

**RULE 1.01 LOCAL RULES - SCOPE AND AUTHORITY**

The following rules of the Middletown Municipal Court are intended to be supplemental to and to be used in conjunction with:

- 1) The Ohio Rules of Civil Procedure as amended.
- 2) The Ohio Rules of Criminal Procedure as amended.
- 3) The Ohio Rules of Superintendence for Municipal Courts and County Courts as amended.
- 4) The Rules of Superintendence of the Supreme Court of Ohio as amended.

These Local Rules are not to be interpreted in any way which conflict with the various Ohio Rules and Rules of Superintendence. Should any conflict or contradiction be found, the Ohio Rules and Rules of Superintendence shall, in all cases, prevail over the Local Rules of this court.

**RULE 1.02 HOURS OF COURT SESSIONS**

The Clerk of Court’s Office shall be open Monday through Friday 8:00 a.m. until noon, and 1:00 p.m. until 5:00 p.m., except for holidays (see Rule 2.01, below). Sessions of the Court shall be conducted Monday through Friday, except on holidays. At the Court’s discretion, Court sessions may also be scheduled on evenings and weekends to accommodate special circumstances. Additionally, in the event of special unforeseen circumstances, the Court may recess until reconvened.

**RULE 1.03 DECORUM AND CONDUCT**

- A. All persons at the Court shall conduct themselves with decorum and in a manner that does not interfere with the proper administration of the Court’s business. Although the Court is open to the public, persons attending any Court session who are not parties or called as witnesses may not make any statements unless permitted by the Court and identified on the record. All persons are subject to screening and search upon entering the Courthouse.

For purposes of these Rules, the term “Court” includes any location where a Judge or Magistrate conducts hearings or trials as well as the probation department, Clerk of Court’s office, main Court lobby, and surrounding areas. The term “courtroom” includes the entire interior area of the courtrooms labeled #1 and #3.

- B. All persons appearing before the Court shall appear in appropriate dress.
- C. All cell phones are to be turned off (if so specified) in the courtroom and the use of cell phones is not permitted in the courtroom when Court is in session unless permitted by the Court in advance. In the event a person needs to use his or her cell phone, the person is required to leave the courtroom unless otherwise permitted by the Court. Tablets, laptop

computers, notebooks, cell phones, and other electronic devices may not be used in the courtroom except as permitted by the Court in advance.

- D. No photography, audio, or video recording by the public of any Court proceeding is permitted in the courtroom without the express permission of the Judge presiding in that courtroom. This applies to all photography and recording devices including cell phones. Anyone discovered to be recording and/or photographing inside the courtroom may immediately be taken before a Judge to be sanctioned. Images captured shall be deleted from the device.
- E. Litigants and spectators are not permitted to smoke, eat, or drink in the Court, nor shall they bring food or drink into the Court.
- F. No person shall loiter or behave in an unseemly or disorderly manner in the Court, or otherwise interfere with or obstruct judicial activities or proceedings.
- G. No animals are permitted in the Court other than service dogs as defined by the Americans with Disabilities Act.
- H. Failure to comply with any aspect of this rule may result in appropriate sanctions by the Court, including, but not limited to, continuance or dismissal of the matter before the Court, confiscation of cell phones, cameras, or other electronic devices pending the conclusion of Court proceedings, or a charge of contempt of Court.

#### **RULE 1.04 COURT SECURITY**

All visitors of the Middletown Municipal Court shall follow the instructions and orders of the Middletown Municipal Court Judge, assigned or acting Judges, Magistrates, or acting Magistrates, Court security personnel, courtroom bailiffs, probation officers, and Clerk of Court in relation to Court security.

#### **RULE 2.00 APPOINTMENT OF CLERK**

The Clerk of Middletown Municipal Court shall be appointed as provided in O.R.C. Section 1901.31.

#### **RULE 2.01 HOLIDAYS**

The court shall not be in session on scheduled holidays. The holidays shall be in conformance, where practical, with those observed by the City of Middletown and its employees. The schedule of holidays shall be posted on the Court's website, and in the lobby of the court, and notification shall be provided to all police agencies and departments within the jurisdiction of the court.

**RULE 2.02 TIME COMPUTATION**

Computation of time shall be pursuant to both the Ohio Civil and the Ohio Criminal Rules of Procedure, as well as the O.R.C. where applicable. [See Civil Rule 6(A), and Criminal Rule 45(A)]

**RULE 2.03 TERMS OF COURT**

There is no term in municipal court. For the purpose of computing time, ninety days following judgment shall be considered within term, and time thereafter shall be considered after term. (R.C. §1901.29)

**RULE 2.04 CLASSES OF ACTIONS - NOT APPLICABLE; EXCEPTIONS**

In the Civil Division of this court, there shall be no division of civil actions into classes with respect to the amount of money judgment claim. All cases shall be designated as general civil actions, with the exceptions of Actions in Forcible Entry and Detainer, Replevin, Small Claims and such other special statutory proceedings, (e.g. Trusteeship Proceedings) exempted under Civil Rule Procedure Rule 1(C).

**RULE 2.05 AGREEMENTS**

Agreements of counsel with each other, with a party, or with an officer of the court, shall be filed with the case or dictated into the record.

**RULE 3.00 PREPARATION OF DOCUMENTS**

The officers or employees of this court shall not prepare, or help prepare, any pleadings, affidavit, entry, or order in any civil or criminal matter, except as provided in Small Claims matters under Chapter 1925 of the Ohio Revised Code, or as otherwise expressly provided by statute. Further, officers or employees are not permitted to give legal advice to parties, counsel, or the general public.

**RULE 3.01 CONTROL OF DOCUMENTS**

All public records filed in the Clerk of Court’s Office are available for examination to any person, upon reasonable request, during regular business hours. Copies of documents may be provided upon request and within a reasonable time period at a cost to be determined by the Clerk of Court as permitted by law and the Supreme Court of Ohio’s Rules of Superintendence. The current docket for all cases can also be obtained through the Court’s website.

- A. Withdrawal of Files: no papers, dockets, books, records, or documents of any kind which are filed in the office of the Clerk shall be removed from the Clerk’s office, other than for use in court, except by an attorney with leave of Court first obtained in writing and only for the time specified by the Court.

- B. Disclosure of Information: The Clerk shall not provide a copy of any document, except as provided by law or ordered by the Court, without redacting the social security number (last four digits are public), all financial account numbers such as debit and credit card numbers, and employer and employee identification numbers, as well as any identifiers of juvenile victims.

**RULE 3.02 NOTARY FEE**

Employees of this Court shall only notarize affidavits pertaining to Civil or Criminal business of this Court. No fee shall be charged for this service.

**RULE 3.03 RECORDING AND TRANSCRIPT OF PROCEEDINGS**

The below Rules shall be in compliance with the Rules of Superintendence for the Courts of Ohio Rule 11.

- A. Electronic Recording Device: This Court utilizes an electronic audio recording device. Audio recordings of court proceedings shall be retained for two years unless expressly directed by the Court.
- B. Court Reporter: Upon request by any party or counsel, a Court Reporter shall be provided to be taxed as part of the court costs in the case. In Civil cases, any party may, at their own expense, bring a reporter into any proceeding of this Court.
- C. Transcripts: It shall be the responsibility of the counsel, or party, requesting a transcript of any electronically recorded court proceeding to bear the cost of such transcription.
- D. Inspection of Electronically Recorded Transcript of Proceedings: A party may request a copy of an electronically recorded transcript of proceedings, or a portion of the transcript. The Court may permit a party to view or hear the transcript of proceedings on file with the Court.

**RULE 3.04 JURORS**

This Jury Management Plan is created in compliance with the Rules of Superintendence for the Courts of Ohio and is intended to reflect the guidelines and requirements of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio, the Ohio Revised Code, the Ohio Rules of Criminal Procedure, and the Ohio Rules of Civil Procedure.

- A. Selection of Jurors: Jurors are selected at random from a list of residents of the City of Middletown, City of Trenton, Lemon and Madison Townships as provided by the Clerk of Courts for Butler and Warren Counties.

- B. Jury Subpoenas: Notices of jury service are to be processed two (2) weeks before the scheduled trial date, when possible, to insure adequate time for notice. Excuse from jury service shall only be with approval by the Court.
- C. Jury List: A list of jurors shall be made in each case for the Judge, Clerk, Bailiff and each party.
- D. Cancellation of Jury: If a jury is cancelled after it has been ordered into court and the Clerk of Courts is unable to notify all prospective jurors of said cancellation, the Court shall assess the cost incurred to the party originally filing the jury demand. If both parties file a demand for a jury trial, the cost shall be assessed equally against both parties.

**RULE 4.0 FILING - IDENTIFICATION OF DOCUMENTS**

All Pleadings, Motions, Leaves to Plead, or other papers filed in an action must bear the case number, the name, address, telephone number, the email address, the facsimile number, of the person filing the document, as well as the Supreme Court identification number if the person filing is an attorney. Pleadings filed by Facsimile and electronic transmissions shall be accepted pursuant to the rules herein.

**RULE 4.01 FILING - COMPLAINT - FORMALITIES**

Every Complaint filed shall contain in the caption thereof the full names and addresses of all the parties to the action, and on any cross-claim, counterclaim, or any pleading making new parties to the action, the addresses of such new parties, unless the address of the party is unknown, in which case it shall state the address is unknown.

**CIVIL DIVISION**

**RULE 5.0: PROCEDURE AND PRACTICE**

**All procedure and practice in the Middletown Municipal Court shall be in accordance with the Ohio Rules of Civil Procedure and the Ohio Revised code, as well as these local rules.**

**RULE 6.0: NUMBERING OF CASES, FORM OF PLEADINGS, AND SERVICE REQUIREMENTS**

All Civil Pleadings shall be numbered consecutively as filed and shall be entered upon the Civil Docket as numbered. All pleadings and all documents filed in any Civil Action shall be 8-1/2 inches by 11 inches in format, single sided only. All pleadings shall have font size of 12 or greater

(excepting Court standardized forms). Handwritten pleadings shall be legible or they may be rejected. There shall be filed with each original pleading a complete copy for each party to be served. If inadequate copies are furnished, the Clerk may refuse to accept the pleading for filing. All pleadings that do not include a request for service shall include a certificate verifying proof of service by the party filing the pleading.

Once a Civil Action is filed and a number assigned to it, any document whatsoever which may be thereafter presented for filing in said case shall bear the number assigned to it, and no document shall be accepted for filing, regardless of its nature, unless its case number is displayed upon it. Such number shall be typed or printed upon such document so as to be easily seen.

The Clerk of Court shall have the right to refuse to file any document in a Civil Action which does not bear the assigned case number.

#### **RULE 7.0: DOCKETS AND RECORDS**

There shall be maintained in the Office of the Clerk the General Index, the Docket and such other records as the Court may require, all of which shall be the public records of the Court.

The Clerk shall enter, at the commencement of a Civil Action, the full names of all parties to the action, the names and addresses of respective counsel, and the nature of the proceedings.

The Clerk shall enter all documents in strict chronological order. Documents shall be accepted for filing and entered upon the docket of the case in the order in which they are received for filing. The entry of the Clerk shall clearly identify the nature of the document filed.

The Court shall maintain memoranda of all cases on civil call days, which shall set forth the action taken on said cases. Such memoranda shall be prepared by the Court Reporter and maintained for examination by litigants and counsel.

Any request by counsel or any party to the Clerk for any copy of any document of record to be sent by mail must be accompanied by a self-addressed envelope with sufficient postage affixed otherwise, the Clerk shall not be required to accommodate such request.

#### **RULE 8.0: PLAINTIFF'S COMPLAINT**

The Complaint shall comply in form and contents with the provisions pertaining to Complaints set forth in the Ohio Rules of Civil Procedure.

The Clerk shall issue service upon the persons designated in the Complaint as defendants by certified mail directed to them at their respective addresses stated in the caption. Any Complaint which fails to furnish a reasonably complete address in the caption for such service may be refused by the Clerk. Service, other than the above, may be had only by written request.

**RULE 9.0: SUMMONS AND OTHER WRITS**

Summons shall be issued by the Clerk in conformance with the Ohio Rules of Civil Procedure.

Summons and Writs in Forcible Detainer cases shall be pursuant to Rule 21 herein.

In the event of failure of service by certified mail, the clerk shall attempt additional service by ordinary mail with certificate of mailing upon the party to be served unless requested to do otherwise by counsel.

**RULE 10.0: SERVICE BY PUBLICATION**

Service by publication may be had as provided in the Ohio Rules of Civil Procedure, the Ohio Revised Code, and the Ohio Rules of Superintendence.

It shall be the responsibility of the party requesting Service by Publication, to obtain from said publication, the Affidavit of Publication, including copy of the published notice, and proof of payment of costs thereof, and to file same in the Office of the Clerk.

**RULE 11.0: ENLARGEMENT OF TIME TO MOVE, ANSWER, OR OTHERWISE PLEAD**

The Court may in its discretion enlarge the time for a defendant to move, answer, or otherwise plead in any civil action; but such enlargement shall be allowed only upon the written application duly filed with the Court and allowed by the Court prior to the expiration of the time originally allowed by law to move, answer, or otherwise plead.

**RULE 12.0: FILINGS SUBSEQUENT TO THE COMPLAINT**

Every Motion, Answer, Counterclaim, Cross Complaint, Third Party Complaint, or other pleadings filed subsequent to the Complaint shall comply with all provisions of the Ohio Rules of Civil Procedure.

All papers after the Complaint required to be served upon a party shall have endorsed thereon a Certificate evidencing the service of a copy of such document upon all other parties to the action or their respective counsel, if represented.

**RULE 13.0: DOCKET AND ASSIGNMENT OF HEARING**

The Clerk shall prepare for the Court, prior to 9:00 a.m. each Tuesday, a list of all cases deemed ready for default on that day.

The Court may grant judgment by default against any party who has failed, although properly served, to respond or appear as required by law. Where the claim is for unliquidated damages, the Court may require presentation of evidence by the claimant as to the amount or value of the claim before judgment by default may be rendered.

In the event a party against whom a claim has been made has responded or appeared, the Court shall fix a hearing or direct other action as the Court may deem proper.

#### **RULE 14.0: CONTINUANCES**

Continuances shall be allowed only upon (a) agreement of counsel evidenced by an entry filed prior to or at the time scheduled for hearing, (b) upon written order of the Court filed prior to the time scheduled for hearing, or (c) order made at the time of hearing and documented by a written entry filed thereafter. All motions which can be granted without a hearing shall be accompanied by a proposed order at the time of the filing of the motion.

The Court may grant continuances for good cause shown, and as the justice of a case may require.

#### **RULE 15.0: PRETRIAL CONFERENCE - REPORT HEARING**

At any time after the case is at issue, either party may request, or the Court may, sua sponte, order a Pretrial Conference or Report Hearing. In the event the case has been pending for three (3) months or longer and no Pretrial Conference has been scheduled, the Court may schedule the case for a Report Hearing.

After the Pretrial Conference or Report Hearing is set upon the Court's calendar, such conference shall be deemed mandatory and may be canceled or continued only by order of the Court. Further, it shall be mandatory that each party, or counsel for that party, appear at the Pretrial Conference or Report Hearing. Failure of a party or their counsel to so appear shall be grounds for orders against such party, including dismissal of their claim or entry of any judgment the Court may deem appropriate.

Appearance at a Report Hearing may be by telephone or other approved live electronic media if request is made to the Court, or the Court otherwise directs in its notice. It shall be the responsibility of the parties, or their counsel, to contact the Court by telephone and to arrange with other counsel any three or more party conference call on the prescribed date and time for the Report Hearing. Failure to contact the Court on the prescribed date and time shall constitute a failure to appear and shall be grounds for orders against such party, including dismissal of their claim or entry of any appropriate judgment.

At the Pretrial Conference or Report Hearing the Court and the attorneys shall discuss inter alia, the feasibility of referring the case to an appropriate and available alternative dispute resolution



program, establish a binding case management schedule including a cut-off date for discovery, and fix a Final Pretrial Conference date. Additionally:

1. Attorneys attending the Pretrial conference must have authority to stipulate on items of evidence and must have settlement authority, or have their clients available to do so. The primary purpose of the Pretrial conference shall be to discuss settlement, discovery schedules and deadlines, and trial preparation.
2. Each attorney may present to the Court in writing a statement of the issues involved, the matters stipulated, and the questions of law which are to be resolved by trial.
3. Each attorney may present in writing to the Court an itemization of all special damages claimed, if any.
4. Each attorney may present to the Court in writing a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at trial; whether a view will be requested; and whether a jury trial, if previously demanded, will be waived.
5. Each attorney shall come to the Pretrial fully prepared and authorized to negotiate towards settlement of the case.
6. Each attorney shall give their best estimate of the time required to try the case. The Court may attempt to narrow legal issues, to reach stipulations of facts in controversy, and in general, to shorten the time and expense of the trial. The Court may file a Pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the Pretrial. The Court shall, at that time, determine if trial briefs should be submitted and shall set a date when they are to be filed.

#### **RULE 16.0: HEARINGS**

Any motion filed without a specific request for oral hearing shall be deemed submitted by the movant to the Court for disposition without oral hearing. Any party shall have the right to request oral hearing on any motion provided written request therefor is filed with the Clerk within seven (7) days after service of the motion. Failure to request oral hearing shall be deemed a waiver of same.

The Court may decline to allow oral hearing on any motion if the Court, in its discretion, finds oral hearing unnecessary.

Notice of oral hearing shall be served upon all parties by the movant, unless the Court directs the Clerk to serve same. The date and time of hearing shall be specifically set forth in the notice. Counsel shall obtain approval of the date and time of hearing from the Assignment Commissioner

prior to issuance of such notice.

All Motions filed shall be supported by a Memorandum setting forth a statement of facts upon which the Motion is based and a statement of law, if necessary, upon which the movant relies. Proof of service upon all other parties, or their counsel, of the filing of a Motion shall be made as provided in the Rules of Civil Procedure.

**RULE 17:0: TRIAL BY JURY**

Trial by Jury shall be governed by the applicable Ohio Rules of Civil Procedure, subject to the following:

- A. Request for a Trial by Jury of eight persons must be made in writing, not less than fourteen (14) days prior to the date scheduled for trial.
- B. At the time of filing such request, the requesting party shall deposit with the Clerk of Court such sum as the Court may require in the Schedule of Costs as set forth hereafter.
- C. Jurors shall be summoned as provided by statute, and selection of jurors shall be made from residents within the corporate limits of the City of Middletown, City of Trenton, and the Townships of Lemon and Madison. Qualified jurors shall be impaneled and shall be compensated at a rate determined by this Court.
- D. Jury fees shall be taxed as costs and noted upon the Court's journal.

**18.0: RESERVED**

**RULE 19.0: DISMISSAL OF CASES**

Any case pending on the docket of this Court for six (6) months or longer in which the Court has not scheduled a pretrial hearing, trial, or other hearing shall be subject to dismissal without prejudice by the Court for lack of prosecution.

**RULE 20.0: DEFAULT JUDGMENT**

All Motions for Default Judgment shall be in writing and clearly state 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 evidence. A proposed entry shall accompany the motion. An oral hearing may be required at the discretion of the Judge or when an appearance has been made.

## **RULE 21.0: FORCIBLE ENTRY AND DETAINER ACTIONS**

- A. Service of Summons: Summons shall be issued by the Clerk in conformance with the Ohio Rules of Civil Procedure or with Ohio Revised Code Section 1923.06.
- i. In Forcible Entry and Detainer cases on the issue of possession of the premises, said summons shall notify the defendant that defendant must answer or appear on the first Tuesday following the fifth day after defendant has been served with the summons;
  - ii. said summons shall notify each defendant that he or she must (1) answer or otherwise plead not later than the first Tuesday immediately following the 28<sup>th</sup> day after the date upon which said defendant was served with summons and copy of the Complaint, or (2) appear on defendant's own behalf, or by counsel, in Court on such Tuesday.
- B. Failure to Appear: Plaintiff's failure to appear may result in a case being dismissed without prejudice unless sufficient evidence is presented. Defendant's failure to appear after having been duly served may result in a writ of restitution for the premises.
- C. Proceedings: If the defendant appears and contests the cause, it may be heard at that time or set for further hearing. Trial by jury will be deemed waived unless demand is made and the appropriate deposit is paid pursuant to Rule 17 herein and Chapter 1923 of the Ohio Revised Code.
- D. Praecipe for Writ of Restitution: A Writ shall be issued after the hearing for service by the Bailiff. In cases where a set out is required, the following procedure will apply: the Plaintiff shall file with the Clerk a request for a Writ after the date of the hearing. A Writ may stay active for no more than thirty (30) days from the date of the originally scheduled set out. A request for set out after the thirty (30) day period will require a motion hearing for issue of the Writ.
- E. Set-out Procedure: Should actual, physical eviction of the defendant(s) be required pursuant to a Writ of Restitution of premises, the plaintiff shall arrange for sufficient workers to be present to accomplish the set out under the supervision of the Bailiff, subject to any appropriate security deposits. Should a party wish to delay the set out beyond ten (10) days from the hearing, a motion for a stay must be filed. If the delay is more than thirty (30) days, the party must comply with Paragraph D above.

## **RULE 22.0: BMV PETITIONS**

A complaint appealing a BMV suspension shall have attached an affidavit signed by the petitioner setting forth matters necessary to consider work-related driving privileges. This includes

home address, employer's business name and address, days and hours of work, business vehicles and reasons for driving during work.

### **RULE 23.0: COSTS**

The Court shall fix and publish a Schedule of Fees and Costs which shall set forth the costs to be paid to the Clerk of Court upon the filing of any document or the taking of any action by the Court. Such schedule may be modified from time to time as the Court, in its discretion, shall deem proper. Said schedule shall be deemed incorporated into these Rules of Court by reference as though fully rewritten herein and attached hereto as Appendix A.

Where the payment of costs or fees is required for the filing of any document or taking of any action by the Court, the Clerk shall refuse to accept such document or take the action requested unless said costs or fees are first paid. The Court in its discretion may require the posting of additional costs in any case at any time.

### **RULE 24.0: FORMS**

The Court may prescribe the forms to be used in any civil proceedings where forms are so prescribed. Such forms must be used to the exclusion of any other forms. Any forms so prescribed by the Court shall be set forth in a Schedule of Forms which shall be deemed incorporated into these Local Rules of Court and attached hereto as Appendix B. Any form prescribed by the Court may be modified from time to time as the Court may direct. Any form prescribed by the Court shall be furnished to parties or counsel at no cost.

### **RULE 25.0: GARNISHMENTS AND PROCEEDINGS IN AID OF EXECUTION**

Where service of a written demand upon a party is required by statute prior to the institution of proceedings in aid of execution, there shall be filed in the case written proof of the service of such written demand. No attachment, execution, or proceedings in aid of execution shall be issued out of this court without such proof having been filed. Procedures pertaining to the service of such demand and proof thereof shall be in accordance with applicable statute.

### **RULE 26.0: TRUSTEESHIPS**

Any person upon whom a statutory demand has been made who resides within the territorial jurisdiction of the Court may apply for the appointment of a Trustee.

Said application shall contain the applicant's full, accurate and complete statement, under oath, of the names and addresses of his secured and unsecured creditors and the amounts owing to each. Notice of the filing and pendency of the application for appointment of the Trustee shall be served as provided by statute. The name of any creditor omitted from the list may be added at any time thereafter upon application of the debtor or the creditor with leave of Court first obtained and

upon notice to said debtor or said creditor as the case may be.

A Trusteeship shall be terminated upon the failure of the debtor to make any required payment within seven (7) days after such payment is due unless good cause therefor is shown to the Court. If such Trusteeship is so terminated, the debtor may not reapply for a period of six (6) months thereafter.

If a secured creditor elects to participate in a Trusteeship, creditor shall enter an agreement with the debtor stating the terms of such participation at or prior to the time of hearing on the application, and said agreement shall be approved or disapproved by the Court at the hearing. If such agreement is approved by the Court, said secured creditor shall be entered into the Trusteeship and shall be barred during the pendency of the Trusteeship from proceeding against their security as set forth in said agreement. If the debtor fails to abide by the terms of the agreement, said creditor may apply to the Court to be released from such participation, and the Court shall make such order as it deems proper, upon due notice and hearing.

#### **RULE 27.0 SMALL CLAIMS DIVISION:**

The Small Claims Division of the Middletown Municipal Court is established and operated pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Middletown Municipal Court. All Magistrate proceedings shall be in accordance with the Ohio Civil Rules unless in conflict with Chapter 1925 of the Ohio Revised Code.

The purpose is to allow parties to resolve disputes for money quickly, inexpensively and fairly without the necessity of counsel. Monetary limits and jurisdiction are as prescribed by Chapter 1925 of the Ohio Revised Code.

#### **RULE 28.0 DUTIES OF PARTIES AND COURT**

- A. Filing of Complaint: A complaint is filed by the plaintiff along with supporting documents. The plaintiff shall complete the Small Claims complaint form as provided by the Court and submit two (2) copies of any document supporting the claim. The plaintiff shall provide the clerk with a full, complete and current address of all parties. If the defendant cannot be located at the address given to the clerk, the clerk shall notify the plaintiff by mail of the inability to serve the defendant and that claim may be dismissed unless the proper address is provided within ten (10) days. If plaintiff fails to submit a new address, the matter may be dismissed for want of prosecution, unless service by publication or other proper method of service is commenced.

The Clerk or a Deputy Clerk shall assist persons in filing claims, docketing the same, setting them for hearing, and receiving court costs deposits.

**THE CLERK OF COURTS OFFICE SHALL NOT PROVIDE LEGAL ADVICE.**

- B. Answer and/or Counterclaim: Upon the filing of an answer or a counterclaim, the matter shall be set for hearing before the Magistrate with parties notified of the date and time. The Clerk shall also notify the parties that they must be present at hearing with all witnesses and exhibits necessary for a just adjudication of the matter.
- C. Sessions: The Small Claims Division of Middletown Municipal Court shall be in session Wednesdays from 9:00 a.m. to 12:00 p.m., and such other times as directed by the Court or Magistrate.

**RULE 29.0 COSTS:**

Costs and filing fee for a Small Claims complaint shall be pursuant to Appendix B. Fees for all other costs shall be the same as those set for the regular Civil Court Division. All or any part of costs may be waived by the Court in the event a party is found, upon application, to be indigent.

**RULE 30.0 FAILURE TO APPEAR:**

Plaintiff's failure to appear at a hearing will result in dismissal without prejudice. Defendant's failure to appear for hearing will result in a default judgment for the plaintiff.

**RULE 31.0 TRANSFER TO CIVIL DIVISION:**

A transfer to the Civil Division is accomplished pursuant to Section 1925.10 of the Ohio Revised Code and the payment of the appropriate filing fee.

**RULE 32.0 MAGISTRATE'S DECISION:**

- A. The Magistrate's Decision shall be filed with the Clerk of Court and served upon the parties with notice of the fourteen (14) day period to file objections to the Court. The notice shall advise the parties that failure to timely file objections is a waiver of any objections.
- B. Objections to Magistrate's Decision: Objections to the Magistrate's Decision should be stated in accordance with Civ.R.53.
- C. Judgment Entries: The Court shall independently review the Magistrate's Decision, rule on any objections, and enter the appropriate judgment entry.

**CRIMINAL/TRAFFIC DIVISION**

**RULE 33.0: PROCEDURE AND PRACTICE**

All procedure and practice in the Middletown Municipal Court shall be in accordance with

the Ohio Rules of Criminal and Traffic Procedure and the Ohio Revised Code, as well as these local rules.

**RULE 34.0: NUMBERING OF CASES AND FORM OF PLEADINGS**

All Criminal and Traffic cases shall be numbered consecutively as filed and shall be entered upon the Criminal or Traffic docket as numbered. All pleadings and all documents filed in any Criminal or Civil action shall be no larger than 8-1/2 inches by 11 inches in format.

Once a Criminal or Traffic case is filed and a number assigned to it, any document whatsoever which may be thereafter presented for filing in said case shall bear the case number assigned to it, and no docket shall be accepted for filing, regardless of its nature, unless its case number is displayed upon it. Such number shall be typed or printed upon such document so as to be easily seen.

The Clerk of Courts shall have the right to refuse to file any document, any Civil or Traffic case which does not bear the assigned case number.

**RULE 35.0: CRIMINAL MISDEMEANOR AND TRAFFIC CITATIONS**

In all criminal misdemeanor and traffic cases where a citation has been issued, except where the defendant is incarcerated, the affidavit shall be filed with the Clerk of Courts at least 24 hours prior to the time for appearance.

**RULE 36.0 DOCKETS AND RECORDS**

There shall be maintained in the office of the Clerk (a) the journal index, (b) the docket, and (c) such other records as the Court may require, all of which shall be the public records of the Court.

The Clerk shall enter the commencement of a Criminal or Traffic case, the full names of all parties, the names and addresses of counsel, and the section of the Ohio Revised Code or the Ordinances of the City of Middletown for each charge or violation.

The Clerk shall enter all documents in strict chronological order. Documents shall be accepted for filing and entered upon the docket of the case in the order in which they are received for filing. The entry of the Clerk shall clearly identify the nature of the document filed.

**RULE 37.0: COMPLAINT/SUMMONS**

The Complaint or Summons shall comply in form and content with the provisions pertaining to complaints and summons set forth in the Ohio Rules of Criminal and Traffic Procedure.

**RULE 38.0: COURT APPEARANCES**

(A) Criminal, Traffic and Felony cases will be called for arraignment on regular court days unless otherwise scheduled by the Court.

(B) The Court may hold special arraignments at any time while it is in session.

(C) When a defendant fails to attend a scheduled court appearance and has posted a bond, the bond may be forfeited by the Court and a warrant may be issued for the arrest of the defendant. The bond forfeiture shall not be treated as a final disposition of the case.

**RULE 39.0: WRITTEN NOT GUILTY PLEAS**

A written not guilty plea may be entered prior to the date of arraignment. If the written plea is entered, neither counsel nor the defendant need to appear at the arraignment. When counsel notifies the Assignment Commissioner or Clerk by telephone of an appearance and request for a continuance, such appearance and notification must be followed by a written plea within three (3) days to be effective. No appearance of record or plea will be accepted without counsel first scheduling a Pretrial and hearing date with the Assignment Commissioner. A request for a continuance and a waiver of speedy trial must accompany the written plea.

When filing written not guilty pleas on multiple charges, it is counsel's duty to ensure that a plea form is signed and completed and file stamped for each offense (incident) and to notify the Clerk of the number of charges. If the plea form does not contain a case number, the following information shall be provided in the caption of the form:

- (1) Ticket number, if any;
- (2) Nature of offense(s);
- (3) Code number of offense(s);
- (4) Date of offenses;
- (5) Date of arraignment(s).

**RULE 40.0: DESIGNATION OF TRIAL COUNSEL**

All trial counsel shall make a written appearance as a party's attorney which complies with Rule 4.0 herein. Once trial counsel is counsel of record, he or she shall only be allowed to withdraw as trial counsel with consent of the Court.



**RULE 41.0: WITHDRAWAL OF COUNSEL**

Any applications to withdraw as trial counsel shall:

- (A) be in writing;
- (B) state the reasons for the application;
- (C) contain a certificate of service upon:
  - (i) his or her client, unless said client signs said application; and
  - (ii) all parties, or the legal representative thereof; and
- (D) state the time and date of all hearing dates, if applicable.

Unless accompanied by a substitution of counsel, withdrawal of counsel shall not be approved on cases where said application has been made within seven (7) working days prior to the trial or hearing date, except for good cause shown. Once approved, withdrawal entries shall be immediately mailed by the withdrawing counsel to his or her client's last known address.

**RULE 42.0: STATEMENTS/REPORTS**

For those cases where a not guilty plea is entered at arraignment, all materials set forth in Criminal Rule 16 in possession of the arresting agency shall be provided to the Prosecutor's office within 10 business days of filing of the complaint by the arresting officer. Failure to provide this information to the Prosecutor may be cause for dismissal of the charge.

**RULE 43.0: CONTINUANCES**

Every request for a continuance shall:

- (A) be in writing;
- (B) state the reasons for the application, (i.e. continuance motions which fail to state a reason for continuance will not be considered).
  - (i.) If the reason for the continuance is that counsel is scheduled to appear at another hearing on the same date and time in another trial court of this State, the case which was first set for trial shall have priority. Therefore, attached to the request for continuance for reason of conflict of hearings shall be proof of the date of scheduling of the other hearing.
  - (ii.) If there is a conflict between civil and criminal cases, criminal cases assigned for trial shall have priority over civil cases.
  - (iii.) If a designated trial attorney has such a number of cases assigned for trial in courts of this State so as to cause undue delay in the disposition of cases in this

Court, the Judge may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by this Court or is a Public Defender, the Court may appoint a substitute trial attorney.

(C) contain a certificate of service upon all parties, or the legal representative thereof;

(D) state the time and date of the hearing from which a continuance is being requested; and

(E) be accompanied by an Entry permitting said continuance and setting forth a new trial or hearing date and time.

Said requests shall only be granted upon good cause shown, and are at the sole discretion of the trial court. No request for continuance shall be considered if made within one week prior to the trial or hearing date, except for good cause shown.

#### **RULE 44.0: MOTIONS**

All motions, except those normally made at trial, shall be in writing, served on opposing counsel, and made within the time limits proscribed in the Ohio Rules of Criminal Procedure unless a different time is ordered by the Court. Motions shall be supported by memoranda and/or affidavits. Any request for hearing shall be stated prominently.

A date and time for hearings on motions must be obtained from the Assignment Commissioner. Parties wishing to respond in writing to such motions shall do so not later than the fourteenth (14<sup>th</sup>) day following service of the motion, but not later than three (3) days prior to the hearing date, if a hearing has been requested. All motions wherein an evidentiary hearing is not required shall be accompanied by a proposed entry.

In motions to suppress, both the grounds and the items of evidence sought to be excluded **shall be specified.**

#### **RULE 45.0: VACATED**

#### **RULE 46.0: SCHEDULING**

In all cases wherein a trial is expected to last longer than sixty (60) minutes, the parties shall request the Court or the Assignment Commissioner to schedule a trial date which provides sufficient time in which to try the case.

#### **RULE 47.0: PRETRIAL PROCEDURE**

Misdemeanor cases may be scheduled for a Pretrial conference by the Assignment Commissioner upon request of the defense attorney, the prosecutor or on the Court's own motion. A

Pretrial conference will not be scheduled unless the defendant is represented by an attorney and a time waiver has been filed with the Clerk of Court. All other misdemeanor cases shall be set for trial unless a Judge orders a Pretrial for a specific case.

The Pretrial conference shall be conducted in accordance with Crim.R.17.1, and, if necessary or ordered, a memorandum of the matters agreed upon shall be filed in the case. Any attorney who fails to appear for a Pretrial conference without just cause being shown may be subject to sanctions, including, but not limited to, imposition of costs. Failure of the defendant to appear for a Pretrial conference may result in the issuance of a warrant for the defendant's arrest. All Pretrials must be concluded within ninety (90) days of arraignment unless otherwise approved by the Court.

The Prosecutor's Pretrial procedure does not restrict or prevent the Judge on all criminal or traffic cases from conducting additional Pretrial conferences. The Pretrial form as prepared by the Prosecutor shall include the name of the defendant, the case number, the type of offenses charged, the defense attorney's name, if any, the proposed plea agreement, any continuances in the motion, hearing, or trial dates. This Pretrial form shall be signed by all parties and counsel present with notification to the Assignment Commissioner.

#### **RULE 48.0: JURY TRIAL**

When a jury trial has been requested, it is the duty of the trial counsel demanding a trial by jury to notify the Assignment Commissioner at least fourteen (14) days prior to the trial date if the jury is to be waived or the case has been settled. A \$100 jury fee assessment may be taxed to the defendant if Defendant fails to waive the jury trial in writing at least seven (7) days prior to trial and a plea of guilty or no contest is entered. Additionally, failure of counsel to notify the Assignment Commissioner by 2:00 p.m. the day preceding the trial, of any late change in plea or jury waiver, will result in jury costs in the full amount being assessed.

Upon conviction after a jury trial in a Criminal/Traffic case, jury fees in the approximate sums as set forth on the Cost Schedule will be taxed as court costs.

The Assignment Commissioner shall prepare a list of jury cases in the order in which they will be called for jury trial seven (7) days in advance of the date scheduled for jury trial. This list will be posted in the Assignment Commissioner's office. When cases are settled or when a jury is waived, the case will be deleted from the list.

The Jury Management Plan is created in compliance with the Supreme Court of Ohio Rules of Superintendence and is intended to reflect the guidelines and requirements of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio, the Ohio Revised Code, the Ohio Rules of Criminal Procedure and the Ohio Rules of Civil Procedure. The Jury Management Plan is attached as Appendix C.

**RULE 49.0: VIEWS**

Request for a view by the Judge or Jury shall be made at the time of the Pretrial conference and noted in the report. It is within the discretion of the Judge whether to permit a view.

**RULE 50. SPECIALIZED DOCKETS**

The Court may establish specialized dockets as approved by the Ohio Supreme Court and as benefits the community.

**RULE 50.1 VETERAN’S DOCKET**

**RULE 50.2 SPECIALIZED DOCKETS**

**RULE 51.0 VIOLATIONS BUREAU**

A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13, with authority to process and dispose of those traffic offenses for which no court appearance is required by law and in the discretion of the arresting officer. In accordance with the Ohio Rules of Criminal Procedure Rule 4.1, there is hereby established a minor misdemeanor violations bureau, with authority to process and dispose of minor misdemeanors for which no court appearance is required, either at the discretion of the arresting officer or the Court. A schedule of fines has been adopted and is posted on the Court’s website.

**RULE 52.0: BOND SCHEDULE**

A bond schedule and procedure has been adopted by the Court by separate order and is available for review in the Clerk’s office and with the Jail Supervisor and shall be in compliance with Ohio Supreme Court Guidelines and shall be amended from time to time.

In the time period prior to the defendant’s initial appearance before a Judge or Magistrate, the Clerk and/or arresting police authority are authorized to release a person charged with a misdemeanor criminal or traffic offense based on the Bail Bond Schedule established by administrative order.

No person shall be accepted as surety, nor bail bond be posted by anyone who does not qualify with the provisions of Rule 46 of the Ohio Rules of Criminal Procedure.

The Clerk of Courts shall prepare once a year a list of all sureties regularly posting bonds with the Court and require that the sureties provide such other evidence of financial responsibility as the Court may direct.

**RULE 53.0: COURT COSTS IN TRAFFIC AND MISDEMEANOR CASES**

Court costs in traffic and misdemeanor cases shall be as provided by statute and by the Court in separate order which shall be posted with the Clerk of Courts. By separate entry and with approval by resolution of the Middletown City Council, the Court may establish by separate entry and order such computerization fees for the Court and for legal research or other matters as provided by statute.

**RULE 54.0: CRIMINAL/TRAFFIC DIVISION CASE MANAGEMENT**

(A) Purpose: The purpose of this Rule is to establish, pursuant to Municipal Court Superintendence Rule 18, a system for criminal case management which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

(B) Clerical Steps:

(1) The Clerk shall process all complaints filed for purposes of arraignment. All cases filed will be tracked by event in accordance with the Supreme Court reporting requirements utilizing the worksheet provided by the Ohio Supreme Court.

(2) Upon the filing of a not guilty plea, the Clerk shall immediately forward the case to the Assignment Commissioner for scheduling.

(3) Upon the filing of a motion, the Clerk shall immediately forward the motion and case file to the Judge for review.

(C) Judicial Steps:

(1) All motions not heard or decided prior to trial will be disposed of at trial.

(2) Court trials: In all cases where a jury has not been demanded, a court bench trial shall be scheduled by the Assignment Commissioner to be heard within twenty-eight (28) days.

(3) Pre-trials/Jury trials: In all cases wherein a jury demand has been filed, a Pretrial shall be scheduled by the Assignment Commissioner or the Court to be heard within thirty-five (35) days of the filing of the not guilty plea and a jury trial shall be scheduled within twenty-eight (28) days of the Pretrial conference or as otherwise directed by the Court. Third and fourth degree misdemeanors will be set for jury trial at the pre-trial if a speedy trial has been demanded.

(4) Sentencing: Upon a finding of guilty, sentencing shall occur immediately unless the Court orders a pre-sentence investigation or for good cause shown. In cases where a pre-sentence investigation is ordered, the Assignment Commissioner or the Judge shall schedule a final disposition.

**RULE 55.0: SPECIAL PROCEEDINGS CASE MANAGEMENT**

The purpose of this Rule is to establish, pursuant to Municipal Court Superintendence Rule 18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. Examples of special proceedings would include, but is not limited to, contempt hearings, preliminary hearings, extradition hearings, and bond hearings.

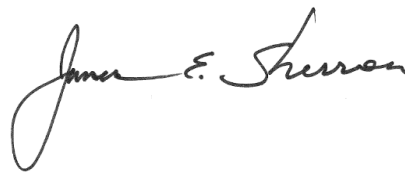
Cases that have time limits established by the Ohio Revised Code or by the Ohio Rules of Criminal Procedure shall be set for hearing within those limits. In all other special proceedings, the cases shall be set for hearing within a reasonable time, but not to exceed ninety (90) days.

Rules for Civil Division: Where applicable, the Rules, as set forth herein, for cases in the Civil Division, and not in conflict, shall apply to those cases in the Criminal and Traffic Division, including special proceedings.

**RULE 56.0: EFFECTIVE DATE**

The Court hereby adopts and approves these Rules of the Middletown Municipal Court, effective January 29, 2019. These rules supersede and replace all previous rules of this Court and are hereby canceled.

**ENTERED:**

A handwritten signature in black ink that reads "James E. Sherron". The signature is written in a cursive style with a large, looping initial "J".

**JAMES E. SHERRON, Judge  
Middletown Municipal Court**