

# LOCAL RULES OF COURT

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## **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.

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**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.

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**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.

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**RULE 2.1**  
**MAGISTRATES**

The magistrates of the court are empowered to hear and decide the following types of matters:

1. actions in forcible entry and detainer;
2. applications for release of rent escrow;
3. small claims cases;
4. traffic proceedings in which a plea of guilty or no contest is entered or in which the defendant executes a written waiver of the right to trial by judge;
5. pre-seizure hearing actions in replevin other than motion for immediate seizure;
6. post-judgment motions and collections proceedings;
7. judgment debtor hearings and third-party claims;
8. license suspension hearings and requests for occupational driving privileges;
9. license forfeitures, registration blocks, and warrants;
10. financial ability hearings;
11. designated enforcements of sentence;
12. specialized dockets;
13. orders relative to bankruptcy proceedings;
14. case status reviews under the Rules of Superintendence for the Courts of Ohio;
15. default hearings, including damages;
16. bond forfeiture hearings; and,
17. any other cause properly referred under the Ohio Civil, Criminal, or Traffic Rules of Procedure, or the Rules of Superintendence for the Courts of Ohio.

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## **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.

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## **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.

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## **RULE 4.1**

### **USE OF ELECTRONICALLY PRODUCED TICKETS / CITATIONS**

The use and filing of a ticket/citation that is produced by computer or other electronic means is hereby authorized in the Lima Municipal Court.

The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the Defendant with a paper copy of the ticket.

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## **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.

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## **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.

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## **RULE 7.0**

### **CRIMINAL / TRAFFIC E-MAIL OF ASSIGNMENT NOTICE**

The e-mail address provided by the attorney to the Lima Municipal Court shall be considered Notice for all purposes including pre-trials, motion hearings, trials and pleas. The attorney shall be held accountable for appearances accordingly. It is the sole responsibility of attorney to provide any change of e-mail address for which assignment notices are sent.

Any change of attorney address or email must be submitted in writing to the Court Administrator at Lima Municipal Court, 109 N. Union Street, Lima, Ohio 45801.

In addition, any filings with this Court must have counsel's current contact information reflected on all documents.

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## **RULE 8.0**

### **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.

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## **RULE 9.0**

### **FAX FILING**

The provisions of this local rule are adopted under Civ.R.5.(E), Civ.R.73(J), and, Crim.R.12(B).

Pleadings, motions and other documents other than the original complaint may be filed with the Clerk of Court by facsimile transmission to (Traffic/Criminal 419-998-5526) and (Civil 419-998-5517) subject to the following conditions:

#### **APPLICABILITY**

1. These rules apply to Civil, Traffic, and Criminal proceedings in the Lima Municipal Court.
2. These rules do not apply to Small Claims. In these proceedings, no facsimile transmission of documents will be accepted.
3. Original criminal and civil documents requiring a filing fee or cost will not be accepted for fax filing.

#### **ORIGINAL FILING**

1. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any original document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the Court the original document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing. **FAX FILINGS MAY NOT BE SENT DIRECTLY TO THE JUDGE OR BAILIFF FOR FILING.**
2. The original document filed by fax and confirmation of a successful facsimile shall be maintained by the person making the filing until the case is closed and all opportunities for appeal have been exhausted.

## **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

1. A “facsimile transmission” means the transmission of an original document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the original document at the receiving end.
2. A “facsimile machine” means a machine that can send and receive a facsimile transmission.
3. “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

## **COVER PAGE**

1. The person filing a document by fax shall also provide therewith a cover page containing the following information: [See sample cover page form.]
  - a. the name of the Court;
  - b. the caption of the case;
  - c. the case number;
  - d. the assigned judge;
  - e. the title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint, Plaintiff Smith's Response to Defendant's Motion to Dismiss, Plaintiff Smith's Notice of filing Exhibit "G" with Plaintiff Smith's Response to Defendant's Motion to Dismiss);
  - f. the date of transmission;
  - g. the transmitting fax number;
  - h. an indication of the number of pages included in the transmission, including the cover page;
  - i. if a judge or case number has not been assigned, state that fact on the cover page;
  - j. the name, firm, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available;
  - k. Next Court date (if applicable);
2. The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. The burden of confirming the receipt of a completed facsimile transmission is on the sending party.

## **SIGNATURE**

1. A party who wishes to file a signed original document by fax shall either:
  - a. fax a copy of the signed original document; or
  - b. fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed original document.
2. A party who filed a signed document by fax represents that the physically signed original document is in his/her possession or control.

## **EXHIBITS**

1. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the Court, as a separate document, not later than three (3) business days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the Court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" with Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court. [See appendix for sample exhibit cover sheet.]

## **TIME OF FILING**

1. Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be filed with the Clerk of Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the Court is regularly open for business.
2. Fax filing may NOT be sent directly to the Court for filing, but may only be transmitted directly through the facsimile equipment operated by the Clerk of Court.
3. The risks of transmitting a document by fax to the Clerk of Court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available, including checking the Court's website.

## **FEES AND COSTS**

1. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing. Documents tendered to the Clerk without payment of Court cost and fees or which do not conform to applicable rules will not be filed.
2. No additional fee shall be assessed for facsimile filings.

## **LENGTH OF DOCUMENT**

1. Facsimile filings shall not exceed 25 pages in length. The filer shall not transmit service copies by facsimile.

## **EFFECTIVE DATE**

1. These local rules shall be effective and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the Court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

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FACSIMILE FILING COVER PAGE  
LIMA MUNICIPAL COURT  
FAX NUMBERS:  
TRAFFIC/CRIMINAL (419) 998-5526  
CIVIL (419) 998-5517

**SENDING PARTY INFORMATION:**

NAME: \_\_\_\_\_

SUPREME COURT REGISTRATION NO. (If applicable): \_\_\_\_\_

OFFICE /FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_

E-MAIL ADDRESS (if available) \_\_\_\_\_

**CASE INFORMATION:**

CAPTION OF THE CASE: \_\_\_\_\_

CASE NUMBER\*: \_\_\_\_\_ JUDGE\*: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

\_\_\_\_\_  
COURT DATE (if applicable): \_\_\_\_\_

**FILING INFORMATION:**

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (INCLUDING THIS PAGE): \_\_\_\_\_

\*If the Judge or case number has not been assigned, please state that fact in the space provided.

## **RULE 9.1**

### **FILING BY ELECTRONIC TRANSMISSION CRIMINAL AND TRAFFIC CASES (eFiling)**

**APPLICABILITY:** Pleadings, motions, and other documents may be filed with the Clerk of Court by electronic filing in criminal and traffic cases, pursuant to Crim. R. 12(B)

#### **(A) DEFINITIONS**

- (1) Original document: the electronic document received by the Court from the filer.
- (2) PDF: Portable Document Format – documents saved as this type have the [.pdf] extension.
- (3) Source Document: the document created and maintained by the filer which is then electronically transmitted to the Court.
- (4) Submission: a document or other data sent via the internet as a court filing.
- (5) Effective Date and Time of Filing of a Document: means the date and time the electronic filing was time stamped by the Clerk of Courts.
- (6) Electronic Filing: the process of transmitting a digitized source document electronically via the Internet to the Clerk's Office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted. Electronic filing does not include filings via a facsimile machine.
- (7) Electronic Mail (email): Messages sent by a user and received by another through an electronic service system utilizing the public Internet.

#### **(B) ELECTRONIC FILING POLICY**

- (1) Applicability: In conformity with Ohio Revised Code and Criminal Rule 12(B) pleadings, motions and other documents may be filed with the Clerk of Courts electronically via the Internet, subject to the provisions in this rule.
- (2) Application of Rules and Orders: Unless otherwise modified by approved stipulation or Court order, all Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the Court shall continue to apply to all documents electronically filed.
- (3) Accepted Filings:
  - (a) All electronically filed documents must be signed by an attorney admitted to practice in the State of Ohio or, by a party not represented by an attorney.
  - (b) Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.

(c) If it is established that the documents were transmitted without authority, upon motion, the court shall order the document stricken.

(d) No attorney shall authorize any person to electronically file on that attorney's behalf, other than his or her employee or a service provider retained to assist in electronic filing.

(e) All electronically submitted documents shall be filed as attachments to the Lima Municipal Court e-filing system. A link to this system is provided on the Lima Municipal Court website.

(4) Hours of Operation:

(a) The Clerk shall receive electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's Office is actually open. To be file stamped on the date of transmission, the document must be received by 4:00 pm. Documents received after 4:00 pm or at times when the Clerk's office is closed shall be file stamped the next business day.

(b) A document will be deemed filed when time stamped by the Clerk. Time at the Court (Eastern) governs, rather than the time zone from which the filing is made. Accordingly, all electronic submissions should be made in adequate time to permit processing in the event of a deadline.

(c) All electronically filed documents shall receive a confirmation e-mail to the e-mail address supplied by the filer.

(5) Document Format: Documents must be submitted in PDF format

(6) Fees:

(a) The Clerk of Court shall assess normal filing fees and case deposits will be collected via user credit card at the time the filing is processed or by cash or check deposit at the Clerk of Courts office. Pursuant to §301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Courts. Any document filed without an appropriate filing fee may be stricken. A document requiring a filing fee will not be considered filed until the requisite filing fee has been paid.

(b) A charge of \$0.25 per page for the production of paper copies of electronically filed documents needed for service, the Court Index, for a judge and/or for the case jacket shall be assessed.

(7) Filing Acceptance or Rejection Cycle:

(a) Upon successful processing of the filing by the Clerk of Courts, an electronic mail message will be sent to the filer when the entire document is received by the Clerk of Courts.

(b) Filers will be notified if the filing is rejected for any reason.

(c) Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with, or accepted by, the Clerk of Courts as a result.

(8) Disposition and Maintenance of Source Documents:

(a) A document electronically filed shall be accepted as the original filing, consistent with Ohio Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Rule.

(b) The person filing electronically need not file a hard copy with the Clerk of Courts but must maintain in his or her records, and have available for production upon request by the Court, the Clerk of Courts or other counsel, the source document of any document electronically filed.

(c) The filer must maintain this source document until the final disposition of the case and through any Notice of Appeal, or, if appealed, appeal period.

(9) Public Method of Access to Electronically Filed Public Documents:

(a) Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper

(b) If, however, a document or case record is sealed or expunged, filed under seal, or is otherwise not subject to public viewing, it is unavailable for public disclosure.

(10) Service of Documents:

(a) Documents filed electronically with the Clerk of Courts shall be served in accordance with Ohio Criminal Rule 49.

(b) Once a party has entered an appearance in the case, the party shall furnish their email address, and service thereafter shall be electronically, where possible.

(11) Attachments and Exhibits: Attachments and exhibits to any electronically submitted document shall be filed electronically.

(12) Orders (Journal Entries):

(a) A moving party, at the time of filing a motion, shall submit with that motion a proposed journal entry granting the motion and setting forth the requested relief.

(b) The motion shall be docketed prior to submitting the proposed journal entry to the judge, and the proposed journal entry shall contain, by reference, the case number of the case.

(13) Technical Failures:

(a) The Clerk of Court's Office may deem the Internet web site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently on that day. Known system outages will be posted on the website, if possible.

(b) A filer who cannot file a document electronically due to any problem of any nature must file a hard copy of the document with the Clerk of Courts.

(c) A filing party whose filing is made untimely as a result of a technical failure of the Court's system or site, or as a result of the problems on the filer's end, may seek appropriate relief from the Court.

(14) Correction of Docket Entries / Documents Filed in Error:

(a) Once a document is electronically submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk of Court's Office.

(b) The System does not permit a filing party to make changes to the document(s) or docket entry once the transaction has been accepted.

(c) If a document has been filed in error, the filing party should not attempt to re-file the document.

(d) As soon as possible, after the error has been discovered, the filing party should contact the Clerk of Court's Office with the case number and document number for which the correction is being requested.

(e) If appropriate, the Court will make an entry indicating that the document was filed in error and the filing party will be advised if the document needs to be re-filed.

(g) As soon as practicable, the Clerk of Court shall notify the filer of the error and inform the filer if the document needs to be re-filed.

(h) The Clerk will not delete the relevant docket text, but will annotate the docket to show the deletion, the reason for the deletion and that the filer has been so notified.

(C) NONCONFORMANCE RULE

The Clerk of Court reserves the right to deny any party, firm, or agency the use of eFiling due to habitual nonconformance of these rules and/or equipment incompatibility issues that are not corrected.

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## **RULE 10.0**

### **TRANSCRIPTION OF EVIDENCE**

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.

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## **RULE 11.0**

### **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.

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## **RULE 12.0**

### **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.

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## **RULE 13.0**

## **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.

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## **RULE 14.0**

### **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.

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## **LOCAL RULE 14.1**

### **Appointed Counsel**

#### **A. Appointments and Qualifications:**

Appointment of either the Public Defender's Office or a private attorney shall be made by the Court. When the Public Defender's Office cannot represent a particular defendant due to a conflict of interest, the Court will appoint a private attorney. The Court maintains a list of private attorneys who wish to serve on the appointed counsel list.

The Court will conduct a periodic review to ensure an equitable distribution of appointments among attorneys on the list and utilize a rotary system from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the attorney to be appointed.

The qualifications of appointed counsel shall conform to Ohio Admin. Code 120-1-10.

#### **B. Process for Inclusion on Appointed Counsel List:**

Attorneys who desire to be on the appointed counsel list shall complete the Application for Appointed Counsel Program attached to this rule and otherwise available online at [www.limamunicipalcourt.org](http://www.limamunicipalcourt.org) or the Clerk of Court's Office. The form shall be submitted to the Court Administrator. Attorneys desiring to be removed from the appointed counsel list shall notify the Court Administrator in writing. Attorneys on the appointed counsel list are required to notify the Court of any changes in contact information or attorney status.

#### **C. Affidavit of Indigency:**

Appointed counsel shall obtain from each alleged indigent defendant an affidavit of indigency setting forth the facts in support. Ohio Public Defender form OPD-206R shall be utilized.

#### **D. Compensation and Expenses:**

All requests for compensation for payment shall be made by accurately completing the prescribed Ohio Public Defender forms and submitting them to the Court within 30 days after withdrawal by counsel or termination of the case, whichever is sooner.

The rate of compensation shall be commensurate with the applicable Ohio Public Defender Guidelines.

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## **RULE 15.0**

### **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.

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## **RULE 16.0**

### **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.

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## **RULE 17.0**

### **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.

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## **RULE 18.0**

### **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.

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## **RULE 19.0**

### **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.

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## **RULE 20.0**

### **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.

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## **RULE 21.0**

### **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.

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## **RULE 22.0**

### **PRAECIPES FOR WITNESSES**

All praecipis 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.

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## **RULE 23.0**

### **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.

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## **RULE 24.0**

### **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.

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## **RULE 25.0**

### **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.

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## **RULE 26.0**

### **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

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## **RULE 27.0**

### **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.

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## **RULE 28.0**

### **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.

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## **RULE 29.0**

### **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.

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**RULE 30.0**

**MANUFACTURED HOME EVICTION**

## DISPOSITION OF MANUFACTURED HOME FOLLOWING EVICTION JUDGMENT

### Checklist

#### Home is worth less than three thousand dollars (\$3,000.00)

- Park operator must obtain an eviction judgment, even if the home is unoccupied;
- Park operator must conduct a title search of title to the mobile home. If a lienholder is listed, the lienholder must be sent a Fourteen (14) Day Notice that title transfer proceedings have commenced in order to collect their collateral or make arrangements for the home;
- Park Operator must present a **Writ of Execution to the Magistrate/Judge** with the following documents attached:
  - an affidavit attesting that the mobile home is less than \$3,000.00 in value.
  - a copy of the Fourteen Day Notice to Lienholder
  - a copy of the eviction judgment.

Once the Writ is signed by the court, BMV can make the title transfer. (The County Auditor also has certain, separate requirements related to taxes transfers.)

#### Homes is worth in excess of three thousand dollars, (\$3,000.00)

##### Public Sale Required (R.C. 1923.12 & R.C. 1923.14)

- Park operator must obtain an eviction judgment, even if the home is unoccupied;
- Park operator must conduct a title search of title to the mobile home. If a lienholder is listed, the lienholder must be sent a Fourteen (14) Day Notice that title transfer proceedings have commenced in order to collect their collateral or make arrangements for the home;
- Park Operator must present a **Writ of Execution to the Magistrate/Judge** with the following documents attached:
  - an affidavit attesting that the mobile home is greater than \$3,000.00 in value.
  - a copy of the Fourteen Day Notice to Lienholder
  - a copy of the eviction judgment.

## OVERVIEW OF PROCEDURES FOR PUBLIC SALE AFTER JUDGE SIGNS WRIT OF EXECUTION

1. A praecipe from the Plaintiff to the Clerk of Courts for Sale of Abandoned Mobile Home, filed with the Writ of Execution by the Plaintiff directing service to the bailiffs to conduct an appraisal of the home and to advertise the public sale;
2. Plaintiff mobile home park will submit a proposed advertisement with its residency requirements to the bailiff for placement of the home sale advertisement;
3. Plaintiff will place a deposit with the Clerk's Office for the expenses of placing the advertisement and the appraisal, with three separate checks written for \$50.00 each payable to "Court Appointed Appraiser" and the second deposit to be determined by the bailiff for advertising;
4. Plaintiff will send another notice to the last known address of the titleholder, stating that the home will be sold at public auction within sixty (60) days of the notice.
5. Bailiff will arrange for the appraisal and will place the advertisement for sale of the home;
6. Bailiff will meet a representative from the Plaintiff mobile home park no later than one (1) hour before the time of sale on the date arranged for the sale in order to inspect the interior of the home.
7. Bailiff will work with Plaintiff, prior to the sale, to removal any items that are a threat to public health and safety;
8. Plaintiff shall be present for an interior inspection of the home by the public for at least one (1) hour prior to the sale;
9. Bailiff will conduct the sale of the abandoned mobile home at the lot where it is stored or placed within Plaintiff mobile home park;
10. Proceeds from the sale shall be distributed according to statute;
11. Bailiff will submit transfer of title to the successful bidder of the home.

**Service Bailiff:**

1. Upon receipt of a praecipe from the Clerk of Courts and advertising deposit by the plaintiff, the bailiff will arrange for the appraisal of the abandoned mobile home;
2. Upon receipt of a praecipe from the Clerk of Courts, the bailiff will arrange for placement of the advertisement for sale of the home, including the requirements of the mobile home park for the permanent location of the home within the park;
3. Bailiff will set the date and time for the sale within the advertisement with notice to the Plaintiff;
4. Bailiff will meet a representative from the Plaintiff mobile home park no later than one (1) hour before the time of sale on the date arranged for the sale in order to inspect the interior of the home.
5. Bailiff will remove any illegal contraband or dangerous ordnances and distribute them to the appropriate agency.
6. Bailiff will conduct the sale of the abandoned mobile home at the lot where it is stored or placed within Plaintiff mobile home park;
7. Bailiff will determine the successful bidder with Plaintiff's agreement as to residency qualifications if the home is to remain in the park;
8. Subsequent to the sale, Bailiff will deposit sale proceeds with the Clerk of Courts;
9. Bailiff will submit transfer of title to the successful bidder of the home.

**Mobile Home Park:**

1. Plaintiff will submit to the court the Writ of Execution, attached with the eviction judgment, Notice to Lienholder and affidavit of park operator stating that the home is valued at *greater than \$3,000.00*.
2. Plaintiff will submit a praecipe to the Clerk of Courts for Sale of Abandoned Mobile Home, filed with the Writ of Execution by the Plaintiff directing service to the bailiffs to conduct an appraisal of the home and to advertise the public sale;
3. Plaintiff mobile home park will submit a proposed advertisement with its residency requirements to the bailiff for placement of the home sale advertisement;
4. Plaintiff will place a deposit with the Bailiff's Office for the expenses of placing the advertisement and the appraisal, with three separate checks written for \$75.00 each payable to "Court Appointed Appraiser" and the second deposit to be determined by the bailiff for advertising;
5. Plaintiff will send another notice to the last known address of the titleholder, stating that the home will be sold at public auction within sixty (60) days of the notice.
6. Plaintiff mobile home park will arrange to meet the bailiff no later than one (1) hour before the time of sale on the date arranged for the sale in order to inspect the interior of the home, shall be present for an interior inspection of the home by the public for at least one (1) hour prior to the sale and shall be present at the sale.
7. Plaintiff will confirm the residency requirements for a successful bidder if the home is to remain in the park at the time the sale is completed.

**R.C. 1923.13 Writ of execution.**

(A) When a judgment of restitution is entered by a court in an action under this chapter, unless the plaintiff or the plaintiff’s agent or attorney proceeds under division (B) of this section, at the request of the plaintiff or the plaintiff’s agent or attorney, that court shall issue a writ of execution on the judgment, in the following form, as near as practicable:

“The state of Ohio, ..... county: To any constable or police officer of ..... township, city, or village; or To the sheriff of ..... county; or To any authorized bailiff of the ..... (name of court):

Whereas, in a certain action for the forcible entry and detention (or the forcible detention, as the case may be), of the following described premises, to wit: ....., lately tried before this court, wherein ..... was plaintiff, and ..... was defendant, ..... judgment was rendered on the ..... day of ....., ....., that the plaintiff have restitution of those premises; and also that the plaintiff recover costs in the sum of ..... You therefore are hereby commanded to cause the defendant to be forthwith removed from those premises, and the plaintiff to have restitution of them; also, that you levy of the goods and chattels of the defendant, and make the costs previously mentioned and all accruing costs, and of this writ make legal service and due return.

Witness my hand, this ..... day of ....., ..... Judge, ..... (Name of court)”

**(B) When a judgment of restitution is entered by a court in any action under this chapter against a manufactured home park resident or the estate of a manufactured home park resident, at the request of the plaintiff or the plaintiff’s agent or attorney, that court shall issue a writ of execution on the judgment, in the following form, as near as practicable:**

“The state of Ohio, ..... county; To any constable or police officer of ..... township, city, or village; or To the sheriff of ..... county; or To any authorized bailiff of the ..... (name of court):

Whereas, in a certain action for eviction of a resident or a resident’s estate from the following described residential premises of a manufactured home park on which the following described manufactured home, mobile home, or recreational vehicle is located, to wit: ....., lately tried before this court, wherein ..... was plaintiff, and ..... was defendant, ..... judgment was rendered on the ..... day of ....., ....., that the plaintiff have restitution of the premises and also that the plaintiff recover costs in the sum of ..... You therefore are hereby authorized to cause the defendant to be removed from the residential premises, if necessary. Also, you are to levy of the goods and chattels of the defendant, and make the costs previously mentioned and all accruing costs, and of this writ make legal service and due return.

Further, you are authorized to cause the manufactured home, mobile home, or recreational vehicle, and all personal property on the residential premises, to be, at your option, either (1) removed from the manufactured home park and, if necessary, moved to a storage facility of your choice, or (2) retained at their current location on the residential premises, until they are disposed of in a manner authorized by this writ or the law of this state.

If the manufactured home, mobile home, or recreational vehicle has been abandoned by the defendant and the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized to cause the sale of the home or vehicle and personal property in the home or vehicle in accordance with division (B)(3) of section 1923.14 of the Revised Code. A search of appropriate public records or other reasonably diligent inquiries reveals the following persons, whose last known addresses are listed next to their names, may continue to have an outstanding right, title, or interest in the home or vehicle: ..... In addition, the following persons, whose last known addresses are listed next to their names, may continue to have an outstanding right, title, or interest in certain personal property left in the home and listed next to their names: ..... If you are unable to sell the manufactured home, mobile home, or recreational vehicle due to a want of bidders, after it is offered for sale on two occasions, you are hereby commanded to cause the presentation of this writ to a clerk of the court of common pleas for the issuance of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(3) of section 1923.14 of the Revised Code.

If the manufactured home, mobile home, or recreational vehicle has been so abandoned and has a value of less than three thousand dollars and if the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized either to cause the sale or destruction of the home or vehicle, or to cause the presentation of this writ to a clerk of the court of common pleas for the issuance of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(4) of section 1923.14 of the Revised Code.

Upon this writ's presentation by the levying officer to a clerk of the court of common pleas under the circumstances described in either of the two preceding paragraphs and in accordance with division (B)(3) or (4) of section 1923.14 of the Revised Code, as applicable, the clerk is hereby commanded to issue a certificate of title transferring the title of the manufactured home, mobile home, or recreational vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in the manner prescribed in section 4505.10 of the Revised Code.

Witness my hand, this ..... day of ....., ....., ..... Judge, ..... (Name of court).”

Effective Date: 04-03-2003; 2007 HB56 10-18-2007

**R.C. 1923.14 Writ of execution enforced.**

(A) Except as otherwise provided in this section, within ten days after receiving a writ of execution described in division (A) or (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall execute it by restoring the plaintiff to the possession of the premises, and shall levy and collect the costs and make return, as upon other executions. If an appeal from the judgment of restitution is filed and if, following the filing of the appeal, a stay of execution is obtained and any required bond is filed with the court of common pleas, municipal court, or county court, the judge of that court immediately shall issue an order to the sheriff, police officer, constable, or bailiff commanding the delay of all further proceedings upon the execution. If the premises have been restored to the plaintiff, the sheriff, police officer, constable, or bailiff shall forthwith place the defendant in possession of them, and return the writ with the sheriff's, police officer's, constable's, or bailiff's proceedings and the costs taxed on it.

(B)(1) After a court of common pleas, municipal court, or county court issues a writ of execution described in division (B) of section 1923.13 of the Revised Code, the clerk of the court shall send by regular mail, to the last known address of the titled owner of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ and to the last known address of each other person who is listed on the writ as having any outstanding right, title, or interest in the home, vehicle, or personal property and to the auditor and treasurer of the county in which the court is located, a written notice that the home or vehicle potentially may be sold, destroyed, or have its title transferred under the circumstances described in division (B)(3) or (4) of this section.

(2) Except as otherwise provided in this division, after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, and after causing the defendant to be removed from the residential premises of the manufactured home park, if necessary, in accordance with the writ, the sheriff, police officer, constable, or bailiff may cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and all personal property on the residential premises, at the sheriff's, police officer's, constable's, or bailiff's option, either to be removed from the manufactured home park and, if necessary, moved to a storage facility of the sheriff's, police officer's, constable's, or bailiff's choice, or to be retained at their current location on the residential premises, until they are claimed by the defendant or they are disposed of in a manner authorized by division (B)(3), (4), or (6) of this section or by another section of the Revised Code. The sheriff, police officer, constable, or bailiff shall not cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, or the personal property, to be removed from the manufactured home park or moved to a storage facility if the holder of any outstanding lien, right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle, meets the conditions set forth in division (B)(6) or (7) of this section.

The sheriff, police officer, constable, or bailiff who removes the manufactured home, mobile home, or recreational vehicle, or the abandoned personal property, from the residential premises shall be immune from civil liability pursuant to section 2744.03 of the Revised Code for any damage caused to the home, vehicle, or any personal property during the removal. The park operator shall not be liable for any damage caused by the park operator's

removal of the manufactured home, mobile home, or recreational vehicle or the removal of the personal property from the residential premises, or for any damage to the home, vehicle, or personal property during the time the home, vehicle, or property remains abandoned or stored in the manufactured home park, unless the damage is the result of acts that the park operator or the park operator's agents or employees performed with malicious purpose, in bad faith, or in a wanton or reckless manner. The reasonable costs for a removal of the manufactured home, mobile home, or recreational vehicle and personal property and, as applicable, the reasonable costs for its storage shall constitute a lien upon the home or vehicle payable by the titled owner of the home or vehicle or payable pursuant to division (B)(3) of this section.

(3) Except as provided in divisions (B)(4), (5), and (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall commence proceedings for the sale of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and the abandoned personal property on the residential premises, if the home or vehicle is determined to be abandoned in accordance with the procedures for the sale of goods on execution under Chapter 2329. of the Revised Code. In addition to all notices required to be given under section 2329.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of the date, time, and place of the sale upon all persons who are listed on the writ of execution as having any outstanding right, title, or interest in the abandoned manufactured home, mobile home, or recreational vehicle and the personal property and shall provide written notice to the auditor and the treasurer of the county in which the court issuing the writ is located.

Unless the proceedings are governed by division (D) of section 1923.12 of the Revised Code, notwithstanding any statutory provision to the contrary, including, but not limited to, section 2329.66 of the Revised Code, there shall be no stay of execution or exemption from levy or sale on execution available to the titled owner of the abandoned manufactured home, mobile home, or recreational vehicle in relation to a sale under this division. Except as otherwise provided in sections 2113.031, 2117.25, and 5111.11 of the Revised Code in a case involving a deceased resident or resident's estate, the sheriff, police officer, constable, or bailiff shall distribute the proceeds from the sale of an abandoned manufactured home, mobile home, or recreational vehicle and any personal property under this division in the following manner:

(a) The sheriff, police officer, constable, or bailiff shall first pay the costs for any moving of and any storage outside the manufactured home park of the home or vehicle and any personal property pursuant to division (B)(2) of this section, the costs of the sale, including reimbursing the park operator for the deposit that the park operator paid to the clerk of court under division (C) of section 1923.12 of the Revised Code, and any unpaid court costs assessed against the defendant in the underlying action.

(b) Following the payment required by division (B)(3)(a) of this section, the sheriff, police officer, constable, or bailiff shall pay all outstanding tax liens on the home or vehicle.

(c) Following the payment required by division (B)(3)(b) of this section, the sheriff, police officer, constable, or bailiff shall pay all other outstanding security interests, liens, or encumbrances on the home or vehicle by priority of filing or other priority.

(d) Following the payment required by division (B)(3)(c) of this section, the sheriff, police officer, constable, or bailiff shall pay any outstanding monetary judgment rendered under section 1923.09 or 1923.11 of the Revised Code in favor of the plaintiff and any costs associated with retaining the home or vehicle prior to the sale at its location on the residential premises within the manufactured home park pursuant to division (B)(2) of this section.

(e) After complying with divisions (B)(3)(a) to (d) of this section, the sheriff, police officer, constable, or bailiff shall report any remaining money as unclaimed funds pursuant to Chapter 169. of the Revised Code.

Upon the return of any writ of execution for the satisfaction of which an abandoned manufactured home, mobile home, or recreational vehicle has been sold under this division, on careful examination of the proceedings of the sheriff, police officer, constable, or bailiff conducting the sale, if the court that issued the writ finds that the sale was made, in all respects, in conformity with the relevant provisions of Chapter 2329. of the Revised Code and with this division, it shall direct the clerk of the court to make an entry on the journal that the court is satisfied with the legality of the sale and the court shall direct the clerk of the court of common pleas of the county in which the writ was issued to issue a certificate of title, free and clear of all security interests, liens, and encumbrances, to the purchaser of the home or vehicle. The clerk of the court of common pleas shall issue the new certificate of title to the purchaser of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If the manufactured home, mobile home, or recreational vehicle sold under this division is located in a manufactured home park, the purchaser of the home or vehicle shall have no right to maintain the home or vehicle in the manufactured home park without the park operator's consent and the sheriff, police officer, constable, or bailiff conducting the sale shall notify all prospective purchasers of this fact prior to the commencement of the sale.

If, after it is offered for sale on two occasions under this division, the abandoned manufactured home, mobile home, or recreational vehicle cannot be sold due to a want of bidders, the sheriff, police officer, constable, or bailiff shall present the writ of execution unsatisfied to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall issue the new certificate of title transferring the title of the manufactured home, mobile home, or recreational vehicle to the plaintiff regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(4) Except as provided in division (B)(5) or (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, if the manufactured home, mobile home, or recreational vehicle is determined to be abandoned and to have a value of less than three thousand dollars, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of potential action as described in this division upon all persons who are listed on the writ as having any outstanding right, title, or interest in the home or vehicle. This notice shall be in addition to all notices required to be given under section 2329.13 of the Revised Code. Subject to the fulfillment of these notice requirements, the sheriff, police officer, constable, or bailiff shall take one of the following actions with respect to the abandoned manufactured home, mobile home, or recreational vehicle:

(a) Cause its destruction if there is no person having an outstanding right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle;

(b) Proceed with its sale under division (B)(3) of this section;

(c) If there is no person having an outstanding right, title, or interest in the home or vehicle other than the titled owner of the home or vehicle, or if there is an outstanding right, title, or interest in the home or vehicle and the lienholder consents in writing, present the writ of execution to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall issue the new certificate of title transferring the title of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(5) At any time prior to the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the titled owner of the manufactured home, mobile home, or recreational vehicle that would be the subject of the writ may remove the abandoned home or vehicle from the manufactured home park or other place of storage upon payment to the county auditor of all outstanding tax liens on the home or vehicle and, unless the owner is indigent, payment to the clerk of court of all unpaid court costs assessed against the defendant in the underlying action. After the issuance of the writ of execution, the titled owner of the home or vehicle may remove the abandoned home or vehicle from the manufactured home park or other place of storage at any time up to the day before the scheduled sale, destruction, or transfer of the home or vehicle pursuant to division (B)(3) or (4) of this section upon payment of all of the following:

(a) All costs for moving and storage of the home or vehicle pursuant to division (B)(2) of this section and all costs incurred by the sheriff, police officer, constable, or bailiff up to and including the date of the removal of the home or vehicle;

(b) All outstanding tax liens on the home or vehicle;

(c) Unless the owner is indigent, all unpaid court costs assessed against the defendant in the underlying action.

(6) At any time after the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the holder of any outstanding lien, right, title, or interest in the manufactured home, mobile home, or recreational vehicle, other than the titled owner of the home or vehicle, may stop the sheriff, police officer, constable, or bailiff from proceeding with the sale under this division by doing both of the following:

(a) Commencing a proceeding to repossess the home or vehicle pursuant to Chapters 1309. and 1317. of the Revised Code;

(b) Paying to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the issuance of the writ of execution until the time that the home or vehicle is sold pursuant to Chapters 1309. and 1317. of the Revised Code.

(7)(a) At any time prior to the day before the scheduled sale of the property pursuant to division (B) (3) of this section, the defendant may remove any personal property of the defendant from the abandoned home or vehicle or other place of storage.

(b) If personal property owned by a person other than the defendant is abandoned on the residential premises and has not previously been removed, the owner of the personal property may remove the personal property from the abandoned home or vehicle or other place of storage up to the day before the scheduled sale of the property pursuant to division (B)(3) of this section upon presentation of proof of ownership of the property that is satisfactory to the sheriff, police officer, constable, or bailiff conducting the sale.

Effective Date: 04-03-2003; 2007 HB56 10-18-2007

**POST-EVICTION NOTICE TO  
REMOVE HOME**

**NOTICE TO REMOVE MANUFACTURED/MOBILE HOME**

You are being asked to remove your manufactured home from the residential premises of the \_\_\_\_\_, a manufactured home park, in accordance with a judgment of eviction entered in Lima Municipal Court on \_\_\_\_\_, 20\_\_\_\_ against titleholder \_\_\_\_\_. If the manufactured home is not removed from the manufactured home park within fourteen (14) days from the date of delivery of this notice, the home may be sold, destroyed or its title may be transferred to the \_\_\_\_\_ pursuant to Division B of both Sections 1923.13 and 1923.14 of the Revised Code. If you are in doubt regarding your legal rights, it is recommended that you seek immediate legal assistance.

\_\_\_\_\_  
Park Operator

\_\_\_\_\_  
Date

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

)

CASE NUMBER \_\_\_\_\_

\_\_\_\_\_

PLAINTIFF

)

JUDGE: \_\_\_\_\_

F.E.D. COMPLAINT

VS.

)

MOTION FOR WRIT OF EXECUTION FOR  
ABANDONED MANUFACTURED HOME

\_\_\_\_\_

DEFENDANT

---

Plaintiff \_\_\_\_\_, a mobile home park as defined in O.R.C. 3733.01, hereby respectfully moves the Lima Municipal Court pursuant to O.R.C. 1923.12 through O.R.C. 1923.14 for a writ of execution for transfer of title for an abandoned mobile home left upon the lot subsequent to the eviction of the titleholder. All requisite notices have been completed and are submitted with the writ for the Court's execution.

A brief memorandum in support is attached hereto and incorporated herein.

Respectfully submitted,

\_\_\_\_\_

Attorney for Plaintiff

## MEMORANDUM IN SUPPORT

Plaintiff submits this motion for writ of execution after completing a search of the public records of the Allen County Auditor and the title division of the Allen County Clerk of Courts. A copy of the current title was located for \_\_\_\_\_, Defendant, who was evicted on \_\_\_\_\_ (date) but left the home prior to the eviction and the mobile home remains abandoned in Plaintiff's mobile home park \_\_\_\_\_. Without title, Plaintiff is unable to remove, sell or otherwise relocate the home or destroy it.

Therefore, pursuant to R.C. 1923.12 through R.C. 1923.14, Plaintiff requests a writ of execution to transfer title in order to meet its obligations to the Allen County Auditor pursuant to R.C. 4503.062.

Attached to this Motion are as follows:

1. Exhibit A: Copy of the eviction judgment;
2. Exhibit B: Certified Copy of the Title
3. Exhibit C: Affidavit of Park/Owner/Operator establishing value of home;
4. Exhibit D: Notice of Removal pursuant to O.R.C. 1923.12

Revised Code Section 1923.12, Ohio's Abandoned Mobile Home Law, provides as follows:

- A) If a resident or a resident's estate has been evicted from a manufactured home park pursuant to a judgment entered under section 1923.09 or 1923.11 of the Revised Code and if the resident or estate has abandoned or otherwise left unoccupied the resident's manufactured home, mobile home, or recreational vehicle on the residential premises of the manufactured home park for a period of three days following the entry of the judgment, the operator of the manufactured home park may provide to the titled owner of the home or vehicle a written notice to remove the home or vehicle from the manufactured home park within fourteen (14) days from the date of the delivery of the notice.
- B) The park operator shall deliver or cause the delivery of the notice by personal delivery to the owner or by ordinary mail sent to the last known address of the owner.
- C) Except as provided in divisions (D) and (E) of this section, if the owner of the manufactured home, mobile home, or recreational vehicle does not remove it or cause it to be removed from the manufactured home park within fourteen (14) days from the date of the delivery of the notice, the park operator may follow the procedures of division (B) of section 1923.13 and division (B) of section 1923.14 of the Revised Code to permit the removal of the home destruction, or transfer of ownership of the home or vehicle.

As Plaintiff has been unable to locate Defendant to cause the title to be transferred or the mobile home to be removed, Plaintiff has had no alternative but to file for a writ of execution pursuant to R.C. 1923.12.

Pursuant to these Revised Code sections, the Court may authorize or cause the manufactured home and all personal property of the Defendant to be, at the Court's option, either (1) removed from the manufactured home park and, if necessary, moved to a storage facility of your choice, or (2) retained at their current location on the residential premises, until they are disposed of in manner authorized by the

Writ of Restitution. Plaintiff has no storage facility available and due to its condition, the home would not bear moving from its current location.

Revised Code Section 1923.12 (A) further provides:

If the manufactured home has been so abandoned and has a value of less than three thousand dollars (\$3,000.00) and if the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized either to cause the sale or destruction of the home or to cause the presentation of this writ to the clerk of this court for the issuance of a certificate of title transferring the title of the home, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(4) of section 1923.14 of the Revised Code.

It is Plaintiff's belief and Plaintiff attests through sworn statement that the poor condition of the mobile home renders its value at less than Three Thousand Dollars (\$3,000.00) (Exhibit C).

Having met the requirements of Ohio Revised Code 1923.12 through Ohio Revised Code 1923.14, Plaintiff requests the Lima Municipal Court issue the writ of execution to permit the transfer of the title of the manufactured home, free and clear of all security interests, liens and encumbrances, in the manner prescribed by the Revised Code. The writ of execution for the Court's signature is attached as well.

Additionally, The Allen County Auditor requires of all mobile home parks the current registration of all titleholders/residents of a mobile home park pursuant to Revised Code 4503.062 in order to maintain current tax rolls. The Defendant is unable to be located, taxes are unable to be paid on the mobile home and Plaintiff's property is being detained by the Defendant with his abandonment.

Therefore, Plaintiff respectfully requests that the writ of execution transferring title be executed by this Court.

Respectfully submitted,

\_\_\_\_\_  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Plaintiff's Motion for Writ of Execution for Abandoned Manufactured Home was served via regular U.S. mail on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon the last know following address of Defendant:

\_\_\_\_\_  
\_\_\_\_\_

Address

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

\_\_\_\_\_, )  
PLAINTIFF ) CASE NUMBER \_\_\_\_\_  
 ) JUDGE: \_\_\_\_\_  
 ) F.E.D. COMPLAINT  
VS. ) **AFFIDAVIT OF MANUFACTURED**  
 ) **HOME PARK OPERATOR**  
\_\_\_\_\_, )  
DEFENDANT )

STATE OF OHIO :  
 : SS:  
COUNTY OF ALLEN :

Now comes \_\_\_\_\_ being duly cautioned and sworn states as follows:

1. I am competent to testify and have personal knowledge of all the facts set forth in this Affidavit. All facts set forth herein are true to the best of my knowledge and belief.
2. I am the Park Operator of \_\_\_\_\_.
3. The manufactured home located \_\_\_\_\_, Ohio has been abandoned for more than three (3) days from the date of Judgment for Restitution of Premises which was rendered on \_\_\_\_\_. Having served a notice to remove the home, said home remains on the premises without payment.
4. I have conducted a title search of the title to the abandoned home and the following are listed as lienholders: \_\_\_\_\_.
5. The lienholders identified above have been notified by me and given fourteen (14) days notice to collect their collateral property but have declined to remove their property from the premises in accordance with R.C. 1923.13 and 1923.14. There is no contractual agreement whereby the lienholder has permission to remain on the premises without payment to plaintiff.
6. My Good Faith Estimate value of the manufactured home, referred to above, is less than three thousand dollars (\$3,000.00).

Further Affiant sayeth naught.

\_\_\_\_\_  
Park Owner/Operator,  
Mobile Home Park

Sworn to and subscribed by me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

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

)   
CASE NUMBER \_\_\_\_\_   
JUDGE: \_\_\_\_\_

\_\_\_\_\_, )   
PLAINTIFF F.E.D. COMPLAINT

VS. ) **WRIT OF EXECUTION ON THE JUDGMENT**   
**ON ABANDONED MANUFACTURED HOME**

\_\_\_\_\_, )   
DEFENDANT )

---

**TO THE CLERK OF LIMA MUNICIPAL COURT:**

Whereas, in a certain action for the eviction of a resident or a resident's estate from the following described premises of a manufactured home park on which the above described manufactured home, is located, to wit: \_\_\_\_\_, lately tried before this court, wherein \_\_\_\_\_, Plaintiff and \_\_\_\_\_, Defendant. Judgment was rendered on \_\_\_\_\_, (see attached), that the Plaintiff has restitution of the premises. You therefore are hereby authorized to cause the Defendant to be removed from the residential premises, if necessary. Also, you are to levy the goods and chattels of the Defendant and of this Writ make legal service and due return.

Further, you are authorized to cause the manufactured home, and all personal property and vehicles of the Defendant on the residential premises, to be, at your option, either (1) removed from the manufactured home park and, if necessary, moved into a storage facility of your choice, or (2) retained at their current location on the residential premises, until they are disposed of in a manner authorized by this Writ or the law of this state.

If the manufactured home, has been abandoned by the Defendant and the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized to cause sale of the home in accordance with division (B)(3) of section 1923.14 of the Revised Code. A search of appropriate public records or other reasonable diligent inquires reveals the below persons, whose last known addresses are listed next to their names, may continue to have an outstanding right, title, or interest in the home. If you are unable to sell the manufactured home due to a want of bidders, after it is offered for sale on two (2)

occasions, you are hereby commanded to cause the presentation of this writ to the clerk of this court for the issuance of a certificate of title transferring the title of the home to the Plaintiff, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(3) of section 1923.14 of the Revised Code.

If the manufactured home has been so abandoned and has a value of less than three thousand dollars (\$3,000.00) and if the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized either to cause the sale or destruction of the home or to cause the presentation of this writ to the clerk of court for the issuance of a certificate of title transferring the title on the home, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(4) of section 1923.14 of the Revised Code.

Upon this writ's presentation to the clerk of court under the circumstances described in either of the two preceding paragraphs and in accordance with division (B) (3) or (4) of section 1923.14 of the Revised Code, as applicable, the clerk is hereby commanded to issue a certificate of title transferring the title of the manufactured home free and clear of all security interests, liens, and encumbrances, in the manner prescribed in section 4505.10 of the Revised Code.

MANUFACTURED HOME DESCRIPTION:

_____	_____	_____
Year	Manufacturer	Serial Number
NAME:	_____	
LAST KNOWN ADDRESS:	_____	
LIENHOLDER NAME/ADDRESS:	_____	
OTHER:	_____	

Witness my hand this date: \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

## **RULE 31.0**

### **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.

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## **Rule 32.0**

### **SPECIALIZED CRIMINAL DOCKET[S]**

#### **32.01 Creation of Specialized Criminal Docket[s]**

In order to coordinate and integrate treatment, education, housing, employment and other services with intensive monitoring and supervision in the context of Probation and Intervention, this Court has created the following specialized dockets:

- (a) Lima Municipal Treatment Court, which provides substance abuse and mental health treatment, education, housing, employment and other services, along with intensive monitoring and supervision in the context of Intervention, Probation supervision and Drug Court.
- (b) Lima Municipal Court Veterans' Treatment Docket, which provides U.S. Veterans substance abuse and mental health treatment, education, housing, employment, and other services, along with intensive monitoring and supervision in the content of probation supervision in coordination with the U.S. Department of Veterans Affairs Medical Center in Dayton, Ohio

## **32.02 Placement on a Specialized Criminal Docket**

(a) In order to have his/her criminal case placed on the specialized docket of the Lima Municipal Treatment Court, a criminal defendant shall either:

(1) Request, by either oral or written motion, that placement in the Lima Municipal Treatment Court be a condition of Probation.

(b) In order to have his/her criminal case placed on the specialized Veterans' Court Treatment Docket, a criminal defendant who is a U.S. Veteran shall request, by either oral or written motion, that placement in the Lima Municipal Treatment Court be a condition of Probation. Judicial officers may also make referrals.

Application for placement in the Lima Municipal Treatment Court or the Veteran' Treatment Docket shall be subject to approval by the Judge assigned to the criminal case and the Lima Municipal Court Treatment Team or Veterans' Treatment Docket Admission Review Committee, according to their respective criteria.

Before being considered for placement in the Lima Municipal Treatment Court, a criminal defendant must be assessed by a licensed, credentialed professional who shall assess the applicant's substance abuse/mental health problem and the applicant's amenability to treatment. The assessment shall be presented to the Judge assigned to the criminal case BEFORE a referral is made to the Lima Municipal Treatment Court.

In any event, application for placement in the Lima Municipal Treatment Court or the Veterans' Treatment Docket shall be subject to approval by the judge assigned to the criminal case and the Lima Municipal Court Treatment Team or Veterans' Treatment Docket Admissions Review Committee, respectively, according to their criteria.

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## **Rule 33.0**

### **VIDEO ARRAIGNMENTS**

At the Judge or Magistrate's discretion, the court may conduct arraignments, initial appearances, bond hearings and other matters by the use of a video imaging connection between the Lima Municipal Court and the Allen County Jail. Counsel may be present by joining their client at the county jail. All video proceedings shall be interactive with two-way visual and audio communications. Accommodations shall be made for counsel to have private communication with their client.

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## **RULE 33.1**

### **BOND HEARING/POSSIBLE PLEA CHANGE**

The Lima Police Department and Allen County Sheriff's Office will compile a daily list of all individuals recently arrested and held in custody on Failure to Appear Warrants, Complaint Warrants; and Second Bond hearings (Rule 46(H) of the Ohio Rules of Criminal Procedure). The list will be distributed to the Court, Clerk of Court, Lima City Prosecutor's Office and Public Defender's Office. If a Private Attorney is representing an individual, the Judge's deputy bailiff will immediately notify said counsel of the bond hearing. A teleconference may be scheduled if defense counsel's schedule does not permit an appearance.

No modification of bond hearing or change of plea will be held if the Defendant's counsel is not available personally or telephonically.

Bond hearings will be conducted by video every week on Monday, Wednesday and Friday at 10:30 a.m. *These times and days may change as designated by the Presiding Judge.*

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## **Rule 34.0**

### **LOCAL FORMS**

The Court may adopt local forms substantially similar to the forms promulgated by the Supreme Court of Ohio for use in its civil and criminal divisions. The local forms shall be contained in [Appendix “A”](#) of these local rules and may be amended by the Court as necessary.

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## 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.

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## **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 to the Judge or Magistrate scheduled to preside over traffic arraignments.

Minor misdemeanor and unspecified traffic arraignments shall be held on Tuesday and Thursday at 9:00a.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 9:00a.m.

Video arraignments shall be held before the Judge on Monday, Tuesday, Wednesday and Friday at 1:30p.m. and Thursday at 10:30a.m. Video arraignments will be for incarcerated persons only.

Criminal arraignments shall be held before the Judge on Monday, Tuesday, Wednesday and Friday at 2:00p.m. Criminal arraignments held before the Judge on Thursday at 10:30a.m. are for incarcerated persons and Ohio Highway State Patrol citations only.

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 and unspecified misdemeanors not later than forty-five (45) 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 fourth 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 caseload 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.

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## **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.

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## **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.

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### **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.

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## **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.

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**Appendix “A”**  
**LOCAL FORMS**

Local forms can be found at: <http://www.cityhall.lima.oh.us/index.aspx?nid=105>

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