITS. All exhibits shall be marked prior to trial. Plaintiff shall use numbers; Defendant shall use letters.

Section 7.09 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.

Section 7.10 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.

Section 7.11 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 defendants.

Section 7.12 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.

Section 7.13 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.

Section 7.14 CRIMINAL JURY TRIAL. In accordance with Rule 5(B)(2) of the Rules of Superintendence, the Court adopts the following rules to ensure the effective use and management of jury resources. 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 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.

Section 7.15 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 four (4) days prior to the trial or hearing date (excluding holidays and weekends), 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.

**Section 7.16      PRETRIAL DIVERSION PROGRAM.**

- (a) **PURPOSE.** The Court's pre-trial diversion program is intended to provide a period of supervision and education to those persons who (1) have been charged with any of several alcohol-related misdemeanor offenses or certain drug-related offenses that are minor misdemeanors or fourth-degree misdemeanors and (2) are willing to accept responsibility for their misconduct. The program is aimed at first-time offenders. Those who successfully complete the program will not have a criminal conviction on their records. The goal of the diversion program is to encourage first-time offenders to learn from their mistakes, and to discourage them from further misconduct in the community.
- (b) **ELIGIBILITY.** The program is open to first-time offenders (persons who have not already participated in the diversion program and who have not been convicted as an adult in this or other courts for any other criminal activity or any alcohol-related traffic offenses) whose pending charges are limited to any or all of the following: (1) misdemeanor violations of Chapter 4301 of the Revised Code (regulating the sale, possession, and consumption of alcohol) or comparable municipal ordinances, (2) minor misdemeanor violations of R.C. 2925.11(A) and 2925.11(C)(3)(a) (barring the possession or use of less than 100 grams or marijuana) or comparable municipal ordinances, (3) fourth-degree misdemeanor violations of R.C. 2925.14(C)(1) (barring the use or possession of drug paraphernalia) or comparable municipal ordinances, or (4) any other misdemeanor violation deemed to be appropriate by the Prosecutor.
- (c) **ADMISSION TO THE PROGRAM.** If the prosecutor (1) confirms that a defendant is eligible for the program and (2) recommends that the defendant participate in it, the Court will then ask the defendant if he or she wishes to participate in the program. Before making the recommendation, the prosecutor must consult any victim of the alleged crime(s) and must consider any victim's views. Admission to the program is not automatic, and the judge retains the discretion to reject the proposed participation of any given defendant.
- (d) **INITIAL REQUIREMENTS.** If the prosecutor recommends that the defendant participate in the diversion program, if the defendant wishes to do so, and if the judge approves the defendant's participation, the defendant must—at an arraignment or a pretrial hearing—do all of the following:

- 1) Waive the right to a speedy trial, preliminary hearing, the time period within which the grand jury may consider an indictment, and arraignment unless such has already occurred;
- 2) Agree to the tolling while in the program of all periods of limitation established by statute or rules of court that are applicable to the offense charged;
- 3) To furnish the Probation Officer with the correct address and phone number of the accused and to notify the Probation Officer immediately if either of the foregoing should change;
- 4) Agree to complete any other programs or satisfy any other conditions recommended by the Prosecutor and/or Probation Department;
- 5) To pay the court cost plus pre-trial diversion fee of \$200.00 on the date of pre-trial diversion agreement.

The accused also agrees to the following conditions:

Upon satisfactory completion of the program, the Prosecuting attorney shall recommend to the trial court that the charges against the accused be dismissed, and the Court shall, upon such recommendation, dismiss the charges. The accused understands and agrees that a violation of the foregoing standards or conditions shall cause the accused to be brought to trial upon the charges in the manner provided by law except in such event the accused waives a Jury.

- (e) **ADDITIONAL STEPS DURING THE PROGRAM.** Within 180 days after signing the Pretrial Diversion Agreement, the defendant must:
- 1) Complete 20 hours of community service under the direction of the Court's probation department;
  - 2) Complete any other programs or satisfy any other conditions recommended by the Prosecutor and/or Probation Department.
  - 3) Report to the Probation Department as scheduled, and notify the Probation Department about any address changes and any events that affect the participant's ability to complete the program;
  - 4) Refrain from committing any other criminal offense or any drug-related or alcohol-related offense while participating in the program.

**Section 7.17 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. Depending upon the type of privileges sought, proof in writing of the type

of privilege sought must be provided before driving letters will be issued. For example, where driving privileges have been granted for work, proof of employment must be shown; or for education purposes, a school schedule must be 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 until the end of the court-imposed suspension or until the expiration of valid automobile insurance, whichever occurs first. Upon expiration of automobile insurance, the Defendant must provide proof of renewed valid insurance, whereupon the Driving Letter shall be reissued.
- (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 shall issue.

Section 7.18 FAILURE TO APPEAR. The Court may order a Bench Warrant for any Defendant who fails to appear for his/her 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.

## **ARTICLE VIII. COLLECTION OF FINES AND COSTS**

Section 8.01 Costs shall be determined from time to time by the Court as appended by these Rules. (See Appendix A and Appendix B)

Section 8.02 Collection of Fines and Costs. All fines and costs must be paid on the date of sentencing, unless otherwise specified by the Judge.

Section 8.03 THIRD PARTY COLLECTION SERVICES AUTHORIZED. The clerk of the court is hereby authorized to contract with an outside service provider for the collection of delinquent fines and court costs.

- (a) Court costs shall be assessed in such cases in an amount equal to the actual cost of collection, up to, but not in excess of, thirty percent of the amount actually recovered (not including the collection costs).
- (b) Files shall be referred to the service provider only after the payment of the sum due is delinquent. Costs for collection shall be assessed upon referral of the matter to the service provider. The total sum due for fines and costs shall be recovered by the service provider. If the service provider ceases collection efforts and returns the file to the clerk, collection costs herein shall be remitted.

Section 8.04 WARRANT BLOCKS PER R.C. § 4507.091

- (a) Pursuant to R.C. § 4507.091 the clerk of the court shall send to the registrar of motor vehicles a report containing the name, address, and such other information as the registrar may require by rule, of each person for whom an arrest warrant has been ordered by the court and issued for failure to appear or comply and is outstanding for the purpose of blocking issuance of any type of driver license pending execution of the warrant as authorized by said statute. Unless otherwise directed, where the sum due in a case is less than \$100.00, the clerk may delay issuance of a warrant ordered to allow a reasonable period for the block to be effective.
- (b) The clerk shall notify the registrar when a warrant has been canceled. Further, the clerk shall collect and transmit to the registrar all processing fees as provided by law.

## **ARTICLE IX. CASE MANAGEMENT IN CIVIL CASES**

Section 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 Appendix B 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 and evidence of inability to pay is not approved.

Section 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 deposited at the time an action is filed, the sum of \$400.00 with the party's written jury demand or within ten days after the pretrial conference is held. The cost for a jury demand may be waived by the court if an affidavit or other evidence of such party's inability to pay the cost of a jury demand is approved by the Court. The party shall also file with its written jury demand the number of Jurors requested consistent with Civil Rule 48.

Section 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 with 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. Should the clerk be unable to serve the defendant, the clerk shall notify counsel as soon as is practicable.

Section 9.04 PLEADINGS AND MOTIONS. All motions shall be filed 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 ordered by the court or requested by a party in writing.

- (c) All motions not heard or decided prior to trial will be disposed of at trial.
- (d) All motions shall be accompanied by a proposed entry.

Section 9.05 CONTINUANCES IN CIVIL CASE. No party shall be granted a continuance of a trial or hearing without a written motion stating the reason for the continuance and the length of continuance requested. The trial judge or magistrate 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 written requests for continuance shall certify that the opposing counsel or party has been notified of the continuance request and state the opponent's position on the continuance.
- (c) Entries shall accompany the motions with blank spaces 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.

Section 9.06 PRETRIAL CONFERENCES. All civil cases, except Forcible Entry and Detainer and Small Claims actions, shall be set first for a case management conference and later for a pretrial conference.

- (a) The Pretrial Conference shall be attended by the attorney who will try the case, and who 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 are disfavored but may be arranged with prior approval of the Judge or Magistrate. Any party or attorney requesting a telephone conference in lieu of appearing will bear the responsibility of coordinating and initiating the

call to the court at the appointed time. Unless desired by the court, telephone conferences are not on the record

- (d) Trial counsel has a duty to make a full and fair disclosure of his/her views on the issues at pretrial.

Section 9.07      PRETRIAL STATEMENT. If ordered by the Judge or Magistrate, trial counsel for each party and every pro se litigant shall file a pretrial statement at least seven (7) days prior to the pre-trial conference. Pretrial statements are never required for small claims cases. 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 shall result in the witness being excluded from testifying at trial, unless such failure is excused by the trial judge or magistrate 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. When no written report of an expert is available to counsel prior to the pretrial, it shall be furnished to all counsel and the Court on terms ordered by 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.

Section 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.

Section 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.

Section 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. It is understood that a party or counsel can give approval to an adverse entry even while opposing the underlying decision or judgment.

Section 9.11 SETTLEMENT ENTRIES. Entries of settlement may be filed at any time. Any such entry should state which party or parties have agreed to bear court costs. 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.

Section 9.12 DEFAULT JUDGMENT. Where appropriate under the Rules of Civil Procedure, counsel shall submit an application for default judgment within fifteen (15) days of the default date or the case may be dismissed for want of prosecution. All motions for default judgment based upon an opposing party's failure to file an answer 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. The motion should be accompanied by a proposed entry and an affidavit addressing issues of the defaulting party's age, competence and military status. An oral hearing may be required at the discretion of the Judge or Magistrate, or in cases where the defaulting party has previously appeared.

Section 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.

Section 9.14 DORMANT CASES. In cases involving failure of service or evidence of default, when no action has been taken by the appearing party for a three (3) month period, and if the case is not set for trial, then the clerk shall notify the party that the case will be dismissed within one (1) week unless good cause for further delay is shown.

Section 9.15 TRIAL BRIEFS AND JURY INSTRUCTIONS. Trial Briefs and Jury Instructions shall be filed with the Clerk of court for all jury cases at least seven (7) days prior to trial. Jury instructions shall include the text of, and citations of authority for any instructions requested by counsel. If the party that demanded a jury trial fails to comply with this rule, the jury will be deemed waived. Trial Briefs may also be required for non-

jury cases at the Court's discretion when there is a substantial conflict of views as to specific questions of law.

## **ARTICLE X. CASE MANAGEMENT IN SMALL CLAIMS CASES**

Section 10.01 INITIAL PROCEDURE UPON FILING. Upon the filing of a small claim complaint, the Clerk of Court will serve a copy of the complaint by certified mail upon the defendant. The complaint will include the date and time of the small claim trial. If there is a failure of service the trial will not go forward until service is effected in accordance with the Civil Rules.

Section 10.02 SMALL CLAIM TRIALS. The parties to a small claim case should appear for trial prepared to present all relevant evidence. The Court's subpoena power can be invoked to compel witnesses to appear. Parties should bring to the trial the original and two copies of any documents they want to offer to support their claims or defenses. A Defendant is not required to file a written answer to a small claim complaint. However, if a defendant has been served and fails to appear for trial a default judgment may be entered in favor of the plaintiff.

Section 10.03 PRO SE LITIGANTS AND CORPORATIONS. Any individual who is a party to a small claims case is entitled to represent himself or herself. Any pro se litigant will be expected to be prepared for trial and to comply with all court rules. Corporations who are parties to a small claims case may appear at trial through a corporate officer or agent but will be constrained at trial by the Supreme Court's rules against the unauthorized practice of law. CASE MANAGEMENT IN FORCIBLE ENTRY AND DETAINER CASES

Section 10.04 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 likely result in a Writ of Restitution for the premises but will not relieve the Plaintiff of the burden of proving the elements required for an eviction.

Section 10.05 WRIT OF RESTITUTION. As soon as possible after a trial to the Judge, or after the entry of a Magistrate's Decision in cases tried to a magistrate, the Court will issue a writ of restitution entitling the landlord to possession of the premises. However, a writ will not issue until the Plaintiff pays the fee required for the issuance of the writ.

Section 10.06 WRIT OF EXECUTION. Upon the Issuance of a Writ of Restitution, 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.

Section 10.07 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.

## **ARTICLE XI. CASE MANAGEMENT IN SPECIAL CASES**

Section 11.01 DEBTORS EXAM. Upon the filing of a Motion and order for a debtor's exam, the Clerks office shall issue by ordinary mail to the defendant/debtor An *Order Requiring Defendant to List Assets, Earnings & Liabilities and Return Information to the Court*. The Order shall include a date for a show cause hearing, by which date the defendant/debtor must comply with the order by completing and returning the form to the court. Failure to comply will result in a show cause hearing on the appointed date, after which a bench warrant for contempt will issue if the defendant/debtor has not appeared. The plaintiff (or other party requesting the debtor's exam) should also appear for the show cause hearing.

Section 11.02 If prior to the hearing date the Clerk's office receives the completed list of Assets, Earnings & Liabilities from the defendant/debtor, the Clerk shall forward a copy of it to the plaintiff for use in collection of the judgment. In such event, and if the defendant appears for the show cause hearing, the plaintiff may use the show cause hearing to conduct a debtor's exam with or without the supervision of the Court.

If the plaintiff is satisfied prior to the date set for the show cause hearing with the written information provided by the defendant/debtor, the plaintiff should file a written notice with the Clerk of Court that the show cause hearing is unnecessary and the Court will so notify the defendant/debtor.

Section 11.03 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 the proceedings shall be assessed 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.

Section 11.04 PROCEEDINGS IN AID OF EXECUTION. Proceedings in aid of execution shall be filed 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 Aid 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.

## **ARTICLE XII. FIREARMS OR DANGEROUS WEAPONS IN THE COURT FACILITY**

Section 12.01 Mason Municipal 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.

Section 12.02 Weapons include but are not limited to handguns, firearms, explosives, knives or ordinances, or any item that can be used as a weapon.

Section 12.03 If employees or visitors have questions regarding whether items are prohibited by this policy, they should contact the Chief Court Officer before bringing the items onto or into the Court facility.

Section 12.04 Any employee failing or refusing to comply with any aspects of this policy will be subject to discipline, up to and including immediate termination.

### **ARTICLE XIII. COURT COSTS**

Section 13.01 **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 \$6.00 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 City of Mason to be disbursed upon an order of the Court for the costs of such computerization and maintenance.

Section 13.02 **COMPUTERIZED LEGAL RESEARCH.** The Clerk is hereby authorized and directed to charge a fee of \$2.00 on the filing of each criminal, traffic, civil and small claims action for computerized research. All moneys collected for this purpose shall be paid to the City of Mason 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.

Section 13.03 **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. 1901.26(B). The Court will assess an additional \$25.00 in costs to each criminal case, civil action or proceeding, or judgment by confession. All moneys collected shall be paid to the City of Mason for deposit into a general special projects fund or a fund established for a specific project shall be disbursed upon and order of the Court.

### **ARTICLE XIV. BAIL**

Section 14.01 **BOND SCHEDULE.** The Court has adopted a bond schedule for the purpose of setting bonds prior to arraignment. (See Appendix C)

Section 14.02 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 C attached, for appearance in the Mason Municipal Court. Those persons shall be given an arraignment date in accordance with the normal procedure where an arrest is not made.

Section 14.03 In all misdemeanor cases any police officer, deputy sheriff, or trooper on duty 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 C 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.

Section 14.04 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.

**DATED :**

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**Judge D. Andrew Batsche**