LOCAL RULES OF COURT

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IN THE LIMA MUNICIPAL COURT, LIMA, ALLEN COUNTY, OHIO

IN RE:

ADOPTION OF

LOCAL COURT RULES **JOURNAL ENTRY**

IT IS THE ORDER of the Court that the following rules of Court to be adopted for use in the Lima Municipal Court in all criminal, civil, and small claims cases effective May 1, 1999.

IT IS FURTHER ORDERED that all previous rules are hereby rescinded of the date and the Clerk of Court shall file this entry in his journal.

RICKARD A. WORKMAN

PRESIDING & ADMINISTRATIVE JUDGE

IN THE LIMA MUNICIPAL COURT, LIMA, ALLEN COUNTY, OHIO

IN RE:

AMENDMENT OF

ARRAIGNMENT CALENDAR **JOURNAL ENTRY**

IT IS THE ORDER of the Court that the following local rule of Court be adopted for use in the Lima Municipal Court effective June 16, 1999: Minor misdemeanor traffic arraignments will be held on Tuesdays and Thursdays at 9:00am and jailable traffic arraignments will be held on Wednesdays and Fridays at 9:00am.

IT IS FURTHER ORDERED that all previous rules are hereby rescinded as of that date and the Clerk of Court shall file this entry in his journal.

RICKARD A. WORKMAN, PRESIDING & ADMINISTRATIVE JUDGE

WILLIAM G. LAUBER, JUDGE

PREFACE

The following Local Rules of the Lima Municipal Court are intended to be supplemental to the Ohio Rules of Civil Procedure, Ohio Rules of Criminal Procedure, the Ohio Traffic Rules, Rules of Superintendence for Ohio Municipal Courts and all statutes of the State of Ohio, as adopted and amended from time to time. They are to be used in conjunction therewith. Should any conflict be found, all rules adopted by the Ohio Supreme Court and laws enacted shall prevail over these Local Supplemental Rules.

These rules shall apply to practice in the Civil, Criminal, Traffic, and Small Claims Division of the Lima Municipal Court except where clearly inapplicable to one or more divisions or specifically made applicable to only one or more division.

RULE 1.0

HOURS OF THE COURT

The Court shall be open to the public for business from 8:00A.M. to 5:00P.M., Monday through Friday, each week, legal holidays excepted and 8:00a.m. to 12:00p.m. on Christmas Eve and New Year's Eve.

RULE 2.0

ACTING, PRESIDING AND ADMINISTRATIVE JUDGE

In the absence of the Presiding and Administrative Judge, the Judge present shall assume the position of Acting Presiding and Administrative Judge during such absence. Said Judge shall have all powers vested in such positions but shall serve without additional compensation.

RULE 3.0

EMPLOYEES OF THE COURT

No employee of this Court, the Prosecutor's or Public Defender's offices not licensed to practice law shall practice law or perform legal services of any character for hire. Violation of this rule shall be considered contempt of Court and grounds for immediate dismissal.

Rule 4.0

TRAFFIC TICKET ISSUANCE

The Lima Police Department is designated as the issuing agent of all uniform traffic tickets for Allen County, Ohio. Said department shall issue to the various traffic enforcement agencies such blocks of tickets as they may from time to time request. Records shall be kept by the Lima Police Department as to the tickets issued and to what agency with the receipt of each book of tickets so distributed, filled out and forward to the Lima Municipal Court.

RULE 5.0

PRESERVATION OF FILES BY CLERK & PUBLIC ACCESS

The Clerk of Court shall file and carefully preserve in his office all documents delivered to him for that purpose. Attorneys shall submit an original and a copy of every journal entry filed for each party to the case. The Clerk shall retain the original in the case file and send one (1) copy to each attorney of record and each party not represented within three (3) days of its journalization.

Whereas all documents filed with the Clerk of Court are public records, any person may examine the records of any case filed in the Lima Municipal Court. Arrangements for the viewing of those records may be made with the Clerk of Court during business hours under the reasonable regulations developed by the Clerk to preserve the integrity of those documents and the orderly operation of the Clerk's Office. Copies may be made of any record so filed for the fee established by the Clerk of any copy made. In no event may any person remove a file from the Clerk of Court's office without the Clerk's express consent and in no event may it leave the premises of the Lima Municipal Court.

RULE 6.0

CASE NUMBERING

All cases filed in this Court shall be numbered as provided in the Ohio Rules of Municipal Court Superintendence, however, in Criminal and Traffic cases, the Clerk of Court shall further designate multiple cases filed against the same defendant arising from the same incident by adding a letter and number. The number shall indicate the total number of cases filed and the letter shall indicate the individual case of the total number filed with the most serious offense in terms of penalty receiving the letter (A), the second most serious offense in terms of penalty receiving the letter (B), etc.

RULE 7.0

ELECTRONIC RECORDING OF EVIDENCE

Counsel for the defendant in a criminal case or counsel for either party in a civil case may file in writing a request for an electronic recording of the proceedings in any case at its discretion.

All recordings shall remain the property of the Court and shall be retained until the time for appeal has passed from judgment of the Court or until one year has passed if testimony has been given, i.e. trials or motion hearings.

Counsel for any interested party may arrange with the Court to review the electronic recording of any case at a time mutually convenient. On written request, the electronic recording in any case will be retained permanently when counsel supplies to the Court a new tape or cassette of the type used by the Court equal to the number sought to be retained.

RULE 8.0

All requests for transcription of testimony from the recording made of any Court proceeding shall be in writing stating specifically the testimony to be transcribed.

The Court Reporter shall review the electronic recording of the proceeding desired to be transcribed and require a deposit equal to an amount not less than one-half (1/2) the total estimated cost of the transcription. No transcription shall be made unless that amount of deposit shall be paid to the Court Reporter. All transcription of electronic recordings shall be made by the Court Reporter under the supervision and control of the Court and the Court Reporter shall be paid therefore the sum of $3.50 per page. Copies may be ordered of said transcript of testimony and the Court Reporter shall be paid therefore the sum of $.05 per page. No transcript shall be delivered until the cost therefore has been paid in full. If an electronic copy is requested, the Court shall provide the party with the transcript on a compact disc at no charge.

Each Judge of the Court shall appoint, as necessary, a person or persons of the Court staff to be Court Reporter for his or her Court. The Presiding Judge shall appoint a person to be the Court Reporter for the Magistrate. Such persons shall act without additional compensation and certify the transcribed record of transmittal to the Court of Appeals. The original of said appointment shall be filed with the Clerk of Court and a certified copy sent to the Clerk of the Third District Court of Appeals.

RULE 9.0

COSTS

Court costs in both Civil and Criminal cases shall be established by the Judges of the Lima Municipal Court in conformance with the provisions of the Ohio Revised Code. Those costs shall be published by the Clerk of the Lima Municipal Court as a Criminal Cost Schedule and a Civil Cost Schedule and made available to the general public on request. Further, the Clerk shall send copies of both schedules to all attorneys regularly practicing in the Lima Municipal Court on adoption of these rules and from time to time as the schedules of costs shall be amended. The Clerk of Court shall apply these costs to each individual case filed. For the purpose of this rule, a “case” is defined as a prosecution of all of the charges that result from the same act, transaction, or series of acts or transactions and that are given the same case type designator and case number under Rule 43 of the Rules of Superintendence for the Courts of Ohio or any successor to that rule.

Please see Schedule A (Criminal) and B (Civil) attached hereto and made a part hereof.

RULE 10.0

ATTORNEYS AND INTERNS PRACTICE OF LAW

Any attorney licensed to practice law in the State of Ohio shall be permitted to practice in the Lima Municipal Court. Attorneys licensed by any other state to practice law may seek special permission from the Court to enter appearance in a case subject to all statutes and regulations of the State of Ohio. The granting of such appearance shall be at the discretion of the trial Judge or the Administrative Judge if the case has not been assigned.

All attorneys shall use their Ohio Supreme Court registration number when filing any pleading or document with the Court in addition to their signature on the same. Addresses and phone numbers shall also be used on all original pleadings or designation of counsels filed.

Legal interns, properly certified by the Ohio Supreme Court and who have filed a copy of their certification with the Court, may appear before the Court in accordance with the rules of the Ohio Supreme Court.

RULE 11.0

NOTICE OF COUNSEL

All attorneys representing clients in the Lima Municipal Court shall file designation of counsel with the Clerk of Court, except when the attorney's initial appearance in the case is at the arraignment in a criminal case or by the filing of the complaint or an answer in a civil case.

The Clerk of Lima Municipal Court shall not accept any documents for filing from any attorney not designated as counsel of record in the case.

RULE 12.0

WITHDRAWAL OF COUNSEL

Once an attorney has filed a Designation of Counsel or appeared at a scheduled docket action on behalf of a party to that action, he or she will be designated as Counsel of Record. Once designated, that attorney may not withdraw without permission of the Judge to whom said case has been assigned or the Administrative Judge if said case has not been assigned. Permission shall only be granted by journal entry for good cause shown on the motion of the moving attorney with proof of service to the client. Said motion for withdrawal shall not be granted if filed less than seven (7) days before trial to the Court or at any time after a jury demand has been filed unless a notice of substitution of counsel is filed simultaneously therewith or for good cause shown.

RULE 13.0

TRIAL COUNSEL

Only the counsel of record may appear at any scheduled Court appearance on behalf of his or her client except with permission of the Judge to whom the case has been assigned. In criminal cases, the prosecutor who was assigned to the first pre-trial conference shall conduct the jury trial and all Court appearances related thereto if a jury trial has been demanded. If said prosecutor is unavailable for good cause, the chief prosecutor shall designate a substitute prosecutor for any case affected.

RULE 14.0

CONTINUANCES

Motions for continuances shall be made by the moving party no later than seven (7) days before the scheduled Court action except for criminal arraignments or in cases of sudden illness, emergency or death in the family. All motions for continuance shall specify the reason therefore and must contain proof of service to all opposing parties or their respective counsel of record. Journal entries must accompany all such motions and a definite date and time to which the action is continued must be established therein. Consent of opposing counsel shall be noted on the journal entry or it shall be noted consent was not given.

Except for extraordinary situations involving the long-term health of a defendant, continuances for Criminal Arraignments shall not extend beyond seven (7) days.

RULE 15.0

DISCOVERY

Interrogatories, requests for production or inspection of documents and requests for admissions shall be served on other counsel or parties or City Prosecutor's office in accordance with the Ohio Civil and Criminal Rules of Procedure, but shall not be filed with the Court. Likewise, responses thereto shall not be filed with the Court. If relief is sought for failure to respond to discovery copies of the demand for discovery or portions of the documents which are in dispute shall be filed with the Court as exhibits to any motion to compel compliance with discovery so filed.

RULE 16.0

MOTIONS AND BRIEFS OF AUTHORITY

All motions in Civil and Criminal proceedings, not made in open Court, shall be submitted in writing alleging sufficient facts in support of the ruling sought and supported by a memorandum of law. Citations to sections of constitutions, statutes and/or cases alone will not be deemed in compliance with this rule.

Opposing counsel may file a response to said motion within fourteen (14) days from service of the motion, but must also file a statement of facts. if alleged different from that of movant, and a memorandum of law in support of respondent's position contra. Again, citations to constitutions, statutes and/or cases alone will not be deemed in compliance with this rule.

Affidavits may be submitted by either the movant or respondent as exhibits to said motions and responses.

Unless either party requests an oral hearing or the Court determines an oral hearing should be held to determine disputed questions of the fact, the matter will be deemed to have been submitted and the Court will rule on the motion without hearing. Issues not raised shall be deemed waived. However, the Court shall not rule on a motion for Summary Judgment pursuant to Civil Rule 56 without an oral hearing being held unless both parties and/or their counsel waive such hearing in writing.

RULE 17.0

CIVIL JURY TRIAL PRE-TRIAL ORDER

In all civil cases assigned for a jury trial, counsel for all parties shall furnish to the Court a trial brief filed with the Clerk's Office at least fourteen (14) days before the scheduled trial date containing the following:

1. A summary of the factual issues to be decided;
2. The applicable law of the case complete with citations of statutes and cases;
3. A list of all lay witnesses to be called;
4. A list of all expert witnesses to be called along with each person's qualifications as an expert witness and a brief summary of their testimony;
5. A list of all exhibits to be offered as proof;
6. A complete set of instructions to be given to the jury.

Said briefs are not to be exchanged with opposing counsel nor shall they become part of the case file. They are solely for the use of the Judge to afford him reasonable time to prepare the charge to the jury. The filing of these trial briefs through the Clerk's office is merely designed to provide proof of compliance with this rule.

RULE 18.0

CIVIL BENCH TRIAL PRE-TRIAL ORDER

In all civil cases assigned for a bench trial (other than those cases based on "accounts") counsel for all parties shall furnish to the Court a trial brief filed with the Clerk's Office at least seven (7) days before the scheduled trial date containing the following:

1. A summary of the factual issue to be decided;
2. A list of all lay witnesses to be called;
3. A list of all expert witnesses to be called along with each person's qualifications as an expert witness and a brief summary of their testimony;
4. A list of all exhibits to be offered as proof.

Said briefs are not to be exchanged with opposing counsel nor shall they become part of the case file. They are solely for the use of the Judge to afford reasonable time to prepare any necessary legal research. The filing of these trial briefs through the Clerk's office is merely designed to provide proof of compliance with this rule.

RULE 19.0

CRIMINAL PRE-TRIALS

In all criminal cases where a pre-trial conference has been scheduled, it shall be held in the jury room of the assigned Judge unless otherwise directed by that Judge. Required to be present are the prosecutor, complaining witness (except as noted below), defendant and defendant's attorney if retained or appointed. Permission may be granted only by the assigned Judge allowing the defendant's or complaining witness absence. The presence of any other person at said pre-trial conference is discretionary with the parties and notification to appear is the responsibility of the party seeking such appearance.

Pre-trial conferences shall be conducted pursuant to the following criteria:

1. Only one pre-trial conference shall be conducted in the conference room at a time. Parties and attorneys whose pre-trials are also scheduled but at a later time shall wait in the Courtroom or lobby;
2. All relevant police reports, medical examination reports, witness statement and any records concerning the alleged incident in question and the prior record of the defendant shall be made available to the defendant and/or defendant's attorney at this time;
3. At the conclusion of the pre-trial conference, the prosecutor and attorney for the defendant, if represented, shall report the results of the pre-trial conference to the Judge's Deputy Bailiff and what future action is to be taken on the case.
4. If the pre-trial conference has resulted in a resolution of the case whereby the defendant will enter a plea of guilty or no contest to the original or an amended charge, but said plea is not to be entered that day, a "plea negotiation" form must be fully completed, signed by all parties and filed with the Court. Absent the filing of such form, the Court will further assign the case for trial.

Due to the budgetary constraints of all political subdivisions of Allen County and the State of Ohio, where the complaining witness is a law enforcement officer, they are excused from attending pre-trial conferences. However, they must submit reports to the prosecutor sufficient to conduct a meaningful pre-trial in compliance with all other criteria set forth in this rule.

RULE 20.0

PRAECIPES FOR WITNESSES

All praecipes for the issuance of subpoenas of witnesses must be filed with the Court not later than five (5) days before trial. Unless for good cause shown, failure of service of such subpoenas where praecipe were not filed in accordance with this rule shall not be considered as grounds for a continuance.

It is the duty of the summoning attorney to notify the subpoenaed witness of any continuances granted. Witnesses appearing because of the failure of the summoning attorney to notify them not to appear shall be paid by the Court for their appearance with such costs assessed to the party whose attorney failed to give them notice not to appear.

RULE 21.0

JURORS

Whereas the Judges of the Lima Municipal Court wish to promulgate rules for the fair and efficient operation of the Court, the following rule is hereby adopted:

All jurors to be used in Lima Municipal Court shall be selected from a list of eligible jurors furnished the Lima Municipal Court by the Jury Commissioners of the Common Pleas Court of Allen County, Ohio. Unless otherwise requested, the Jury Commissioners aforementioned shall provide a venire of eight hundred (800) names every four (4) months to the Lima Municipal Court. That venire shall be notified by the Bailiff of the Lima Municipal Court or a duly appointed Deputy Bailiff that they have been selected for jury duty in the Lima Municipal Court with certification of completion of that notification returned to the Sheriff of Allen County, Ohio.

The names of all jurors chosen as provided above shall be entered into the jury wheel or computer. When a jury trial has been demanded, a deputy bailiff shall draw from the jury wheel or the computer shall be programmed to randomly select twenty-five (25) names unless directed by the Judge to draw or select more.

The Bailiff or deputy bailiff shall summon the persons so chosen forthwith. He or she shall endorse the names of the jurors and the time and manner of the service on the jury venire which must be returned to the Clerk of Lima Municipal Court forthwith. Service on jurors may be made by reading the summons to the person named; by leaving the summons at the person's usual place of residence; or by mailing the summons to the person's last known address.

No person shall be summoned as a juror twice during the period of selection until all prospective jurors have been summoned once. If a prospective juror is actually impaneled as a juror in a case, that person's name shall be removed from the jury wheel or computer and not re-entered until the remaining venire list drops to fifty (50) eligible jurors.

RULE 22.0

JURY WAIVER

When a jury trial has been demanded in a criminal case, said demand may only be waived in writing by the defendant. Unless such a waiver is received within seven (7) days prior to the scheduled trial date, costs associated with such jury demand shall be assessed to the defendant.

When a jury trial has been demanded in a civil case, said demand may only be waived in writing by both parties or their legal counsel. Unless that waiver of jury is received within seven (7) days prior to the scheduled trial date, cost associated with such jury demand shall be assessed to the party demanding such jury trial, unless it can be shown that the failure to timely file such a waiver was the fault of the opposing party.

RULE 23.0

DEBTOR'S EXAMINATION

The Clerk of the Lima Municipal Court shall accept motions for Debtor's Examination for filing only when accompanied by an affidavit signed by the judgment debtor or a duly authorized officer if the judgment debtor is a corporation, setting forth that the judgment debtor has authorized counsel to proceed with said Debtor's Examination.

Debtor's Examinations of the same judgment debtor by the same judgment creditor will be granted by the Court only once each ninety (90) days except where good cause is shown that an earlier examination is needed to protect the judgment creditor's rights.

RULE 24.0

PRAECIPE FOR WRITS OF EXECUTION

Praecipe for all writs directed to the Bailiff for execution shall specifically describe the property to be seized. Such description shall include models and serial numbers, if known or reasonably attainable by the judgment creditor.

RULE 25.0

TRUSTEESHIP

Trusteeships established pursuant to Ohio Revised Code 2329.70 shall be subject to the following rules:

1. No payment will be accepted from a debtor without a current payroll check stub or payroll statement of earnings;
2. Debtor's payments must be made in cash, with bank drafts or by money order;
3. Debtors with active trusteeships must immediately notify the clerk of any change in work status or personal address;
4. Debtor's must make a minimum payment of $5.00 from each check received regardless of length of time worked;
5. Interest must be paid outside of trusteeship on any interest-bearing account listed;
6. The only creditor which may be added to existing trusteeship accounts shall be those which were past due and owed by the debtor at the time of filing the trusteeship but were not included due to mistake, and any medical bills acquired by the debtor before or after the filing of trusteeship;
7. A trusteeship account will be automatically terminated if there has been no payment received or no change of work status reported within 30 days of the last recorded payment. The trustee clerk shall, after such termination, distribute all moneys held and notify all creditors of such termination.

RULE 26.0

TRANSFER FROM SMALL CLAIMS DOCKET

Except for good cause shown, no case shall be transferred from the Small Claims Docket to the Regular Docket of the Lima Municipal Court except on a motion by the moving party filed at least five (5) days prior to the scheduled trial date and entry signed by the Magistrate and Judge of the Court. Such motions shall set forth an affirmative defense as listed in Ohio Civil Rule 8C and shall contain an affidavit stating facts consistent with the affirmative defense alleged. Failure to timely file such motion or to attach such affidavit of fact shall be grounds alone for denial of the motion. Motions properly filed shall be granted only for good cause shown.

RULE 27.0

SMALL CLAIMS PROCEDURE - ATTORNEYS

Attorneys may appear with clients in Small Claims Court but may not directly examine their client or cross-examine the opposing party. At the conclusion of each party's presentation and any questioning by the Court, the attorney may make a statement on behalf of his or her client concerning the evidence presented and/or the law to be applied to the case.

RULE 28.0

CASEFLOW MANAGEMENT PLAN

There is hereby established the following caseflow management plan for criminal and traffic cases and civil cases filed in the Lima Municipal Court.

It is the desire of the Lima Municipal Court to provide judicial leadership in the effective control of caseflow through the Lima Municipal Court. The Court desires cases to be decided diligently, not too deliberate or too hasty.

It is therefore incumbent that the Court adopt this rule and enforce its procedural requirements and time deadlines. Counsel or parties where unrepresented by counsel, in each case have a corresponding duty to know these rules and meet these deadlines. They are, also, to inform the Court of extraordinary circumstances which would cause the standard deadlines to work a substantive injustice to their clients or themselves.

CRIMINAL AND TRAFFIC CASES

The following criminal case calendars are hereby established:

A. Arraignment Calendar

B. Felony Preliminary Hearing Calendar

C. Pre-trial Calendar

D. Motion Calendar

E. Trial Calendar

In this caseflow management plan, where a defendant has multiple charges filed under one case number, the case shall be deemed controlled by the charge of greatest severity (ie: the highest degree misdemeanor).

On the first Friday of each month following implementation of this plan, the Clerk of Court shall prepare a list of all pending cases and the Calendar wherein each are listed on the last day of the preceding month and the total length of time each case has been pending since date of arrest or service of summons. This list shall be submitted to the Judge or Magistrate to whom the case has been assigned. Further, the Clerk of Court shall submit a master list of all pending cases so broken down to the Administrative Judge. Cases falling outside the guidelines established by this rule shall be ordered by the Trial Judge or Administrative Judge advanced on the calendar and assigned for action within fourteen (14) days.

A. ARRAIGNMENT CALENDAR

For any traffic ticket issued, the citing agency shall cite the offender to appear for arraignment within eight (8) Court days excluding the date of issuance if the defendant is released to appear on the citation. If the defendant is held for bond, the arraignment shall be scheduled for the next Court day.

For any criminal complaint where an arrest has been made or summons served, the defendant shall be cited to appear for arraignment at the next Court session unless the defendant is released on an unsecured appearance bond wherein arraignment shall be scheduled within three (3) Court days excluding date of arrest or service of summons.

All traffic tickets issued or summons on criminal complaints served shall be returned to the Clerk of Court within twenty-four (24) hours of service unless the Court is closed during that period in which case, the return to the Clerk of Court's office shall be made on the next day the Court is open.

On filing, the Clerk of Court shall place the case on the Arraignment Calendar. On Tuesday, Wednesday, Thursday, and Friday by 8:30a.m., the traffic arraignment calendar for that day shall be given the Judge or Magistrate scheduled to preside over criminal arraignments.

Minor misdemeanor traffic arraignments shall be held on Tuesday and Thursday at 8:30a.m. before the Magistrate unless otherwise ordered by the Administrative Judge of the Lima Municipal Court. Arraignments for first through fourth degree traffic offenses shall be held on Wednesday and Friday at 8:30a.m.

Continuances of the arraignment date may only be granted by the arraignment Judge or Magistrate for good cause shown and the time limits of O.R.C. 2945.71 shall be extended by the length of the continuance. Once the arraignment has been held, the clerk shall remove the case from the arraignment Calendar.

Criminal & Traffic Calendars

B. FELONY PRELIMINARY HEARING CALENDAR

Following initial appearance at the Criminal Arraignment session, the Clerk of Court shall transfer all felony cases heard to the Felony Preliminary Hearing Calendar. The Assignment Commissioner shall assign all such cases for Preliminary Hearing within ten (10) consecutive days following arrest or service of summons. Continuances shall only be granted for good cause shown by the Judge or Magistrate presiding over that preliminary hearing and shall extend the time limits of Criminal Rule 5(B) by the period of the continuance.

Once the Preliminary Hearing has been held, the Clerk of Court shall remove the case from the Felony Preliminary Hearing Calendar without regard to its outcome.

Criminal & Traffic Calendars

C. PRE-TRIAL CALENDAR

Following a plea of "Not Guilty" at the Arraignment session, the Clerk of Court shall transfer all traffic and criminal cases designated as first or second degree misdemeanors to the Pre-trial Calendar. The Assignment Commissioner shall then assign said cases for pre-trial within forty (40) days from the date of arrest or issuance of summons. For any period of time the defendant is incarcerated on the charge, three (3) days shall be counted for each day incarcerated in computing time.

Following the pre-trial conference, the Judge shall prepare a pre-trial entry directing the Assignment Commissioner to further assign all cases not terminated. Those cases not terminated shall be assigned for trial within the time prescribed by O.R.C. 2945.71, unless time is waived by the defendant in writing and the case is directed to be set for a change of plea or another pre-trial. Multiple pre-trials are to be avoided, however, if directed, the Assignment Commissioner shall assign the next pre-trial no later than forty (40) days after the first pre-trial conference. All cases terminated at a pre-trial shall be removed from the Pre-trial Calendar.

Continuance of the pre-trial date may only be granted by the Trial Judge or Magistrate for good cause shown and the time limits of O.R.C. 2945.71 shall be extended by the length of the continuance.

Criminal & Traffic Calendars

D. MOTION CALENDAR

On the filing of any motion other than one for continuance the Clerk shall transfer the case from that calendar where found to the motion Calendar. The Assignment Commissioner shall then assign the case for a Motion Hearing within thirty (30) days from the filing of the motion.

Continuances of motion hearing dates may only be granted by the trial Judge. The time limits of O.R.C. 2945.71 shall be extended by the period of time which the case is on the Motion Calendar.

Following the issuance of the ruling on the motion, provided the case is not dismissed pursuant to that ruling, the trial Judge shall direct the Clerk of Court to transfer the case from the Motion Calendar to the Trial Calendar or the Pre-trial Calendar. The Assignment Commissioner shall then assign the case as directed within the time frames established by this rule and O.R.C. 2945.71.

Criminal & Traffic Calendars

E. TRIAL CALENDAR

Following a plea of "Not Guilty" at any arraignment session, the Clerk of Court shall transfer all traffic and criminal cases designated as minor misdemeanor or third or fourth degree misdemeanors to the Trial Calendar. By this rule and yearly Order of Reference, all minor misdemeanors shall be assigned for a trial within thirty (30) days before the Lima Municipal Court Magistrate.

The Assignment Commissioners shall assign all criminal and traffic misdemeanor cases of the third and fourth degree for trial not later than forty (40) days following arrest or service of summons. The Assignment Commissioner shall assign all criminal and traffic misdemeanor cases of the first and second degree for trial not later than eighty-five (85) days from date of arrest or service of summons.

All cases where a jury has been demanded or required pursuant to law shall be assigned on Thursday, unless otherwise directed by the Trial Judge.

Those cases for which the time limits of O.R.C. 2945.71 have not been waived in writing by the defendant shall be advanced on the Trial Calendar and be given scheduling priority over those cases where those time limits have been so waived. However, those cases where the time limitations of O.R.C. 2945.71 have been waived in writing by the defendant shall be assigned for trial in a timely and reasonable manner and no later than sixty (60) days following arrest or service of summons on minor misdemeanors traffic or criminal cases; ninety (90) days following arrest or service of summons on third or forth degree traffic or criminal cases; and, one hundred eighty (180) days following arrest or service of summons on first or second degree traffic or criminal cases.

Continuances of trial dates may only be granted for good cause shown by the Trial Judge or Magistrate to whom the case has been referred. All requests for a continuance must be made in writing and no continuance of trial date shall be granted without the written approval of opposing counsel or the defendant if unrepresented by the counsel, and a new trial date stated in the entry. The time limits of O.R.C. 2945.71 shall be extended by the length of such continuance.

Criminal & Traffic Calendars

CIVIL CASES

It is the desire of the Lima Municipal Court to provide judicial leadership in the effective control of caseflow through the Lima Municipal Court. The Court desires cases to be decided daily, not too deliberate or too hasty.

It is therefore incumbent that the Court adopt this rule and enforce its procedural requirements and time deadlines. Parties who are either unrepresented by counsel, in each case have a corresponding duty to know these rules and meet these deadlines. They are, also, to inform the Court of extraordinary circumstances which would cause the standard deadlines to work a substantive injustice to their clients or themselves.

CIVIL CASES CALENDAR

The following civil case calendar is hereby established:

A. Service Calendar

B. Pre-trial Calendar

C. Motion Calendar

D. Trial Calendar

These calendars are to be kept by the Clerk of Court and from date of filing all pending cases shall be found on but one of them.

A. SERVICE CALENDAR

On the filing of any case, the Clerk of Court shall determine the predominant category of the complaint, assign it to the appropriate case designator and number and place the case on the service calendar. Within five (5) Court days, the Clerk of Court shall send service of summons to all named defendants by certified mail unless otherwise directed by the Plaintiff to alternate service of process.

On those cases where a notice of failure of service of process is received by the Clerk of Court, notice shall be sent to the attorney for plaintiff or to the Plaintiff, if unrepresented by an attorney, within three (3) days informing them that service has not been obtained and directing them to file an alias service of summons within twenty-eight (28) days or the case will be dismissed without prejudice. If said alias service of summons is filed, the same procedure shall be followed by the Clerk of Court to obtain service. If no alias service of summons is filed, the Clerk of Court shall send the case to the Administrative Judge who shall dismiss the case under authority of this rule without prejudice for want of prosecution.

Where service of process has been obtained, the Clerk of Court shall note the answer date of twenty-eight (28) days after such service. After such service, and no answer has been filed, a judgment by default can be filed. If an answer has been filed, it shall be lot assigned to a Judge.

Civil Calendars

B. PRE-TRIAL CALENDAR

Following the filing of an Answer by the defendant, the Clerk of Court shall transfer designated "CVE" and "CVF" cases to the Pre-trial Calendar.

The assignment commissioner shall then review the case. If the assignment commissioner finds that the case is designated as "CVF" and there has only been a general denial Answer filed, the case shall be assigned for trial not later than ninety (90) days from the Answer date and the Clerk of Court shall remove the case from the Pre-trial Calendar and place it on the Trial Calendar.

On all other cases placed on the Pre-trial Calendar, the Assignment Commissioner shall assign those cases for pre-trial conference within sixty (60) days following the Answer date.

At that pre-trial conference, all means of settlement shall be explored. If the parties reach a settlement agreement, the Court shall note such fact on the pre-trial minutes entry and direct that an entry or notice of dismissal be filed with the Clerk of Court within twenty-eight (28) days following said pre-trial conference. If no entry is filed within that period, and the Court has not been notified that the settlement of the case has been breached, the Clerk of Court shall send notice to the parties that if no further action is taken on the case within fourteen (14) days following the date of the notice, the case will be given the Trial Judge for dismissal pursuant to this rule for failure of prosecution. At the conclusion of that period, if no action is taken by either party, the Trial Judge shall dismiss the case without prejudice. If notice is received as to the fact that the settlement agreement has been breached, the Clerk of Court shall transfer the case to the Trial Calendar.

If at the pre-trial conference no settlement is reached, the Court shall direct the further activity of the case. Another pre-trial conference may be ordered and, if so, the Assignment Commissioner shall assign such pre-trial. If it is determined that a trial is necessary, a trial date shall be established by the Assignment Commissioner not later than one hundred twenty (120) days from the date of the pre-trial.

Continuances of the pre-trial conference may be granted by the Trial Judge only upon written motion submitted at least seven (7) days prior and for good cause shown.

Pre-trials by telephone or conference call with the Trial Judge may be authorized by the Trial Judge.

Some cases filed will have multiple defendants listed with service of process achieved as to some but not others. Once an Answer has been filed by one defendant, the case is to be transferred to the Pre-trial

Calendar by this rule. However, with respect of those defendants who are not served or who fail to answer, the procedure followed as set forth under the Service Calendar shall be followed.

Civil Calendars

C. MOTION CALENDAR

On the filing of any motion, save and except a motion for continuance, or a motion to extend time to file an answer, or a response to a pleading, the case on which said motion is filed shall be transferred to the Motion Calendar and immediately given to the Trial Judge to determine if an oral hearing will be required. If the Trial Judge determines the matter should have an oral hearing, the Assignment Commissioner shall assign the motion to be heard as quickly as directed by the Trial Judge but no later than thirty (30) days from the filing of the motion. If the motion is one capable of being decided without an oral hearing and no request for an oral hearing has been made, the Assignment Commissioner will send notice to the attorneys of record or the parties not represented by attorneys to submit written memorandum in respect to their support or opposition to the granting of the motion within fourteen (14) days of the date of notice with the Court.

The Court shall endeavor to decide all motions submitted by written argument or oral hearing within thirty (30) days from the time submitted. Once the motion has been decided, the Trial Judge as part of the entry shall direct the Clerk of Court to transfer the case wither to the Pre-Trial calendar or Trial Calendar.

Civil Calendars

D. TRIAL CALENDAR

Following the order of the Trial Judge, the Clerk of Court shall transfer the case from the Pre-trial Calendar or Motion Calendar to the Trial Calendar. The Assignment Commissioner shall then assign the case for trial, either before the Court or a jury, within one hundred twenty days from the pre-trial date or date when the motion was decided. If a case is to be tried before a jury, a settlement conference shall be scheduled from seven (7) days to fourteen (14) days before the trial with the Trial Judge.

All cases designated as "CVG" and "CVI" shall be heard by the Magistrate of the Lima Municipal Court. Following service of process, the Clerk of Court shall transfer those cases so designated as "CVG" shall be assigned to be heard on or within fourteen (14) days following service of process. If a second cause of action seeking money damages is filed with the "CVG" case, the Clerk of Court shall follow the same procedure as followed with cases on the Service Calendar.

Cases designated as "CVI" shall be heard by the Referee of the Lima Municipal Court. At the time of the sending of service of summons, the Clerk of Court shall transfer the case to the Trial Calendar and assign the case for trial within thirty (30) days from the date of the notice. If the case is returned for failure of service, the Clerk of Court shall resend the complaint and summons by regular United States mail and reassign the trial within thirty (30) days from the date of the notice. If there is failure of service of the alias summons, the Clerk of Court shall send notice to the Plaintiff that unless the Plaintiff files a praecipe for another alias service of summons within fourteen (14) days from the date of the notice the matter will be presented to the Administrative Judge for dismissal without prejudice for want of prosecution. After the fourteenth (14th) day, the Clerk of Court shall submit the case to the Administrative Judge for dismissal pursuant to this rule.

On the first Friday of each month following implementation of this plan, the Clerk of Court shall prepare a list of all pending cases and the calendar wherein each were listed on the last day of the preceding month and the total length of time each case has been pending since date of arrest or service of summons. This list shall be limited by the Judge or Magistrate to whom the case has been assigned. Further, the Clerk of Court shall submit a master list of all pending cases so broken down to the Administrative Judge. Cases falling outside the guidelines established by this rule shall be ordered by the Trial Judge or the Administrative Judge advanced on the calendar and assigned for action within fourteen (14) days.

Civil Calendars