

# **HOLMES COUNTY MUNICIPAL COURT**

## **Local Rules of Practice**

**Effective Date: April 1, 2009**

**Revised: December 2, 2021**

**INDEX – LOCAL RULES OF PRACTICE**

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**RULE 1**  
**GENERAL PROVISIONS**

(A) **Adoption and Applicability.**

The following rules are adopted effective on and after April 1, 2009, to govern the practice and procedure before this Court, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio. These rules shall be recorded by the Clerk of Courts of Holmes County and journalized therein, and shall be filed with the Supreme Court of Ohio. All previous orders and versions of these Rules are rescinded.

(B) **Citation.**

The Local Rules of Practice of the Holmes County Municipal Court shall be cited in this Court as follows: “**Local R. \_\_**”.

(C) **Computation of Time.**

All time computations under these Rules shall be made in accordance with the Ohio Rules of Civil and Criminal Procedure as required by said Rules.

(D) **Ohio Attorney.**

No action in the Municipal Court shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio, unless there is co-counsel who is admitted to practice in Ohio. This does not preclude pro se appearances.

Together with the attorney’s signature line upon any pleading filed with the Municipal Court, the attorney shall include his/her Supreme Court registration number and electronic mail address.

At the request of the Judge, an attorney may be requested to present identification that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this state.

**RULE 2**

**FILINGS WITH THE COURT**

**(A) Custody of Files.**

The Clerk of Courts shall not permit any of the files of that office to be taken from her custody except with written approval of the Court. This Rule shall not prevent the files of the Clerk of Courts being removed from her custody by a Judge of the Court, a member of the Judge's staff, a Visiting Judge or Magistrate.

**(B) Copies.**

The Clerk of Courts shall upon advance request and as the business of her office allows, furnish certified copies of pleadings (except depositions or transcripts of evidence) contained in the files of the Court. All certified pages copied by the Clerk upon request shall be furnished upon the payment in advance at the rate of \$5.00 per page. The Clerk shall certify said copy as being true and correct. This paragraph's payment requirements shall not be applicable to any office or department of county government, nor shall it be applicable to indigent parties or their counsel upon written approval by the Court.

**(C) File Management.**

(1) The Clerk of Courts shall have custody of the case files and pleadings of the Court.

(2) Upon the filing of a pleading or other paper with the Clerk, such paper shall be docketed and otherwise processed pursuant to law. The Clerk shall place the paper in the appropriate case file and bring the file to the Judge's attention.

(3) Case files which are removed from the Clerk's office for the Judge's consideration shall be signed out by the person removing same. Upon completion of the Judge's consideration, the case file shall be returned to the Clerk's custody.

(4) When a paper is received by the Clerk for filing and the case file is in the Judge's possession, the pleading shall be forwarded to the Judge after processing and the Judge's staff shall be responsible for filing the pleading in the case file.

**(D) Filing of Discovery Materials.**

The Clerk of Courts shall not accept those materials proscribed by Civil Rule 5(D) unless ordered by the Court by entry, or the party seeking to file the same furnishes a statement that the materials shall be used as evidence at the trial on the merits or are related to consideration of a pending motion.

**(E) Exhibits in the Custody of the Court Reporter.**

All exhibits admitted into evidence at trial or hearing in the Holmes County Municipal Court shall be in the custody of the Clerk and made part of the case file unless otherwise ordered. The Clerk shall keep said exhibits in his/her custody for a period of sixty (60) days after the last action in this Court or an appellate court unless otherwise ordered.

At the end of said sixty (60) day period the Clerk shall notify the person who submitted the exhibit. Said person has ten (10) days within which to pick up the exhibit. Failure of such a person to pick up the exhibits within ten (10) days from notice by the Clerk shall result in the Court Reporter disposing of the exhibit.

### RULE 3

#### TIME EXTENSIONS

(A) Leave to Plead.

Leave to plead or an extension of time to file a pleading, including but not limited to an answer, motion, reply, or response to request for discovery, shall be upon leave granted by the Court only. No stipulations for extensions of time shall be binding upon the Court. A party desiring an extension of time to file a pleading shall do so by motion, together with supporting memorandum and draft journal entry. Any request or extension of time shall comply with Local R. 5(D). Failure to make a filing within a time period required by the appropriate Civil or Criminal Rules of Procedure or the Local Rules of Practice or an Order of this Court may result in the striking of a pleading by the Court *sua sponte* or upon motion of an adverse party.

(B) Leave Instanter.

(1) All certifications or motions for leave to plead or extensions which are not filed with the Court before the expiration of the otherwise applicable time period shall be styled a "Motion for Leave to Plead Instanter." Said motion shall be supported by memorandum and affidavit if necessary, which shall set forth the reason that the pleading was not filed timely. The motion shall be accompanied by the proposed pleading to be filed instanter together with a draft journal entry which may be executed by the Court in the event the "Motion for Leave to Plead Instanter" is granted.

(2) In the event any party objects to the granting of a "Motion to Leave to Plead Instanter", such objecting party shall respond within five (5) days from the "Motion to Leave Instanter's" filing with the Court. The Court shall determine the "Motion for Leave to Plead Instanter" and any objections thereto without hearing it on the basis of the

pleadings submitted to the Court. Reply or additional memoranda shall be submitted only with prior approval of the Court.

(C) **Leave as Justice Requires.**

Nothing herein shall prevent the Court from granting leave to prevent manifest injustice.

**RULE 4**

**FILING PLEADINGS AND OTHER DOCUMENTS  
BY ELECTRONIC TRANSMISSION.**

Motions may be filed by facsimile, subject to the following provisions:

(1) The sending party or attorney must provide all required information on a cover page of transmission. Said cover page shall bear the name of the case, the full case and docket number, the sender's name, firm, address, phone number and fax number; the date of transmission; the number of pages, including the cover page being transmitted; and such other comments and information as may assist the Clerk and Court in processing the document. Transmissions without such information will not be accepted for filing. A transmitted document must be no longer than 10 pages, not including the cover page, and must pertain to only one case.

(2) The Clerk of Courts shall notify the attorney or sending party if the transmitted document cannot be filed for any reason. All documents submitted shall be considered filed when the date/time has been stamped by the Clerk. For the purposes of this rule, the date/time stamp produced by the Clerk's facsimile machine shall constitute the date/time stamp of the Clerk.

(3) The risk of fax filing remains with the sender and the Clerk of Courts assumes no new responsibilities or liabilities. The sending party shall be responsible for maintaining the source document and cover sheet until all appeals have been exhausted.



(4) The Clerk shall maintain on the premises a facsimile machine which will be attached to a dedicated phone line and dedicated electronic circuit protected by surge protector and shall be available 24-hours a day seven days a week. The device will use 20 lb. bond paper, to comply with Civ. R. 10(E) and will meet C.C.I.T.T. Group 3 specification. It shall automatically place the date and time of receipt on the printed transmission.

## RULE 5

### CIVIL CASE MANAGEMENT

(A) **Preface.**

The goal of this Rule is the prompt but fair disposition of civil litigation.

This goal can only be accomplished by early and continuing judicial control and management of each case assigned to the judge's docket. This Rule will establish a general framework for management of cases, leaving to the discretion of the judge the use of additional procedures to accomplish the goal of this Rule.

(B) **Scheduling Order.**

(1) At any time after service of the Complaint, the judge may make a scheduling order.

(2) The scheduling order may limit the time:

- (a) To join new parties and to amend the pleadings;
- (b) To file and hear motions, including motions for summary judgment;
- (c) To disclose experts and to jointly certify to the Court in writing the completion of discovery (the completion of discovery does not include the taking of depositions preserving testimony for use at trial.)
- (d) The scheduling order may establish the final pretrial date. Final pretrial conferences and any other pretrial conferences shall be conducted pursuant to Local Rule 9.
- (e) The Court may address in the scheduling order any other matters appropriate to the particular case.

(f) The scheduling order shall not be modified except by subsequent order of the Court.

(C) **Motions.**

(1) Summary Judgment.

(a) Motions for summary judgment shall be in accordance with Civil Rule 56, and shall be decided without oral hearing, unless oral argument is requested and determined necessary by the Court. The scheduling order shall fix a "hearing date" as required by Civil Rule 56(C). Rebuttal memoranda, affidavits, or other supporting documents shall be filed by the moving party only with prior permission of the Court.

(b) To assure compliance with Civil Rule 56(C), depositions answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact to support or oppose a motion for summary judgment shall be attached to the motion or memorandum, and the caption shall state the document attached, i.e. '...Including Affidavit of \_\_\_\_\_.' Documents which are not expressly mentioned in Civil Rule 56(C) shall be attached to an affidavit and filed.

Failure to file any document as provided herein or to reference said document in the memorandum in support or in opposition to a motion for summary judgment may result in its exclusion by the Court.

(c) The movant for summary judgment shall submit a judgment entry granting the relief sought, together with the motion for summary judgment in the event said motion is granted.

(2) All Other Motions.

All other motions will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. The moving party shall file with the motion a brief supporting memorandum containing the authorities relied upon and any affidavits or other supporting documents required or appropriate together with a draft judgment entry in the event the motion is granted. Each party opposing the motion shall file a written response within fourteen (14) days after the filing of the motion with the Court. Reply, rebuttal or additional briefs or memorandums shall be submitted only with prior approval of the Court. Motions for extensions or leave to plead shall be governed by Local Rule 3 and 5(C).

(D) Continuances.

(1) Requests for continuance shall be submitted to the judge in writing at least seven (7) days prior to the trial, hearing date or other date set by order or Rule of this Court, absent emergency or other cause deemed sufficient by the Court. Requests for continuance include continuances of case management conferences, pretrial conferences, matters established by scheduling orders, motion dates, trials and any other dates or time limits established by order of the Court or these Rules. Requests for continuance shall be made by written motion and separate proposed journal entry. The motion shall be supported by a memorandum which shall include:

(a) The reason for the request for continuance. If the reason is another case scheduled on the same date in another court, the memorandum shall be supported by a copy of that court's scheduling order setting forth the name of the court and assigned judge, the case caption, the date and time of the

conflicting case, and the date that the conflicting case was assigned for trial, together with whether said conflicting case is a criminal or civil matter;

(b) The number of continuances of the hearing, trial or other date which is sought to be continued which have been previously made by any party, together with the Court's ruling upon said requests.

(c) The request for continuance shall bear the signature of movant's client approving the continuance and the necessity thereof.

(2) The separate proposed journal entry which shall include:

(a) The time and date of the current assignment;

(b) The position of opposing counsel and parties on the continuance which shall have been obtained by movant prior to the filing of the motion for continuance;

(c) A new date obtained from the Court and previously cleared with opposing counsel by movant in the event the Court grants the motion for continuance.

**(E) Sanctions.**

Failure of counsel or a party to comply with the provisions of Rule 5(D) may result in a denial of a motion for continuance by the Court *sua sponte*.

## **RULE 6**

### **ELECTRONICALLY PRODUCED TICKET**

Use of electronically produced ticket. The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Holmes County Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket required by Traffic Rule 3. If an electronically produced ticket is issued at the scene of the alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket, in compliance with Traffic Rule 3 (F) (1) and (2).

**RULE 7**  
**WITHDRAWAL OF COUNSEL**

**(A) Leave of Court required.**

Counsel for any party shall be permitted by the Court to withdraw from an action in all cases where he/she is obligated to withdraw under Ohio Rule of Professional Conduct 1.16 of the Ohio Code of Professional Responsibility. The Court may also permit counsel to withdraw when withdrawal is permitted under Ohio Rule of Professional Conduct 1.16.

**(B) Procedure.**

(1) When counsel's client consents to counsel's withdrawal, counsel shall file with the Court a written Motion to Withdraw, together with an entry and appearance of substitute counsel. The Court may not allow a continuance of the matter because counsel has been substituted.

(2) In all other cases counsel shall file a written Motion to Withdraw with the Court and counsel shall send written notice to the client of the time, date, and place of the hearing on the Motion by certified mail, return receipt requested. A copy of said notice shall be attached to the Motion. In the event that counsel is unable to locate the client, counsel shall submit with their Motion a statement detailing the efforts to communicate with the client.

(3) If the Motion is granted, counsel shall notify the client of the withdrawal by sending him a copy of the Entry by certified mail, return receipt requested, at the client's last known address.



**RULE 8**

**JURY MANAGEMENT PLAN**

The following is hereby adopted as the Jury Management Plan for the Holmes County Municipal Court.

**(A) Opportunities for Service**

- (1) The opportunity for jury service shall not be denied or limited on the basis of face, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in Holmes County, Ohio.
- (2) Jury service is an obligation of all qualified citizens.

**(B) Jury Source List**

- (1) The names of potential jurors shall be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in Holmes County, Ohio, and maintained pursuant to law.
- (2) The jury source list shall be representative and shall be as inclusive of the adult population in Holmes County, Ohio, as is feasible.
- (3) The court shall periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction in Holmes County, Ohio, as is feasible.
- (4) Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

**(C) Random Selection Procedures**

- (1) Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods shall be documented by the jury commissioners and the court bailiff.
- (2) Random selection procedures shall be employed in:
  - (a) Selecting persons to be summoned for jury service;
  - (b) Assigning prospective jurors to panels; and
  - (c) Calling prospective jurors for voir dire.
- (3) Departures from the principle of random selection are appropriate:
  - (a) To exclude persons ineligible for service;
  - (b) To excuse or defer prospective jurors;
  - (c) To remove prospective jurors for cause or if challenged peremptorily; and
  - (d) To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

**(D) Eligibility for Jury Service**

All persons shall be eligible for jury service except those who:

- (1) Are less than eighteen years of age;
- (2) Are not citizens of the United States;
- (3) Are not residents of Holmes County, Ohio;
- (4) Are not able to communicate in the English language; or
- (5) Have been convicted of a felony and have not had their civil rights restored.

**(E) Term of Availability of Jury Service**

- (1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- (2) Jury venires shall be summoned for a term of service of one day unless otherwise ordered by the Court.
- (3) Persons shall not be required to maintain a status of availability for jury service for longer than two weeks.

**(F) Exemption, Excuse, and Deferral**

- (1) All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service shall be eliminated.
- (2) Eligible persons who are summoned may be excused from jury service only if:
  - (a) Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
  - (b) They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by the bailiff.
- (3) Deferrals for jury service for a reasonably short period of time may be permitted by the judge or the bailiff.
- (4) Requests for excuses and deferrals and their disposition shall be written otherwise made or recorded.

**(G) Voir Dire**

- (1) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- (2) To reduce the time required for voir dire, basic background information regarding panel members shall be made available to each counsel in writing for each party on the day on which jury selection is to begin.
- (3) The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- (4) The judge should ensure that the privacy of prospective jurors is reasonably protected, and that the questioning is consistent with the purpose of the voir dire process.
- (5) In criminal cases, the voir dire process shall be held on the record. In civil cases the voir dire process shall be held on the record unless waived by the parties.

**(H) Removal from the Jury Panel for Cause**

If the trial judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such determination may be made on motion of counsel or by the trial judge.

**(I) Peremptory Challenges**

- (1) The Ohio Rules of Civil and Criminal Procedure relating to procedure for exercising peremptory challenges shall apply in this Court.
- (2) Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- (3) In civil cases, the number peremptory challenges shall not exceed three for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three peremptory challenges.
- (4) In criminal cases, the number of peremptory challenges shall not exceed;
  - (a) Three for each side

**(J) Administration of the Jury System**

- (1) The responsibility for administration of the jury system shall be vested exclusively in the Holmes County Municipal Court.
- (2) All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and applicable statutes.
- (3) Responsibility for administering the jury system shall be vested in the bailiff of the Court under the supervision of the Judge of the Court.

**(K) Notification and Summoning Procedures**

- (1) The notice summoning person to jury service and the questionnaire eliciting essential information regarding that person should be:
  - (a) Combined in single document;
  - (b) Phrased so as to be readily understood by an individual unfamiliar with the legal and jury system;

(c) Delivered by ordinary mail.

(2) The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

(a) Determining whether a person meets the criteria for eligibility;

(b) Providing basic background information ordinarily sought during voir dire examination;

(c) Efficiently managing the jury system;

(d) Policies and procedures shall be established by the bailiff for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

**(L) Monitoring the Jury System**

The Court shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate;

(1) The representativeness and inclusiveness of the jury source list;

(2) The effectiveness of qualification and summoning procedures;

(3) The responsiveness of individual citizens to jury duty summonses;

(4) The efficient use of jurors; and

(5) The cost-effectiveness of the jury management system.

**(M) Juror Use**

(1) The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum on inconvenience to jurors.

(2) The Court shall determine the minimally sufficient number of jurors to accommodate trial activity. This information and appropriate management

techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

- (3) The Court shall coordinate jury management and calendar management to make effective use of jurors.

**(N) Jury Facilities**

- (1) The Court shall provide an adequate and suitable environment for jurors.
- (2) The entrance and registration area for jurors shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- (3) The jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- (4) Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
- (5) To the extent feasible, juror facilities shall be arranged to minimize contact between jurors, parties, counsel and the public.

**(O) Juror Compensation**

- (1) Persons called for jury service shall receive a reasonable fee for their service and expenses.
- (2) Such fees shall be paid promptly.
- (3) Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

**(P) Juror Orientation and Instruction**

- (1) An orientation program shall be designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and, presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials.
- (2) The Court shall provide some form of orientation of instructions to persons called for jury service.
- (3) The trial judge just shall give preliminary instructions, instructions after the empanelment of the jury; instructions during trial and prior to the commencement of deliberations, pursuant to law.
- (4) All communications between the judge and the members of the jury panel from the time of reporting to the court or voir dire until dismissal shall be in writing, or on the record, in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

**(Q) Jury Size and Unanimity of Verdict**

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

**(R) Jury Deliberations**

- (1) Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and enhance rational decision-making.
- (2) The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.
- (3) The deliberation room shall conform to this rule.



(4) The jury shall not be sequestered except under circumstances and procedures set forth by law.

(5) The jury shall not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon jurors and are required in the interest of justice.

(6) Training shall be provided to personnel who escort and assist jurors during deliberations.

**(S) Sequestration of Jurors**

(1) A jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

(2) The trial judge shall have the discretion to sequester a jury on motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

(3) Training shall be provided to those who escort and assist jurors during the sequestration.

## RULE 9

### PRETRIAL CONFERENCES IN CIVIL CASES

#### (A) Case Management Conference.

(1) The Court may hold one or more case management conferences. The purposes of the case management conferences are to establish a scheduling order, to clarify and simplify the issues, to consider the necessity or desirability of amendment to the pleadings, to facilitate constructive communication among the parties, to explore settlement possibilities, and to otherwise promote an economical, expeditious, and mutually satisfactory conclusion of the case.

(2) Case management conferences shall be scheduled at the time of the filing of the Complaint. Defendants shall be served with a copy of the notice establishing the case management conference by the Clerk together with the summons. The scheduling of a case management conference shall not relieve any party from a duty to timely plead pursuant to the Rules of Civil Procedure or as otherwise ordered by this Court.

(3) Counsel for each party shall appear at each case management conference, shall bring their calendar/schedule with them and shall have authority from their clients to fully discuss the issues in the case and explore settlement possibilities. The parties need not appear unless the Court orders otherwise. Any statement of counsel made in the course of a case management conference shall not be binding upon the parties unless expressly made so by written stipulation, or by request to the Court that such statement be incorporated into a pretrial order.

(4) Any counsel may elect, with at least three (3) business days notice to the Court and to opposing counsel, to conduct the case management conference by telephone

conference call. Counsel electing to conduct the conference by telephone shall have the responsibility of placing the conference call to the Court and opposing counsel. In the event the Court determines that a case management conference conducted by telephone conference call was inadequate for the purposes desired, the Court may schedule a subsequent case management conference and require the attendance of all counsel in person.

(5) Following the case management conference, the Court shall prepare a written pretrial scheduling order, which embodies the matters discussed and agreed upon at the conference.

**(B) Other Pretrial Conferences.**

The Court may at any time, upon its own motion or upon motion of any party, schedule a pretrial conference to discuss any matter relating to the expeditious and fair resolution of any matter concerning the litigation pending before the Court.

**(B) Final Pretrial Conference.**

(1) Unless the Court determines that a final pretrial conference would be unnecessarily burdensome to the Court or the parties, or the Court determines that final pretrial conference is otherwise unnecessary, a final pretrial conference shall be scheduled during the two-week period immediately preceding the trial date.

**(2) Joint Pretrial Statement.**

In the event the final pretrial conference is held, a joint pretrial statement shall be prepared by counsel for all parties, or by the party if unrepresented, and shall be filed with the Court not less than seven (7) business days prior to the date of the final pretrial conference. The joint pretrial statement shall include as follows:

- (a) A concise summary of the essential facts.
- (b) A brief statement of the issues involved.

- (c) A brief statement of the applicable law and the authorities upon which each party relies.
- (d) A list of demonstrative evidence and exhibits which will be offered at trial. An itemized statement of damages by persons claiming such damages.
- (e) Names and addresses of prospective lay and expert witnesses, together with a brief summary of the experts' qualifications.
- (f) A list of depositions and/or video-taped depositions which each party intends to introduce at trial.
- (g) Estimated length of trial.
- (h) A brief statement that counsel conferred prior to the final pretrial conference, discussed in depth the issues involved, proposed offers of settlement, that such offers were refused, and a statement as to the prospects of settlement prior to trial.

(3) If the case is to be tried to a jury, counsel shall also file with the Court and serve upon all parties at least seven (7) business days before the date of final pretrial conference a draft of substantive jury instructions, jury interrogatories (if any), verdict forms, and an indication as to whether a jury view will be requested and, if so, details as to the site parameters of the view. Jury instructions may be referred to by referencing standard Ohio Jury Instructions volumes and sections.

(4) In addition to counsel of record, all parties and persons who have authority to affect the disposition of the case shall attend the final pretrial conference.

(5) When justice so requires, such as when the party represents a limited or a peripheral interest or is not involved in the contested issues in the case, the Court may excuse any party or counsel from appearance at the final pretrial conference or from the preparation of a joint pretrial statement, or both. A party desiring to be excused from attendance or preparation of a joint pretrial statement, in the event such party is not expressly excused in the Court's notice of final pretrial conference, shall request such consideration by written motion pursuant to Local R. 5(D).

(6) Counsel shall be prepared to discuss all other matters referred to in Civil Rule 16 at the final pretrial conference.

(7) Following the final pretrial conference, the Court shall prepare a written pretrial order which embodies the matters discussed and agreed upon at the conference. The Court may direct counsel to prepare a draft of such pretrial order, pursuant to Local R. 13.

(C) **Failure to Appear or Failure to Comply.**

(1) Should a party or counsel fail to appear at a conference held pursuant to this Local Rule or fail to comply with the directions set forth in this Rule or an order of Court issued pursuant to this Rule, counsel and/or a party may be required to pay opponent's costs and attorney's fees, and/or may be punished for contempt of court, and/or an ex parte hearing may be held and judgment of dismissal or default or other appropriate judgment may be entered and sanctions imposed.

(2) Counsel or unrepresented party with any claim pending before this Court is hereby given notice, pursuant to Civ. R. 41(B)(1), that failure to appear at any conference, pursuant to this Rule, or failure to comply with this Rule or any order of this Court issued pursuant to this Rule may result in dismissal of said claim for want of prosecution.

(3) Failure of a party to include information in the joint pretrial statement may result in the exclusion of such information (fact, issue, law, authority, demonstrative evidence, exhibit, damages, witness, deposition, etc.) at trial.

**RULE 10**  
**RESERVED.**

**RULE 11**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

When a request under Rule 52 of the Ohio Rules of Civil Procedure is timely made for findings of fact and conclusions of law, the Court may direct either party to prepare within seven (7) days proposed findings of fact and conclusions of law and submit them to the Court and to opposing counsel and parties unrepresented by counsel. Within seven (7) days thereafter, the opponent shall submit any objections or counterproposals to the Court in writing.

**RULE 12**

**RESERVED**



**RULE 13**

**JUDGMENT ENTRIES AND DECREES**

**(A) Preparation.**

(1) Except as to certifications, entries granting leave to plead, and matters in which the Court prepares a Judgment Entry, or unless the Court otherwise directs, counsel for the party in whose favor an order, judgment, or decree is being granted in a civil case shall prepare a Judgment Entry relating the action of the Court and shall submit to the Court the same after circulation of the original to all other trial counsel and all parties unrepresented by counsel who have entered an appearance in the case, within fourteen (14) days of the Court's decision, unless the time is extended by the Court. In the event that no one party is clearly the prevailing party, the Court shall designate which counsel shall prepare the proposed Judgment Entry and, in the absence of such designation, the parties shall request the Court to make such a designation.

**(B) Judgment Entry upon Settlement.**

Counsel shall submit an order of dismissal for a case not later than fourteen (14) days after notice to the Court of settlement, unless said time is extended by the Court.

**(C) Orders Sua Sponte.**

Provisions of this Rule shall not be deemed to preclude the Court at any time from preparing and filing *sua sponte* its own judgment or order.

**(D) Approval as to Form Only.**

If counsel or a party unrepresented by counsel signs the entry "as to form only," said reservation shall be understood to mean that the attorney or party so signing admits the truth of no fact contained in the Entry and waives appeal of no legal issue resolved

therein, but acknowledges that the Entry properly reflects the decision of the Court. Unless otherwise provided for in the Entry, neither the admission of facts nor the waiver of legal issues may be inferred from a signature not accompanied by the foregoing reservation.

**(E) Sanctions for Failure to Comply.**

If an Entry is not presented for execution to the Court in conformance with this Rule, the Court may prepare its own Entry and/or may require counsel and the parties to appear and show cause why they should not be punished for contempt and/or may dismiss the case with or without prejudice for want of prosecution and assess costs.

Notice is hereby given pursuant to Civ. R. 41(B)(1) to any counsel for claimant or any unrepresented claimant who has a claim for relief pending before this Court that failure to abide by the terms of this Rule or any order of Court issued pursuant to this Rule may result in a dismissal of said claim for want of prosecution.

**(F) Distribution of Entries.**

All judgment entries and journal entries submitted to the Court shall at the end of the entry indicate for the Clerk of Courts to whom copies of the entry should be distributed (e.g. counsel, etc.). This Rule shall be complied with by listing the persons for distribution after "cc:" under the Judge's and counsel's signature lines.

**RULE 14**

**RESERVED**

**RULE 15**

**SERVICE UPON LOCAL COUNSEL**

The Clerk of this Court shall establish and maintain in the Office of the Clerk an individual drawer for each practicing attorney or firm or association of attorneys who maintain an office within the geographical limits of the County of Holmes. All pleadings subsequent to the original Complaint to be served upon any attorney or record in the action by the Clerk, the Court, or opposing counsel may be deposited in the drawer designated for that attorney, firm or association of attorneys, and such deposit shall constitute proper and complete service upon said attorney of record. Proof of service, when required by Civil Rule 5, shall indicate whether service was made pursuant to this Rule. All attorneys maintaining an office within the geographical limits of this County shall regularly check the contents of their individual or firm or association drawer. Failure in this regard will not excuse a claim of lack of proper notice.

**BAIL BOND SCHEDULE COVERING MISDEMEANORS IN THE  
HOLMES COUNTY MUNICIPAL COURT  
ESTABLISHED PURSUANT TO RULE 5 OF THE RULES OF  
SUPERINTENDENCE FOR THE COURTS OF OHIO, R.C. 2919.251  
AND LOCAL RULE – BOND SCHEDULE  
EFFECTIVE APRIL 21, 2021**

- A. Ohio law requires that the Court establish a bail bond schedule to be used in cases where the citing officer has arrested the Defendant upon a misdemeanor. Therefore, except for the charges listed below in subsection (B), if a Defendant has been arrested upon a misdemeanor and is a resident of Holmes County, the Defendant may be released on their own recognizance; if a Defendant has been arrested upon a misdemeanor and is not a resident of Holmes County, the Defendant shall be given an opportunity to post bond in the following amounts:

<b>LEVEL OF OFFENSE</b>	<b>BOND CASH OR SURETY</b>
First Degree Misdemeanor	\$2,500.00 along with Personal Recognizance
Second Degree Misdemeanor	\$2,000.00 along with Personal Recognizance
Third Degree Misdemeanor	\$1,500.00 along with Personal Recognizance
Fourth Degree Misdemeanor	\$1,000.00 along with Personal Recognizance
Minor Misdemeanor	Personal Recognizance

Bail bonds may be posted twenty-four hours a day for someone who has been arrested and booked into jail.

CONTACT THE HOLMES COUNTY JAIL AT 330-674-5549

- B. In some instances bail bonds are not set until the Defendant has had their first appearance before a Judge. (Violent misdemeanors and felony charges)

No one, whom an Officer has incarcerated, shall be released by posting bond from the above schedule if charged with **Domestic Violence, Menacing by Stalking, Aggravated Trespass, Violation of a T.P.O., Violation of a no contact order on community control, or Assault** that involve persons who are family or household members at the time of the violation. R.C. 2919.251 provides that the Court must consider various factors set out in that section before setting bail, and that the Court's bail bond schedule may reflect the same. Therefore, bail in these referenced cases shall only be set in open Court, except as follows:

1. By application to the Judge by an attorney at law (licensed in the State of Ohio), who shall, as an Officer of the Court, be able to represent all of the following to the Judge.
  - i. Has made contact with the Prosecutor representing the arresting jurisdiction
  - ii. That the above described Prosecutor has granted permission for said Attorney to speak ex-parte to the Judge regarding bail.
  - iii. That the above described Prosecutor does not oppose the Defendant's immediate release.
  - iv. Said Attorney is with the alleged victim, and the alleged victim clearly states that he/she does not fear the Defendant.
  - v. Said Attorney has personal knowledge that the Defendant does not have a history of domestic violence or other violent acts.
  - vi. Said Attorney has personal knowledge that the Defendant does not have history of violating an order of any Court or government entity.
  - vii. Said Attorney has personal knowledge that the Defendant is not a potential threat to any other person.
  - viii. Said Attorney can give a personal assurance to the Court that the Defendant will have no contact with the alleged victim until the issue can be addressed in open Court.

THE MUNICIPAL COURT  
HOLMES COUNTY, OHIO

IN THE MATTER OF \* MISC. CASE NO.  
REVISION OF LOCAL \*  
RULES OF PRACTICE \* JUDGMENT ENTRY

\*\*\*\*\*


The attached Rules are hereby adopted effective on and after December 2, 2021 to govern the practice and procedure before this Court, subject to such rules as may be promulgated by the Supreme Court of Ohio.

These Rules shall be recorded by the Clerk of Courts and a copy thereof shall be filed by the Clerk of Courts with the Clerk of the Supreme Court of Ohio and posted online on the Courts website.

The Clerk of Courts shall cause copies to be made of these Rules and shall provide copies to any person upon the payment of a fee of \$20.00.

All previous orders and versions of these Rules are rescinded. Cases in which scheduling orders were issued under prior Rules shall continue under said prior orders unless the Court otherwise Orders.

SO ORDERED,



ANDREW G. HYDE, JUDGE  
MUNICIPAL COURT

cc: Clerk of Courts ✓ placed in tray 12/9/21  
Clerk of Ohio Supreme Court ✓ emailed by Bailiff 12/9/21  
(with enclosures)  
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