

ATHENS COUNTY MUNICIPAL COURT
LOCAL RULES
AMENDED MARCH 3, 2016
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ATHENS COUNTY MUNICIPAL COURT LOCAL RULES

Effective date March 3, 2016

RULE ONE

LOCAL RULES APPLICABILITY AND AVAILABILITY

- A. These rules are intended to provide for the just determination of every proceeding or function of the Court and shall be applied to secure the fair, impartial, speedy, and sure administration of justice, simplicity in procedure, and the elimination of unjustifiable expense and delay.
- B. These local rules shall apply in all cases filed with the Court except to the extent clearly in conflict with law or Ohio Supreme Court Rules of Superintendence, Criminal Procedure, Civil Procedure, Traffic Rules, or Rules of Evidence, or are otherwise inapplicable.
- C. The Local Rules will be available on the Court's website and at the Clerk's counter. Copies are available at cost.

RULE TWO

LOCAL VIOLATIONS BUREAU

A. MISDEMEANOR VIOLATION BUREAU

The Misdemeanor Violation Bureau is hereby established and the Clerk of Court is appointed to be the violations clerk, to collect fines, give receipts therefor, and render accounts of the bureau, pursuant to Rule 4.1, Ohio Rules of Criminal Procedure.

The schedule of fines and costs which shall be charged by the Violations Bureau is established and is published as "Fines and Costs in Misdemeanor Cases".

The Violations Bureau will have available at its public counter a Court approved statement of the schedule of fines.

B. TRAFFIC VIOLATION BUREAU

The Traffic Violations Bureau is hereby established and the Clerk of Court is appointed to be the violations clerk, to collect fines, give receipts therefor, and render accounts of the bureau, pursuant to Rule 13, Ohio Traffic Rules.

The schedule of fines and cost which shall be charged by the Violations Bureau is established as "Fines and Costs in Traffic Violations Cases."

The Traffic Violations Bureau will have available at its public counter a Court approved statement of the schedule of fines.

RULE THREE

PUBLIC ACCESS

A. RIGHT TO ATTEND

1. All members of the public shall be permitted access to attend all court proceedings consistent with rules promulgated by the Ohio Supreme Court and the Code of Judicial Conduct. No one may be excluded from court proceedings except upon order of the Court for good cause shown except for the specialized dockets.
2. Food, beverages, or smoking in the courtroom is prohibited.
3. Cell phones, pagers, radios, and other personal electronic devices shall be turned off in the courtroom.

B. NEWS MEDIA BROADCASTING: TAPE OR TELEVISION RECORDING AND PHOTOGRAPHY

1. **GENERAL RULE:** Recording or photographing by any person of court proceedings shall not be permitted except upon order of the Court upon written application filed with the Clerk of Court and as otherwise mandated by Rule 12, Ohio Supreme Court Rules of Superintendence.
2. **LIMITATIONS:**
 - a. Audio recordings or pickup of conferences conducted in court between counsel and clients, between co-counsel, or between the judge and counsel are prohibited.
 - b. Broadcasting, recording, or photographing by any means of victims or witnesses is prohibited except upon permission obtained in open court and shall not be permitted when the witness or victim objects.
 - c. Broadcasting, recording, or photographing witnesses, jurors, or parties is prohibited except upon express order of the Court upon written application.

C. REMOVAL FROM COURT

Questions of the admission of persons to the courtroom shall be decided by the Court and the Court may remove any person or persons or news media failing to comply with this Rule or Supreme Court Rules regulating media access.

D. PUBLIC RECORDS

Copies of public records, not including personal identifying numbers, are available at actual cost.

E. ONLINE ACCESS

To the extent feasible, the court's records will be available online at www.athensmunicipalcourt.com.

RULE FOUR

TRIAL COUNSEL

A. DESIGNATION OF TRIAL ATTORNEY

Attorneys shall designate their capacity as trial counsel on all pleadings in civil and criminal cases and shall include their office address, zip code, email address, telephone and fax numbers. A law firm is not to be named as trial attorney.

B. WITHDRAWAL OF TRIAL COUNSEL

Counsel shall be permitted to withdraw from trial counsel responsibility only with the consent of the Court. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, contain certification of service to opposing counsel and the party, and stating the time and date of trial, if set.

C. CHANGE OF TRIAL COUNSEL

Once trial counsel has been designated, such designation shall remain until termination of the case. Change of trial counsel will be permitted upon the filing of an entry containing the designation of new trial counsel and the agreement of prior trial counsel.

D. MOTION PRACTICE

All motion must be presented and filed within rule, in writing, accompanied by sufficient memoranda stating the grounds and factual and legal basis. An agreed date and time for oral hearing, if requested, upon motion must be obtained by counsel from the Clerk of Court. All parties wishing to respond to such motion shall do so in writing not later than the fourteenth day following service of the motion upon the responding party.

E. JOINDER AND SEPARATION OF CASES

Criminal and traffic cases which are filed at the same time against the defendant shall be tried together unless separate trials of offenses are ordered pursuant to a motion to sever. Criminal cases filed against co-Defendants regarding the same incident shall be tried together unless separate trials are ordered pursuant to a motion to sever.

F. REQUESTS FOR CONTINUANCES

Requests for continuances shall be accompanied by entry which must include 1) party requesting the continuance and reasons for the request; 2) the date and time of the current assignment; 3) the acknowledgment of all parties; and 4) an agreed date or a space for a date certain to be assigned.

RULE FIVE

CRIMINAL PRACTICE

A. DOMESTIC VIOLENCE

1. It shall be the duty of the arresting officer(s) at the time of any arrest for alleged domestic violence to provide the alleged victim with the emergency or hotline telephone number to at least one appropriate counseling service such as My Sister's Place or the Victim/Witness Assistance Program, and the arresting officer(s) shall note the name of the referral on appropriate paperwork for court.
2. All cases of suspected child abuse, neglect, or endangering children shall be reported to Children's Services by the arresting officer
3. Cases will not be dismissed upon request of the alleged victim unless the victim has received counseling from victim advocates and the prosecutor moves to dismiss.
4. "No contact" orders and temporary protection orders will not be terminated prior to the completion of the case except upon request of the alleged victim in open court after consultation with victim advocates.

B. PRETRIALS

Upon the entering of a not guilty plea in all but minor misdemeanor cases, the Court will set the matter for pretrial. The parties are expected to exchange discovery and discuss possible agreed resolutions prior to the date of the pretrial. Subsequent pretrials may be scheduled for good cause shown. Except in extraordinary circumstances, cases will not be continued beyond the fourth calendar month after filing.

C. PRETRIAL MOTIONS

All pretrial motions shall be timely filed and in a writing which states the factual and legal issues for said motion. Issues shall be identified with sufficient specificity to advise of the appropriate witnesses and evidence necessary to be present at the evidentiary hearing. Case citations shall be to the official reports or the webcite (2006-Ohio-1234). Cases cited not having such references must be attached to the motion.

D. FINAL PRETRIALS AND JURY TRIALS

1. Jury trials will be set twice each month when we can reserve the third floor to shift other scheduled cases. Trials are expected to be completed in one day unless sufficient notice is given to arrange for the next day's docket.
2. Final pretrials will be set 2 to 5 days immediately preceding the trial date.
3. After the final pretrials, there will be as many as six cases set for each jury date. Each case set for jury trial is expected to be ready to go, including necessary subpoenas and availability of counsel and witnesses.
4. At the final pretrial, which is unlikely to be continued, counsel shall have prepared and present one of the following:
 - a. Proposed dismissal/sentencing entries with proposed penalties; or
 - b. A list of witnesses, anticipated evidentiary issues, and any proposed jury instructions.
5. If any of the several cases are not settled at the final pretrial, the Court will prepare for trial, including scheduling an acting judge.
6. Any scheduled case not settled at the final pretrial will be subject solely to the judge's discretion in sentencing after hearing from the parties. Counsel may still present dismissals or pleas to the original charges, but the judge will fill out the penalty sections of the entries. No amendments will be permitted after the final pretrial.
7. If more than one scheduled case remains uncompleted by 4:00 p.m. the business day before trial, all such cases must be prepared for trial with priority generally being established by the filing date of the complaint unless the accused is incarcerated only on the pending charge. Criminal trials have priority over civil trials.
8. If the priority case settles the morning of the trial, the next priority of the remaining scheduled cases will proceed. If we bring in a jury, we will try to give them a trial.
9. Any scheduled case not completed by a plea or a dismissal by 4:00 p.m. the business day before trial will probably share in the cost of the jury if no case proceeds to trial.

E. JURY TRIAL RIGHT WAIVER

Where the defendant has entered a jury trial demand and later seeks to withdraw the demand and waive his right to jury trial, it shall be the responsibility of the defendant or defense counsel to notify the court not less than 48 hours prior to the time set for trial and

failure to so notify may result in the assessment of costs for the venire. All jury waivers must be in writing signed by the defendant in open court.

F. COURT APPOINTED COUNSEL

Court appointed counsel on criminal cases shall be selected by the Clerk of Court from a rotating list of all attorneys who notify the Court of their desire to serve as counsel.

When appointment requires a private attorney, the Court shall appoint the next name on the list if counsel accepts the appointment.

G. CHARGES RELATED TO FALSE IDENTIFICATION

Where a complaint is filed alleging a violation of law involving use or possession of false identification, the original false ID(s) shall be attached to the complaint.

H. CASES ALLEGING VIOLATIONS OF ORC TITLE 43

All defendants charged with violations of Title 43 of the Ohio Revised Code or the municipal ordinance equivalent shall be released on recognizance and shall not be transported to the Southeast Ohio Regional Jail unless otherwise subject to arrest on other charges.

I. STATEMENT OF APPROPRIATE JURISDICTION

No complaint shall be accepted for filing that fails to state the political subdivision in which the offense is alleged to have occurred, so that the appropriate prosecutor can be involved.

J. DISCOVERY

Open file discovery, excluding attorney work product, is encouraged. Parties shall provide discovery in the same format as their respective records are stored.

RULE SIX

TRAFFIC PRACTICE

- A. Unless otherwise specified, the provisions of Local Rule 5 also apply to traffic cases.
- B. Pursuant to Traffic Rule 3 (F)(1), traffic citations may be produced by computer or other electronic means. Pursuant to Traffic Rule 3 (F)(2), traffic citations may be electronically filed when the clerk has the appropriate system in place.

RULE SEVEN

CIVIL PRACTICE

A. CASE RESPONSIBILITY; TERMINATION OF CASES

1. It shall be the responsibility of trial counsel, or the party if unrepresented, to notify the court, in writing, when discovery is complete and a case is ready for trial, or when court action is required to complete discovery and proceed to trial.
2. All cases must be completed within one year from the date of filing the complaint except personal injury and property damage cases that must be completed within two years and Small Claims cases that must be completed within six months. (Ohio Supreme Court time limits.)
3. Where service of process is not completed within six months from the date of filing of the complaint, the case will be dismissed. [Civil Rule 4(E), Ohio Rules of Civil Procedure.]

B. DEPOSIT TO SECURE COSTS OF JURY TRIAL

If any party demands a jury trial in a civil case, that party shall deposit \$500 to secure the fees of the jurors. That deposit shall be made within ten days of the demand for jury trial or the business day before any issue triable by jury is scheduled for a merits hearing, whichever is earlier. Failure to timely make this deposit will constitute a waiver of jury trial by the non-depositing party, unless good cause is shown. An affidavit of indigency, *per se*, is not sufficient to waive the jury deposit.

C. FILING OF ENTRIES

1. Counsel for the party in whose favor an order of judgment is rendered shall prepare the journal entry. That entry shall be submitted to opposing counsel within five days of the decision. Opposing counsel shall approve or reject the entry within five days. Within fifteen days of the decision, prevailing counsel shall inform the judge of the agreement or the disagreement of the parties. An entry disposing of the case, whether that entry is (1) agreed, (2) prepared by the judge because of the disagreement of the parties, or (3) prepared by the judge because of counsel's failure to act, shall be filed within fifteen days after the decision.
2. Entries of Settlement may be filed at any time. With the consent of all parties and the Court, the avoidance of a trial date by settlement shall be allowed without the filing of an entry, but such entry shall be filed by the thirtieth day following trial date, or the

case will be dismissed, without prior notice to counsel.

D. PETITIONS AGAINST THE OHIO BUREAU OF MOTOR VEHICLES

Petitions pursuant to Revised Code Section 4507.021 and 4511.191 must list petitioner's complete name including first, middle, and last name together with the address of petitioner and Bureau in addition to the petitioner's date of birth, social security number, and operator's license number. The Clerk shall not accept for filing any petition failing to contain all such items of required information. When the suspension is upheld but limited driving privileges permitted, petitioner's license must be surrendered to the Clerk of Court with final entry.

E. PROCEDURE FOR RELEASE OF RENT DEPOSITS

In cases of deposit of rent with the Clerk of Court pursuant to Section 5321.09, Ohio Revised Code, no money shall be released to the landlord except according to the provisions of Section 2321.09, Ohio Revised Code. 2. Where the tenant does give written notice to the Clerk, the Clerk may release the rent according to the agreement between the landlord and the tenant. 3. Where the tenant does not agree to the release of the rent, the Clerk shall release no funds to the landlord, but the Court shall advise the landlord of the necessity of filing the action required by Section 5321.09(A)(2) and (3).

F. SMALL CLAIMS CASES

1. REQUEST FOR CONTINUANCE ON SMALL CLAIMS CASE

All requests to continue small claims cases should be in writing, directed to the Small Claims Division at least seven days prior to the trial date. No continuances shall be granted without agreement except for good cause shown and with the express approval of the Court.

2. TRANSFER TO THE REGULAR DOCKET

a. Upon the filing of the Motion and Affidavit or Counterclaim required by Section 1925.10, Ohio Revised Code, and payment of the required costs, a case shall be transferred to the regular docket. No transfer shall be accomplished until filing costs are paid by the party requesting the transfer.

b. No transfer shall be allowed unless the transfer is requested at least five court days prior to the date of the small claims hearing.

3. MEDIATION

Mediation will be made available to small claims parties subject to Local Rule 10.

G. EVICTION OF DEFENDANTS IN FORCIBLE ENTRY AND DETAINER CASES

1. The Clerk shall not accept for filing any Complaint seeking eviction unless such Complaint has attached a Notice to Leave Premises required by R.C. Chapter 1923 that has been served upon the tenant at least four business days earlier.
2. Should physical eviction of property be required pursuant to a writ of restitution of premises, Plaintiff shall arrange for sufficient workers to be present, at Plaintiff's expense, to accomplish the set out, under the supervision of the Bailiff.
3. Plaintiff shall schedule a time for supervision with the Bailiff and deposit sufficient funds to secure payment of mileage.

H. FILING FEES AND COSTS

Filing fees and costs are hereby established in the schedule annexed hereto and titled Civil Filing Fees and Costs. This schedule may be amended by the Administrative Judge from time to time. Filing fees shall be paid at the time of filing, unless good cause is shown. Fees may be waived or deferred by the Administrative Judge.

I. DEFAULT JUDGMENTS

Default Judgments may be granted upon the Motion of any party or upon Motion of the Court with written notice of the time and date for default hearing mailed to the last known address of the party in default no less than ten days prior to the date for hearing. If a party who has not answered appears at the Default Judgment hearing and expresses a desire to contest the matter, they shall file an answer within fourteen days or the matter will proceed to default. Plaintiffs or their counsel are not required to attend default judgment hearings.

J. ACTIONS BASED ON ACCOUNTS

If an action is contested, Plaintiff must provide sufficient documentation, including the following:

- a. The document establishing the account which names Defendant;
- b. A beginning balance of zero;
- c. The item or items, dated and identifiable by number or otherwise, representing charges, or debits and credits; and

- d. A running or developing balance which permits the calculation of the amount claimed to be due.

No judgment in a contested action will be granted unless these provisions are met.

RULE EIGHT

JURY MANAGEMENT PLAN

A. OPPORTUNITY FOR JURY SERVICE

1. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, sexual orientation, familial status, age, religious belief, income, occupation, disability, or any other factor that discriminates against any group in the jurisdiction.
2. Jury service is an obligation of all qualified citizens.

B. JURY SOURCE LIST

1. The names of potential jurors shall be drawn from a jury source list compiled by the Bureau of Motor Vehicles and/or Athens County Board of Elections listing persons residing in the court jurisdiction with the exclusion of only those less than eighteen years of age or listing a citizenship other than the United States.
2. Upon the motion of any party in any litigation alleging that the jury source list lacks representativeness or inclusiveness of the adult population in the jurisdiction, the court shall review the need for any improvement in the jury source list.

C. RANDOM SELECTION PROCEDURES

1. The Clerk shall assign selected potential jurors from the jury source list to assigned months in a random manner through a computer software program.
2. Prospective jurors for *voir dire* will be called in the order selected by the Clerk for the relevant month. Jurors who have served in one trial will be placed at the bottom of the list for the next trial.
3. Departures from the foregoing random selection procedure may occur as follows:
 - a. To exclude persons ineligible for service;
 - b. To exclude or defer prospective jurors in accordance with these rules.

D. ELIGIBILITY FOR JURY SERVICE

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

1. Are less than eighteen years of age;
2. Are not citizens of the United States;
3. Are not residents of the jurisdictions in which they have been summoned to serve; or
4. Have been convicted of a felony and have not had their civil rights restored.

E. TERM OF AND AVAILABILITY FOR JURY SERVICE

Potential jurors shall be required to maintain availability for service during the entire month of their assigned panel with a call in system to notify prospective jurors of actual trial dates prior to the date of an appearance for service.

F. EXEMPTION, EXCUSE, AND DEFERRAL

1. There shall be no automatic excuses or exemptions from jury service with the exceptions of statutory exemptions.
2. Summoned jurors may be excused from jury service only for the following:
 - a. Their ability to receive and evaluation information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
 - b. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are so excused by the judge.
3. Deferrals for jury service from one month to another may be permitted by the judge upon a showing of a hardship by the prospective juror.
4. All requests for excuses or deferrals shall be submitted in writing or otherwise recorded and the disposition of the request shall be in writing by the judge.

G. *VOIR DIRE* EXAMINATION

1. *Voir dire* examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the jurors' fairness and impartiality.
2. Basic background information regarding panel members shall be available to counsel in writing for each party at any time after the questionnaire is returned to the Clerk of Court's office by the juror.
3. The trial judge shall conduct a preliminary *voir dire* examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
4. The judge shall ensure that the privacy of prospective jurors is reasonably protected and that the questioning is consistent with the purpose of the *voir dire* process.

5. In criminal cases, the *voir dire* process shall be held on the record. In civil cases, the *voir dire* process shall be held on the record unless waived by the parties.

H. REMOVAL FROM THE JURY PANEL FOR CAUSE

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

I. PEREMPTORY CHALLENGES

Each side shall be entitled to that number of peremptory challenges as set forth by law. Peremptory challenges shall be exercised after completion of the entire *voir dire* by counsel at the bench outside the hearing of the jury and without further questioning of prospective jurors. Jurors shall serve on the jury in the order they are impaneled up to the number required by law with the removal of the peremptorily challenged jurors.

J. ADMINISTRATION OF JURY SYSTEM

The court shall administer the jury system with supervision of the ministerial selection process vested in the Clerk of Court.

K. NOTIFICATION AND SUMMONING PROCEDURE

The notice summoning a person to jury service shall include a questionnaire eliciting essential information regarding that person. The questionnaire shall be a separate document enclosed with the standard jury notification and shall be returned to the court pursuant to the directions contained on the jury notification form. Said forms are attached hereto and marked Appendix A and Appendix B.

L. MONITORING THE JURY SYSTEM

Except as otherwise specified in this section, the Court will follow Ohio Trial Court Jury Use and Management Standards as adopted by the Ohio Supreme Court.

M. JUROR USE

1. Jurors shall not report for jury service except upon being advised through the call in procedure of a pending jury trial.
2. The court shall monitor the appearance of prospective jurors and advise the clerk of the need to either increase or decrease the number of jurors reporting each month to assure the efficient use of assigned individuals.

N. JURY FACILITIES

Prospective jurors shall be advised with written signage as to the court area to report to on jury trial days. The bailiff and court staff shall make every effort to assure the jurors are accommodated a pleasant waiting facility, furnished with suitable amenities, and otherwise minimize contact between jurors, parties, counsel, and the public.

O. JUROR COMPENSATION

1. Jurors shall receive vouchers for the rate of compensation on the day of their jury service or as soon thereafter as may be practicable.
2. Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

P. JUROR ORIENTATION AND INSTRUCTION

The court shall provide orientation instructions to the jury upon initial contact prior to service, upon first appearance at the court, and upon reporting to the courtroom for *voir dire*. The trial judge shall:

1. Give preliminary instruction to all prospective jurors;
2. Provide orientation instructions following empanelment of a jury in each case;
3. Provide final instructions prior to deliberations in each case;
4. Assure that prepared and delivered instructions are readily understood by individuals unfamiliar with the legal system;
5. Provide written instructions where appropriate; and
6. Prior to dismissing any jury at the conclusion of a case, assure the jurors are informed regarding their release from confidentiality and their rights regarding inquiries from counsel or the press and express appreciation for services rendered.

All communications between the judge and members of the jury panel from the time of reporting to the courtroom for *voir dire* until dismissal shall be in writing or upon the record in open Court. Counsel for each party shall be informed of such communication and given an opportunity to be heard.

Q. JURY SIZE AND UNANIMITY OF VERDICT

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law, except that the parties may agree to proceed with fewer than the statutorily required number of jurors.

R. JURY DELIBERATIONS

Jury deliberations should take place under the conditions and pursuant to procedures specified by the court and otherwise in conformance with these Rules.

S. SEQUESTRATION OF JURORS

A trial jury shall be sequestered only for good cause shown upon motion and hearing in open court.

T. JURY VIEW

If either party desires that the jury view a scene, that request shall be in writing submitted at least fourteen days prior to the day of trial. Such writing shall specify the materiality of the view and the points of interest to be announced by the bailiff. Only the bailiff and the judge may speak to the jurors at a jury view.

RULE NINE

SURETY BOND REQUIREMENTS

No commercial surety insurance bond shall be recognized on criminal and/or traffic cases as surety unless or until the insurance company has provided the Clerk's office, during ordinary business hours, proof of appropriate certification by the Department of Insurance, State of Ohio.

RULE TEN

ARRAIGNMENT APPEARANCES

- A. An arraignment session is hereby set for 9:30 a.m. each court day for criminal and traffic defendants. Each arresting agency is responsible for transporting any defendants in custody to the Clerk's office and the courtroom prior to 9:30 a.m. the morning of their arraignment. In the event that ill health of the defendant or other matters prevent transportation before 9:30 a.m., the arresting agency shall notify the court prior to 9:30 a.m.
- B. The Court may, in the Judge's discretion, conduct video arraignments for those defendants in the Southeastern Ohio Regional Jail.
- C. The jail shall provide appointed counsel applications/financial affidavits to incarcerated defendants at their arraignments and shall cause those completed applications/affidavits to be submitted to the Clerk the same day as signed.

RULE ELEVEN

MEDIATION

- A. Upon agreement of the parties, the Court may refer any civil case to mediation, except as specified below.
- B. Parties are allowed to participate in mediation, and if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
- C. The mediators shall screen for domestic violence both before and during mediation.
- D. The mediators shall encourage appropriate referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.
- E. Mediation shall not be used:
 - 1. As an alternative to the prosecution or adjudication of domestic violence;
 - 2. In determining whether to grant, modify, or terminate a protection order;
 - 3. In determining the terms and conditions of a protection order; and
 - 4. In determining the penalty for violation of a protection order.

RULE TWELVE

DUTIES OF CLERK OF COURT

- A. At such times as the Clerk of Court may be unavailable for immediate supervision of the office of Clerk of Court, the Clerk shall appoint a Deputy Clerk to serve as Clerk *pro tempore* and to be compensated for such service at the same hourly rate as received by the appointing Clerk of Court.
- B. The Clerk of Court may accept personal checks for the payment of fines or court costs. In the event any such check shall be returned unpaid, the presenter of the check shall be notified of nonpayment by regular U.S. mail at the last known address; the case account will be adjusted to reflect the nonpayment; and a \$25 assessment fee shall be ordered against the presenter of the check. The clerk shall post a conspicuous sign providing notice of the returned check policy.
- C. The Clerk of Court shall collect and account for all fines, fees, and costs required by law or Court order. The Administrative Judge may set a minimum monthly payment of not

more than \$50 and may accept community service for approved agencies at minimum wage.

RULE THIRTEEN

CASE MANAGEMENT PROGRAM

A. **PURPOSE:** The purpose of this Rule is to establish, pursuant to Superintendence Rule 5(B), a case management program to facilitate the expeditious disposition of cases.

B. **APPLICABILITY:**

1. This rule shall apply to the criminal and general civil cases filed in this court; all other classifications of cases being specifically exempted pursuant to Superintendence Rule 5(B).
2. This rule shall be cumulative to Local Rule 5 (criminal practice).

C. **CRIMINAL CASE MANAGEMENT**

1. At arraignment, any case not terminated with a plea and sentence shall be set for pretrial or sentencing at the earliest convenient date by the judge at arraignment. When the defendant requests time to consult counsel, a plea of not guilty shall be entered and the matter set for pretrial.
2. Upon filing of a jury demand or motion, the Clerk shall set the matter for pretrial conference.
3. The pretrial conference shall be conducted pursuant to Local Rule 5(B).
4. Trial counsel and the defendant shall be present at the date and time set for hearing unless permission for defendant's absence is granted.

D. **CIVIL CASE MANAGEMENT**

1. **Scheduling of Events:** The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five clerical steps and five judicial steps.
2. **Clerical Steps:**
 - a. Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service of summons within six months from the date the cause of action has been filed, then the Clerks shall notify counsel that the case will be dismissed in ten days after notice to counsel unless good cause is shown to the contrary.

- b. Upon perfection of service, the Clerk shall notify counsel of a default for answer and schedule the matter for hearing upon a motion for default judgment. Notice of the default judgment hearing shall be sent to both parties, but Plaintiff is excused from attendance. Where a default judgment is granted, a failure to submit an entry within fifteen days from the date judgment was rendered may result in the case being dismissed.
- c. After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.
- d. If no action has been taken on a file for a six month period and the case is not set for trial, then the Court shall notify the party that the matter will be dismissed within ten days after notification of counsel unless good cause is shown.
- e. When a file has been marked “settlement entry to come” and the entry has not been received within thirty days, then the Clerk shall notify the party that the cause will be dismissed unless the entry is received within ten days.

3. Judicial steps:

- a. Merits Hearing: After an Answer is filed and any pretrial matters resolved, the case will be set for a merits hearing which will be heard in court. Counsel for the party in whose favor an order of judgment is rendered shall prepare the journal entry.
- b. Motions: All motions must be in writing. Upon filing the motion, the Clerk schedules an oral hearing unless the court deems it unnecessary. If a motion is to be decided on the memoranda, counsel for both parties may be given fourteen days to submit written memorandum containing citations or the arguments of counsel for the court’s consideration. All motions will be considered submitted at the end of said fourteen day period unless time is extended by the court.
- c. Pretrial Conferences:
 - 1. For the purpose of this Rule, “pretrial” shall mean a court supervised conference chiefly designed to produce an amicable settlement or to assure that discovery is complete and the case ready for trial. The term “party” or “parties” herein shall mean the party or parties to the action and his, hers, or their attorney of record.
 - 2. Any attorney for a party to an action who fails to attend a scheduled pretrial conference, without just cause being shown, may be punished for contempt of Court. Permission may be granted, upon request, for a telephonic pretrial.

3. Notice of pretrial conference shall be given to all counsel of record by mail and/or telephone from the Assignment Commissioner.
4. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority. In the event that such authority is not conferred, the real party in interest shall be present with counsel.
5. Any judge presiding at a pretrial conference or trial shall have the authority to dismiss the action for want of prosecution on motion of the defendant upon failure of Plaintiff and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters *ex parte* upon the failure of the defendant to appear in person or by counsel at any pretrial conference or trial as required; to make such other order as the court may deem appropriate under the circumstances.

d. Judgment Entries

1. Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That entry shall be submitted to opposing counsel within five days of the decision. Opposing counsel shall approve or reject that entry within five days.
2. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within the time stated or the case shall be dismissed for want of prosecution.
3. Upon notification from the Clerk that the case has defaulted, prevailing counsel shall submit an application for default judgment within fifteen days or the case will be dismissed for want of prosecution.
4. The journal entry shall state which party will pay the court costs.

RULE FOURTEEN

WORK RELEASE

The Court may order the temporary daily release of a person sentenced by the Court for employment or schooling purposes. Work release forms are available at the Clerk's office. A fee is to be assessed for the issuing of a work release to any criminal or traffic case.

RULE FIFTEEN

RECORDED CRIMINAL EVENTS/ARRESTS

All law enforcement agencies in Athens County shall provide a copy of the videotapes/digitally recorded event/arrest to the prosecutor within three days of the written request of the prosecutor.

RULE SIXTEEN

RECORD RETENTION

The court adopts Rule 26.05 of the Rules of Superintendence with regard to record retention and will follow these Rules accordingly.

RULE SEVENTEEN

DIVERSION PROGRAMS

A. THE SELECTIVE INTERVENTION DIVERSION PROGRAM:

The Selective Intervention Diversion Program (SIDP) is for certain non-violent misdemeanor offenses, committed by first time offenders. Upon successful completion of the program, charges are dismissed and the records in the case are sealed from public inspection.

At pretrial, if the prosecutor determines that the defendant is a candidate for the program, the prosecutor may make a motion that the defendant be admitted to the program.

No one may enter the SIDP without the consent of the assigned judge.

The factors that the court will consider are whether the defendant was cooperative with the law enforcement officer(s) making the arrest, whether the incident is a non-violent offense, whether there is evidence of remorse on the part of the defendant, the defendant's prior criminal/traffic record, whether there are any criminal cases or alcohol related traffic offenses pending against the defendant at the present time, and any other factor that the court deems relevant.

The court may also decline to admit a defendant into the program if, at the court appearance, it is found that the defendant has an active arrest warrant.

If the Court grants the prosecutor's motion for Defendant to be admitted into the SIDP, Defendant is then eligible for the SIDP.

1. If eligible, Defendant will be asked if he/she wishes to participate in the program.
2. Defendant enters the SIDP by:
 - a. agreeing to be bound by the terms of the SIDP program,
 - b. signing the SIDP agreement,
 - c. waiving his/her speedy trial rights, and
 - d. entering a Guilty Plea to all charges.
3. The court shall accept Defendant's entered plea(s) and hold its finding(s) in abeyance.
4. Defendant shall pay the court costs associated with the case, including the dismissal.
5. Defendant shall pay a Diversion fee to participate in the program.
6. While enrolled in the program:
 - a. All participants shall remain law abiding and have no further criminal offenses or alcohol/drug related traffic offenses;
 - b. Individuals may be subject to random alcohol/drug screening;
 - c. Individuals may be ordered to:
 - i. abstain from alcohol/drugs of abuse;
 - ii. obtain a G.E.D. or high school diploma, if applicable;
 - iii. obtain and/or maintain employment;
 - iv. complete community service work;
 - v. complete an educational instruction program at their own expense; and/or
 - vi. comply with any additional appropriate terms.
7. In cases where victim restitution is applicable, the court shall order Defendant to pay restitution, which shall be paid prior to the case being dismissed.
8. A hearing shall be scheduled at which the court determines whether Defendant has successfully completed the program. If the court determines that Defendant has successfully completed the program, the charges will be dismissed and the records of the case sealed.
9. If Defendant fails to successfully complete the diversion program, Defendant shall be found guilty of all charges and the court shall proceed to sentencing.

B. THE DRIVING UNDER SUSPENSION DIVERSION PROGRAM:

The Driving Under Suspension Diversion Program (DUSDP) is designed to assist drivers who are under suspension to restore their valid driving privileges.

The Diversion Program Coordinator shall review the DUS cases filed with the court. The LEADS Printout shall be reviewed to determine the eligibility of the defendant. Program eligibility shall be determined using criteria established by the court.

A defendant may not participate in the DUSDP if the charge is driving under an OVI/ALS suspension or if there was an accident.

A DUS checklist form shall be completed by the Diversion Program Coordinator. The checklist shall identify the specific problems the defendant has with the Bureau of Motor Vehicles (BMV) and the specific tasks and financial costs necessary to restore driving privileges. In addition, all other pending or unpaid traffic matters will be identified on this form.

Defendant's eligibility to participate may be determined at arraignment or following a prosecutor's pre-trial conference with the defendant/defense counsel.

1. If eligible, the defendant will be asked if he/she wishes to participate in the program.
2. Defendant enters the DUSDP by:
 - a. agreeing to be bound by the terms of the DUSDP program,
 - b. signing a program agreement,
 - c. waiving his/her speedy trial rights, and
 - d. entering a guilty plea to all charges.
3. The court shall accept the offered plea(s) and hold its finding(s) in abeyance.
4. A Journal Entry shall reflect Defendant's assignment to the program.
5. The case shall be continued on the court's docket for a reasonable period of time.
6. Defendant shall pay a Diversion fee to participate in the program.
7. Defendant shall pay the court costs associated with the case, including the dismissal.
8. The checklist shall be reviewed and the defendant advised of the tasks and financial costs necessary to obtain valid driving status, including, but not limited to, obtaining auto insurance.

9. Upon Defendant's return to court on the DUSDP hearing date, the court will issue a finding on the original plea based on whether defendant has a valid driver's license and insurance. If the defendant has a valid license and insurance, the DUS will be dismissed. Insurance issues may be resolved pursuant to ORC § 4509.101(D).
10. Any program violation will result in termination of the referral, and the court shall enter a finding of guilty on the original plea(s) and proceed to sentencing.

C. THE ALCOHOL DIVERSION PROGRAM:

The Alcohol Diversion Program (ADP) is for first-time offenders charged with offenses alleging underage purchase, consumption, or possession of alcohol. Upon successful completion of the program, charge(s) are dismissed and the records of the case are sealed from public inspection.

Defendants are eligible even if they also have an accompanying misdemeanor offense, such as open container, disorderly conduct, or a violation of R.C. 4507.30 (Prohibited Acts "Fake ID").

Individuals may not be admitted into the ADP if the court finds that a defendant has prior criminal convictions, a prior OVI/OMVUAC conviction, the instant offense is connected to an OVI/OMVUAC arrest, or for any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found that the defendant has an active warrant issued for the defendant's arrest.

1. At arraignment, if it appears that a defendant is eligible for the program, he/she will be asked if he/she wishes to participate in the program.
2. Entry into the program can also occur following a prosecutor's pre-trial conference with defense counsel, so long as Defendant enters the program within 30 days of Arraignment.
3. Defendant enters the ADP by:
 - a. agreeing to be bound by the terms of the ADP,
 - b. signing the ADP agreement, and
 - c. waiving his/her speedy trial rights.
4. Upon entry into the program, Defendant will be given a completion date to report to the Court.

5. Defendant is given three months from the date of entry into the program by which to complete the program.
6. Defendant shall pay the court costs associated with the case, including the dismissal.
7. Defendant shall pay a Diversion fee to participate in the program.
8. While enrolled in the program all participants shall:
 - a. remain law abiding and have no further criminal offenses or alcohol/drug related traffic offenses;
 - b. be subject to random alcohol/drug screening
 - c. complete an educational instruction program at their own expense; and
 - d. complete 8 hours of community service work.
9. Upon successful completion of the ADP requirements, a dismissal hearing will be held at which the court shall dismiss the charge and seal the record.

Defendants may enter the ADP and SADP concurrently for combined offenses relating to both issues.

D. THE SUBSTANCE ABUSE DIVERSION PROGRAM:

The Substance Abuse Diversion Program (SADP) is for first-time offenders charged with offenses alleging minor misdemeanor drug offenses. Upon successful completion of the program, charge(s) are dismissed and the records of the case are sealed from public inspection.

Individuals may not be admitted into the SADP if the court finds that a defendant has prior criminal convictions, a prior OVI/OMVUAC conviction, the instant offense is connected to an OVI/OMVUAC arrest, or for any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found that the defendant has an active warrant issued for the defendant's arrest.

1. At arraignment, if it appears that a defendant is eligible for the program, he/she will be asked if he/she wishes to participate in the program.
2. Entry into the program can also occur following a prosecutor's pre-trial conference with defense counsel, so long as Defendant enters the program within 30 days of Arraignment.
3. Defendant enters the SADP by:
 - a. agreeing to be bound by the terms of the SADP,
 - b. signing the SADP agreement, and

- c. waiving his/her speedy trial rights.
4. Upon entry into the program, Defendant will be given a completion date to report to the Court.
5. Defendant is given three months from the date of entry into the program by which to complete the program.
6. Defendant shall pay the court costs associated with the case, including the dismissal.
7. Defendant shall pay a Diversion fee to participate in the program.
8. While enrolled in the program all participants shall:
 - a. remain law abiding and have no further criminal offenses or alcohol/drug related traffic offenses;
 - b. be subject to random alcohol/drug screening
 - c. complete an educational instruction program at their own expense; and
 - d. complete 8 hours of community service work.
9. Upon successful completion of the SADP requirements, a dismissal hearing will be held at which the court shall dismiss the charge and seal the record.

Defendants may enter the ADP and SADP concurrently for combined offenses relating to both issues.

RULE EIGHTEEN

LIMITED DRIVING PRIVILEGES

Forms are available at the Clerk's office for those who are eligible by state law for limited driving privileges. Proof of current insurance is required upon submitting forms to the court. Upon approval, a fee is assessed to the applicant. Payment of fines and costs may be required before issuance or reissuance of such privileges.

RULE NINETEEN

SPECIALIZED DOCKETS

- A. There is hereby established in Athens County Municipal Court the DUI Court Program, effective February 27, 2006.

The mission of the Athens County DUI Court Program is to provide management and treatment to repeat DUI offenders in an effort to recognize and correct their problematic behavior, as well as reduce the risk they pose to the safety of the community. The oppor-

tunity for change is afforded through regular appearance before the judiciary, supervised treatment, mandatory periodic drug/alcohol testing, and the use of graduated sanctions and rehabilitative services.

The DUI Court Program is a specialized post-conviction probation program for those repeat DUI offenders. A person is eligible for the program for any TRC (alcohol related driving) conviction with any two or more prior TRC arrests. A person in the program is required to serve any incarceration mandated by statute, but may avoid discretionary incarceration permitted by statute if he or she successfully completes the program. Failure of the person to complete the program will result in imposition of any suspended incarceration.

The operation of the DUI Court Program shall be in accordance with the Athens County Municipal Court DUI Program Policy and Procedure Manual as such may be amended from time to time.

The DUI Court Program is funded in part through a start-up grant from the United States Department of Transportation, National Highway Traffic Safety Administration through the Ohio Department of Public Safety, Governor's Highway Safety Office. Local contribution to funding is through a court cost surcharge for all TRC cases filed on or after January 1, 2006.

- B. There is hereby established effective December 1, 2005, Athens County Municipal Court Substance Abusing/Mentally Ill (SAMI) Court Program as a post-conviction option.

The Athens County Municipal Court SAMI Court Program is designed to divert individuals with dual disorders of mental illness and substance abuse and convictions of misdemeanor level offenses from incarceration and to reduce recidivism by providing intensive community treatment and supervision. The Court will contract with Hopewell Health, a dually certified Mental health and AOD treatment agency to provide a "boundary spanner" and treatment team based upon the New Hampshire-Dartmouth Integrated Dual Disorder Treatment (IDDT) model. The SAMI Court Program team will provide comprehensive, assertive services according to the IDDT model. Although the emphasis of this program is development of specialized services for persons with dual diagnoses, another vital element is centralized screening, assessment, and diversion of all mentally ill or alcohol and other drug offenders to the most appropriate Court program.

The operation of the SAMI Court Program shall be in accordance with the Athens County Municipal Court SAMI Court Program Policy and Procedure Manual as such may be amended from time to time.

RULE TWENTY

ADMINISTRATIVE CHANGES

The Administrative Judge may make any changes to these Rules required by the Ohio Supreme Court Superintendence Rules. Any other changes relating to the use of information technology shall be preapproved pursuant to Superintendence Rule 27.