

**LOCAL RULES OF COURT
OF THE
ASHTABULA COUNTY
EASTERN AREA COURT**

IN THE ASHTABULA COUNTY COURT
EASTERN AREA
ASHTABULA COUNTY, OHIO

IN RE: LOCAL RULES OF PRACTICE FOR THE COUNTY COURT, EASTERN AREA

RULE 1: APPLICABILITY; AUTHORITY; CITATION; REFERENCE:

1.01 Applicability. These local court rules shall be applicable effective August 1, 2000 to all civil and criminal actions filed in the Ashtabula County Court, Eastern Area.

1.02 Authority. These Rules are promulgated pursuant to the Ohio Constitution; Ohio Revised Code, Chapter 1907; the Rules of Superintendence for the Courts of Ohio, Rule 5; Civ. R. 83; and Crim. R. 57.

1.03 Citation. These rules shall be known as the Local Rules of Court of the Ashtabula County Eastern Area Court and may be cited as “A.C.E.A.C. Loc. Rule _____.”

1.04 Reference. As used in these rules a reference to “O.R.C.” is a reference to the Ohio Revised Code; a reference to the “Civ. R.” is a reference to the Ohio Rules of Civil Procedure; a reference to “Crim. R.” is a reference to the Ohio Rules of Criminal Procedure; a reference to “Sup. R.” is a reference to the Rules of Superintendence for the Courts of Ohio; and a reference to “Traf. R.” is a reference to the Ohio Traffic Rules.

RULE 2: HOURS OF SESSION

2.01 The hours for holding the regular sessions of the Court shall be from 8:00 A.M. to 4:30 P.M. The office hours for the Court will be 8:00 A.M. to 4:30 P.M. Monday through Friday each week, except on those days designated by law as legal holidays or by entry. The Judge of the Court may establish earlier opening or closing times, and the Judge may extend the closing hour during trials to include a Saturday session or a holiday when deemed necessary.

RULE 3: FILING OF PLEADINGS, MOTIONS, ETC.

3.01 Every pleading, motion or other document filed in any case shall contain the names of all parties and the complete addresses, if known, of any party who is appearing in the case for the first time.

3.02 Every pleading, motion or other document filed on behalf of a party shall have printed or typed thereon the name, address, telephone number and Supreme Court registration number of counsel filing same; and if filed by a law firm, the name of the attorney having

primary responsibility for the case shall be specifically designated.

3.03 It shall be the responsibility of the filing party to provide the Clerk of the Court with sufficient copies of any pleading, motion or other document to be served by the Clerk or Sheriff.

3.04 If a case is dismissed and subsequently re-filed, the re-filed complaint shall contain the following designation under the case number: "THIS IS A RE-FILED CASE." Failure to comply with this rule may subject the attorney or party to appropriate sanctions.

RULE 4: OFFICIAL NOTICE OF CIVIL AND CRIMINAL PROCEEDINGS:

4.01 Official Notice. Official and complete notification to all counsel of record of any assignment of any case for any purpose shall be as follows:

4.02 Ordinary Mail Notice. Ordinary mail service of written notice addressed to the counsel of record for each party and each unrepresented party by the Clerk of Court to the address indicated for such attorney of record or party on the pleadings as filed or as changed in writing to the Court.

4.03 Notice by Phone. Where ordered by the Judge, telephone notification of counsel or unrepresented parties will be sufficient notice.

4.04 Other Notices. In some cases the Court may send notice to a represented party. This does not relieve counsel of his individual responsibility to notify the client.

RULE 5: CIVIL CONTINUANCES

5.01 No party shall be granted a continuance of a trial or hearing without first submitting a written motion with the Judge stating the reason for such request. The Court will not grant a continuance to any party at any time without first setting a new and definite date for the continued trial or hearing.

5.02 Conflict of trial assignment dates. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. A copy of the conflicting hearing notice must be attached to the continuance motion. Criminal cases assigned for trial have priority over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.

5.03 Stipulated Continuances. Stipulated continuances shall not be granted as a matter of course. The Judge's approval must be obtained and noted on any stipulated

continuance.

RULE 6: TIME FOR FILING PLEADINGS (CIVIL)

6.01 Unless otherwise provided by law or other rule, all pleadings, amended pleadings or motions shall be filed within (14) days after the filing of any entry granting leave to file or overruling or sustaining a motion unless otherwise specified in the entry itself.

6.02 The opposing party shall move or otherwise respond to the pleading, amended pleadings, or motion within fourteen (14) days of filing such pleading, amended pleading or motion unless otherwise ordered by the Court.

RULE 7: FAX FILINGS

7.01 The Clerk will accept the filing of pleadings and other papers, other than the original filing of complaints in civil or criminal cases, by telephone facsimile transmission, in accordance with Rule 5(E), Ohio Rules of Civil Procedure, subject to the following provisions:

- (1) A transmitted document must not be longer than ten (10) pages, not including the cover page, and must pertain to only one case. Each filing must be made by a separate transmission. The attorney shall verify with the Clerk, within one (1) business day of the filing, the receipt and acceptance of the facsimile filing.
- (2) All documents submitted will be considered filed when the date/time has been stamped by the Clerk on the telephone facsimile transmitted document.
- (3) A fee of \$.50 per page shall be charged to the person who causes a document to be filed with the Court by means of a telephone facsimile machine. The risk of facsimile filing remains with the sender, and the Court assumes no responsibilities or liabilities.
- (4) Any user of the telephone facsimile filing shall prepare a cover page using the following format:

FAX FILING

TO: Clerk, Eastern Area Ashtabula County Court
1-440-576-3441
- (5) Filing shall be deemed complete at the time the facsimile transmission is time-stamped by the Clerk. The Clerk of the Court shall cause the facsimile transmission to be time stamped forthwith upon its receipt. The filed facsimile

shall have the same force and effect as any other paper filed with the Clerk of the Court pursuant to Civ. R. 5 (E).

This rule on facsimile filings shall not apply to the filing of a civil complaint or any other pleadings with a filing fee due thereupon.

Upon failure to comply with the requirements of this rule, the Court may make such orders as are just, including but not limited to any order striking pleading or Parts thereof, staying further proceedings until compliance is complete or dismissing the action, proceedings, or any part thereof.

RULE 8: PRETRIAL CONFERENCE

8.01 Civil Pretrial conference. A pretrial conference will be held in civil cases when ordered by the Court. All parties in interest must be present with authority to negotiate and settle. The attorneys of record will be prepared to furnish a list of all witnesses whom they intend to call, along with a statement of the general nature of their testimony; produce all exhibits intended to be offered at time of trial; set forth the legal theory of their cases; state any discovery not yet completed and the reasons for such lack of completion; and such other matters as the Court may properly bring up or require.

8.02 Failure to appear (Civil). In the event neither party or their respective attorney(s) appear for any scheduled pretrial, the case may be dismissed by the Court without prejudice for want of prosecution.

8.03 Failure to appear (Criminal). Defendant must appear and remain present for a criminal pretrial. A warrant shall be issued together with bail revocation for a defendant who fails to appear for pretrial in the discretion of the court.

RULE 9: CIVIL TRIAL DATE ASSIGNED:

9.01 Dismissal for failure to prosecute. Each civil case assigned for trial upon the date designated for trial shall either proceed to trial, or if plaintiff is not ready, said case may be dismissed without prejudice. If the defendant does not appear a judgment may be awarded to plaintiff according to law.

RULE 10: WITHDRAWAL OF COUNSEL

10.01 In all cases before the court, criminal and civil, withdrawal of attorney of record shall be only upon application with judgment entry of approval by the court, and where possible, the name of the successor attorney shall be included in the judgment entry. A copy of the application to withdraw must be served on the client. Upon allowance of withdrawal by the court, such withdrawing counsel shall serve a copy of the judgment entry on the client and the

opposing party or counsel, if any, by regular U.S. mail.

RULE 11: EXTENSIONS OF FILING DEADLINES

11.01 In all cases, criminal and civil, where a party desires an extension of time within which to file a pleading, motion or other matter, such extension may only be obtained by Motion and Order. All extension motions shall be accompanied by the appropriate proposed Order granting the relief sought. The party seeking an extension shall indicate in the motion the number of extensions previously obtained as to that same matter and the total length of period of extension obtained to the point of filing the instant motion. If a pleading or other filing is filed-stamped in by the Clerk but is later discovered to be out of rule the Court may strike such pleading or other filing from the Court file sua sponte.

RULE 12: CUSTODY OF FILES

12.01 No papers or files shall be taken from the custody of the Clerk of the Court unless authorized by the Court by written order, except that the Judge of the Court may remove them without an Order. Papers or files in the courtroom during trial or other hearing shall be considered in the custody of the Clerk. The Clerk is required to keep files of pending cases in a place secure from promiscuous handling and inspection and such files are under his or her personal supervision.

RULE 13: FILINGS

13.01 No civil action or other proceeding shall be accepted for filing by the Clerk of the Court unless there is first deposited with the Clerk a sum not less than that established by the Court by separate order as filing fees. Such prescribed fees may be amended from time to time by order of the Court in its Filing Fee/Costs Schedule.

13.02 A jury demand in any civil action before the Court must be accompanied by an Eighty Dollar (\$80.00) deposit.

13.03 All Judgment Entries and Orders accomplishing a termination of a case filing, whether by Dismissal or other, shall contain a determination as to the responsibility for the payment of court costs.

13.04 When a motion for a competency examination is filed by a non-indigent, defendant must deposit at the time of filing, the sum of \$350.00 with the court, to be applied toward the fee for the forensic examination. If the defendant has been found to be indigent, a financial disclosure must be completed and filed with the court, indicating defendant's assets and liabilities.

RULE 14: MOTIONS

14.01 With respect to all motions filed, criminal or civil, movant shall clearly and separately indicate in the caption of the pleading and in the body of the motion if a hearing is desired upon the factual issues raised by the motion, or for oral argument thereon, or for some other purpose designated. Any motion submitted without a request for hearing or the equivalent request shall be determined by the Court without hearing, unless the Court in its discretion determines that a hearing is needed to accomplish a just resolution of the motion.

14.02 All motions filed shall contain filed together therewith a memorandum or brief containing a concise statement of the facts relied upon and the legal authorities supporting the contentions set forth in the motion. All parties opposing the motion may, not later than fourteen (14) days after service of the motion, file an answer brief or memorandum of like character. Failure to file an answer memorandum or brief does not constitute an admission that the Motion should be granted. In cases where no Request for Hearing is filed as to the Motion the Court shall decide the Motion upon the respective memoranda.

14.03 Summary judgment motions shall be facilitated by the Court in a manner entirely consistent with Civ. R. 56 and such motions therefore constitute an exception to the procedures set forth in paragraphs 1 and 2 of this Local Rule 14. A hearing shall be scheduled upon each Summary Judgment Motion and all parties opposing the Motion shall have until the day prior to the scheduled hearing to file their responsive material as provided in Civ. R. 56(C). Parties and counsel are not required to appear for the scheduled hearing unless a party in writing files a written request for oral argument, in which case counsel shall be present for oral argument if such request is granted by Order of the Court.

RULE 15: VIOLATIONS BUREAU

15.01 There is hereby established in the Eastern County Court according to Traf. R. 13 a Traffic Violations Bureau. The Clerk of the Court is hereby appointed as violations clerk. The Traffic Violations Bureau of the Court shall operate according to law and in a manner consistent with the Court's Bond and Waiver Schedule as same is presently constituted or as it may be amended from time to time. The Court's Bond and Waiver Schedule, with any amendments thereto as enacted by order, is hereby incorporated into this Local Rule 15.

RULE 16: JOURNAL ENTRIES

16.01 When ordered or directed by the Court, counsel for the party in whose favor an entry, order, judgment or decree is entered in a civil case shall, within ten (10) days thereafter, unless the time is extended by the Court, prepare a proper Journal Entry and submit the same to counsel for the opposite party who shall approve or reject the same within three (3) days after its receipt by him and may, in case of rejection, file objections thereto in writing with the Court. In the event counsel fails to prepare and present a journal entry within the time required, the Court may prepare and journalize such entry or take other action in its discretion including dismissal.

16.02 In the event a civil matter is settled, counsel for the parties shall prepare and sign a journal entry. Such journal entry shall be presented to the Court no later than ten (10) days after the date assigned for trial. Should counsel fail to present such entry within the ten (10) day period, the Court may, in its own discretion, file its own entry or dismiss all causes of action therein for failure to prosecute.

RULE 17: RULES OF DECORUM

17.01 When trial is to a jury the jurors shall take their places in the jury box before the Judge enters the court room.

17.02 The flag of the United States shall, at all times while Court is in session, be displayed at, on, or in close proximity to the bench, in a standard to the right of the Judge.

17.03 Lawyers may never lean upon the bench nor appear to engage the Court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and public.

17.04 Lawyers shall examine witnesses from a position at the counsel table, except when handling exhibits, unless a lectern is provided by the Court, in which case the examination shall be either from said position at the counsel table or from the lectern. Lawyers may either stand while examining a witness from the counsel table or remain seated there. In no case shall a lawyer crowd the witness stand in examining a witness.

17.05 Lawyers should not, in addressing the jury, crowd the jury box.

17.06 Lawyers, in examination of jurors on voir dire, should, insofar as practical, use collective questions, avoid repetition and seek only material information.

17.07 Lawyers, during trial, should not exhibit familiarity with witnesses, jurors, or opposing counsel, and generally the use of first names shall be avoided. In jury arguments no juror shall be addressed individually or by name.

17.08 All lawyers and Court Officers shall wear appropriate courtroom attire while in attendance upon the Court, providing judicial discretion may be exercised otherwise in extreme situations.

17.09 Lawyers shall advise their clients and witnesses of the formalities of the Court, and seek their full cooperation therewith. It is contemplated that lawyers shall advise clients and witnesses to wear appropriate courtroom attire.

17.10 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

17.11 The swearing of witnesses should be an impressive ceremony and not a mere formality.

17.12 In jury cases which are disposed of upon a motion for nonsuit or directed verdict, the Judge, in dismissing the jury should briefly explain the procedure and why a verdict was necessary.

17.13 The Judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in proper situations.

RULE 18: ATTORNEYS NOT TO ACT AS SURETY

18.01 No practicing attorney shall be received as surety on any bond or recognizance in any action or proceeding, civil or criminal.

RULE 19: CASE MANAGEMENT

CASE MANAGEMENT (CRIMINAL)

19.01 The purpose of Sections 19.01 through 19.07 is to establish, pursuant to Sup. R. 5 (B)(1), a system for criminal case management which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

SCHEDULING OF EVENTS

The scheduling begins after arraignment. Thereafter the case is managed in four (4) judicial steps.

19.02 PRETRIAL. After arraignment, all first degree, second degree, third degree and fourth degree misdemeanors shall be set for pretrial by the Court within thirty (30) days. Minor misdemeanors shall be set for trial unless the Judge orders a pretrial in said case. Unclassified misdemeanors shall be set for pretrial only if they carry the possibility of jail time upon conviction.

19.03 The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a judgment entry of what occurred will be filed in said case. Any attorney who fails to

appear for pretrial without just cause being shown may be punished for contempt of court.

19.04 If the parties cannot resolve the case, then the case should be set for trial to court unless a jury is demanded.

19.05 MOTIONS. All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. See Local Rule 14 herein.

19.06 TRIALS. Each case not resolved at pretrial shall be set for trial to the Court. If a jury demand is timely filed, then the case will be moved to the jury trial schedule. All attorneys shall notify the Court by 3:00 P.M. the day before their trial of any change of plea or jury costs may be attached to their case, if incurred.

19.07 SENTENCING. Absent a request from defendant, sentencing hearings shall occur immediately after adjudication of guilt if no presentence report is requested. In cases where a presentence report is ordered, if no presentence report is requested. After the Court receives the presentence report, the Court will set the hearing for sentencing within seven (7) days, whenever possible.

CASE MANAGEMENT(CIVIL)

19.08 The purpose of Sections 19.08 through 19.26 is to establish, pursuant to Sup. R. 5(B)(1), a system for civil case management which will achieve the prompt and fair disposal of civil cases.

SCHEDULING OF EVENTS

19.09 The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and five (5) judicial steps.

CLERICAL STEPS

19.10 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 (6) months from the date the cause of action has been filed, then the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

19.11 If counsel fails to take any action in a pending cause, within six (6) months from the date of filing of the cause of action, then the clerk shall notify counsel that the case will be dismissed in fourteen (14) days unless good cause is shown to the contrary.

19.12 After any responsive pleading is filed, the clerk shall immediately set the matter for a hearing.

19.13 When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, then the clerk shall notify the party that the case will be dismissed unless the entry is received within ten (10) days.

JUDICIAL STEPS

19.14 STATUS HEARING. After an answer is filed, the case will be set for pretrial hearing which will be heard in Court. No telephone pretrial will be held.

19.15 MOTIONS. All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the Court.

19.16 There will be no oral hearings in said motions, except for default motions, unless the parties request an oral hearing or the court deems it necessary. See Local Rule 14.

19.17 PRETRIAL. For the purpose of this rule, “pretrial” shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record.

19.18 Any attorney for a party to the action who fails to attend a scheduled pretrial conference, without just cause being shown, may be punished as for contempt of this court.

19.19 Notice of pretrial conference shall be given to all counsel of record by mail and/or by telephone from the clerk prior to the conference. Any application for continuance of the conference shall be addressed to the judge to whom the case is assigned.

19.20 Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.

19.21 The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit.

19.22 The Court shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of the trial. The Court shall file a pretrial judgment entry concerning the matters which came before the court for pretrial. The Court shall, at that time, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.

19.23 The judge presiding at the pretrial conference shall have the authority to dismiss the action for want of prosecution on motion of 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 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 all the circumstances.

19.24 CONTINUANCES. No party shall be granted a continuance of a trial or a hearing without written motion from the party or his counsel stating the reason for the continuance with accompanying conflicting notice, if appropriate, and proposed judgment entry.

19.25 When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trials. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.

19.26 If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the judge may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the court, the court shall appoint a substitute trial attorney.

CASE MANAGEMENT (SPECIAL PROCEEDINGS)

19.27 The purpose of Sections 19.27 through 19.40 is to establish, pursuant to

Sup. R. 5(B)(1), a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings: to-wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, garnishment hearings, and debtor exams. The following criminal matters are considered special proceedings: preliminary hearings, extradition hearings and BMV hearings.

SCHEDULING OF EVENTS

19.28 Cases that have time limits established by Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

CLERICAL STEPS

19.29 In all new cases, if counsel fails to obtain service of summons within six (6) months, the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

19.30 Upon perfection of service, counsel shall submit an application for default and journal entry for same and case will be set for a default hearing where appropriate.

19.31 After any responsive pleading is filed, the clerk shall immediately set it for a hearing where appropriate.

19.32 If no action has been taken on a file for a period of six (6) months and the case is not set for trial, then the clerk shall notify the party that the matter will be dismissed within fourteen (14) days unless good cause is shown.

19.33 When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, then the clerk shall notify the party that his case will be dismissed unless the entry is received within ten (10) days.

FORCIBLE ENTRY AND DETAINER HEARINGS

19.34 HEARING. All forcible entry and detainer cases shall be set for hearing before the court, pursuant to the time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied. The Court, at the conclusion of the hearing, shall enter the judgment and the party in whose favor an order or judgment is rendered shall prepare a journal entry.

19.35 If an answer or jury demand is filed in a forcible entry and detainer case, then the clerk shall schedule the case for the appropriate hearing.

SMALL CLAIMS COURT

19.36 A small claim action is commenced by filing a small claims petition, pursuant to Ohio Revised Code. No defendant is required to file an answer or statement of defense. However, should a defendant fail to appear for the hearing, after being duly served, then a default judgment may be rendered against said defendant.

19.37 Upon filing of motion and affidavit as required by Ohio Revised Code Section 1925.10, and upon payment of the required costs, the small claim will be transferred to the regular docket. No transfer will be granted until the filing costs are paid.

19.38 The hearing in small claims court shall be conducted by the Judge. The Judge shall place all parties who plan to offer evidence under oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in a small claims court.

19.39 At the conclusion of the case, the Judge will announce his finding and a judgment entry shall be prepared by the clerk.

19.40 The employees of the court shall assist the parties in collecting their judgments, but shall not fill out forms for the parties.

RULE 20: JURY MANAGEMENT PLAN

This local rule of practice is being implemented in compliance with Sup. R. 5(B)(2), which requires that each county court adopt a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Eastern County Court.

JURY ELIGIBILITY

20.01 To ensure that the jury pool is representative of the adult population of Ashtabula County, Ohio, all persons are eligible to serve on a jury, except as follows:

1. Persons less than eighteen years of age;

2. Persons who are not residents of Ashtabula County;
3. Persons who are residents of Ashtabula Township, Ashtabula City, Saybrook Township, Plymouth Township and Conneaut City.

20.02 All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

PROCEDURE FOR JURY SELECTION

20.03 Potential jurors shall be drawn from a jury sources list, which shall constitute a list of all registered voters and others according to law, in Ashtabula County, excluding Ashtabula City, Ashtabula Township, Saybrook Township, Plymouth Township and Conneaut City, by the use of random selection procedures using automated data processing equipment in conformity with Ohio Revised Code Section 2313.08, and Ohio Revised Code Section 2313.21.

20.04 Each year the Jury Commissioners, duly appointed pursuant to Revised Code Section 2313.01, shall convene and select jury panels to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from such list, in accordance with the powers provided to jury commissioners by Ohio Revised Code Section 2313.01.

20.05 In the event the jury panels drawn are insufficient to meet the needs for the Court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jury panels, in accordance with Ohio Revised Code Section 2313.01.

20.06 If, in the opinion of the Court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.

20.07 Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire.

20.08 Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service.
2. To excuse or defer prospective jurors.

3. To remove prospective jurors for cause or if challenged peremptorily.
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.
5. As otherwise provided by law.

20.09 All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned (See Attachment A). Further, all prospective jurors shall be required to complete a jury questionnaire and, if appropriate, a request for excuse, exemption or a deferral (See Attachment B). Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequences of his failure to respond. Any person who fails to respond to a duly served summons shall be served with a citation for a contempt of court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

SUMMONING OF PROSPECTIVE JURORS

20.10 Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, a jury deposit of Eighty Dollars (\$80.00) shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, said deposit shall accompany said pleading. In the event either deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the Court for a waiver of the jury deposit requirement.

20.11 In criminal cases, no deposit shall be required.

20.12 Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty-five (35) persons per trial shall be summoned for service unless the Court determine that a lesser or greater number is necessary for a particular trial.

20.13 Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial. The Clerk shall contact counsel, or the parties, which ever is appropriate, at least two weeks prior to the scheduled trial date. If it appears that trial is inevitable, a jury

panel shall be summoned upon court order, at least fourteen (14) days in advance of trial. Those costs associated with the summoning of a jury shall be assessed against the party requesting the trial unless otherwise ordered by the Court.

20.14 In cases where multiple trials are set for the same date, jury costs shall be assessed to the last trial settled on that date. If a trial is settled on the date of trial, all lawful jury costs shall be assessed against the party who requested the jury unless otherwise ordered by the Court.

20.15 Persons summoned for jury service shall receive compensation in the amount of \$22.50 per day and shall increase through 2003 as per Ashtabula County Commissioners Resolution #98-1709. Such fees shall be promptly paid from the County Treasury, as appropriate.

20.16 Any juror wishing to waive his fee and/or mileage for service shall be permitted to do so in writing in the Clerk's office. All waived fees shall be returned to the County treasury, as appropriate.

20.17 The terms of service for any prospective panel shall be one day or the completion of one trial, whichever is longer.

EXEMPTION, EXCUSE AND DEFERRAL

20.18 All persons except those who exercise their right to exemption are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excuse, exemption or deferral must be made on the form provided, and shall be accompanied by appropriate documentation. These documents shall be retained by the Court.

20.19 The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

20.20 Any person who suffers from a substantial physiological or psychological impairment.

20.21 Any person who has a scheduled vacation or business trip during potential

jury service.

20.22 Any person for whom jury service would constitute a substantial economic hardship.

20.23 Any person for whom service on a jury would constitute substantial hardship on their family, clients, or members of the public affected by the prospective juror's occupation.

20.24 Any person who has served on a jury within the last year.

20.25 Any person for whom it may be readily determined is unfit for jury service.

20.26 Any person for whom it is readily apparent would be unable to perform their duty as a juror.

20.27 Other valid excuse according to law.

20.28 No person shall be excused from jury service, except by the Judge. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

EXAMINATION OF PROSPECTIVE JURORS

20.29 Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.

20.30 All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.

20.31 The Court may conduct a preliminary voir dire examination concerning basic and relevant matters and counsel shall be permitted a reasonable period of time to question panel members thereafter. Counsel or parties shall conform their voir dire questioning to the following rules:

20.32 Counsel may not examine prospective jurors concerning the laws or possible instructions.

20.33 Counsel may not ask jurors to base answers on hypothetical questions.

20.34 Counsel may not argue the case while questioning jurors.

20.35 Counsel may not engage in efforts to indoctrinate jurors.

20.36 Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.

20.37 Questions are to be asked collectively of the panel whenever possible.

20.38 Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

20.39 In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions.

20.40 In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.

20.41 If it is determined by the Court during the voir dire process that an individual is unable or unwilling to sit in a particular cause fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party, if unrepresented, or upon the motion of the Court. Further, Ohio Revised Code Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.

20.42 Peremptory challenges shall be exercised alternatively as presently established by Revised Code Section 2945.23, and Civil Rule 47 and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open Court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

20.43 Challenges to the jury array shall be made in accordance with established rules of procedure.

20.44 In criminal cases, the jury shall consist of eight regular jurors and one alternate juror. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

JURY PROCEDURE

20.45 Jurors shall report for service no later than 8:15 a.m. unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion or orientation. No motions shall be entertained by the Court the day of trial, except those which the Court must consider by law or by rule of procedure.

20.46 Upon the completion of the case and prior to the jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with the Civil and Criminal Rules or Procedure, the parties or their counsel may request that special instructions be given to the jury.

20.47 A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation.

20.48 Upon appearance for service, all prospective jurors shall be placed under the supervision of the Clerk and shall direct any questions or communications to the Clerk for appropriate action.

20.49 All communications between the Judge and the members of the jury panel, from the time of reporting to the Court, through dismissal, shall be committed to writing or placed on the record in open Court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

20.50 All jury deliberation shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize conduct between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the Court without permission.

20.51 Deliberations shall not continue after a reasonable hour, unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision.

20.52 If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the Courts shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

20.53 Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open Court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

CONCLUSION

20.54 The Court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool, the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors, the cost effectiveness of this plan and overall juror satisfaction.

RULE 21 MEDIATION POLICY

21.01 The Court may refer any civil case or appropriate criminal case to mediation. Attorneys may also request referral of cases to mediation by motion or upon agreement of the parties.

21.02 Referral of a case to mediation shall not operate as a stay of proceedings unless otherwise ordered by the Court. Copies of Judgment Entries issued for cases ordered to mediation shall be forwarded to the Joint Court Mediation Project Office.

21.03 Mediations shall be conducted by the Joint Court Mediation Project Staff, or other individuals designated as appropriate by the Joint Court Mediation Project staff.

REFERRAL TO MEDIATION

21.04 Participation. Parties so ordered shall participate in the mediation process and cooperate in all matters pertaining to the mediation. The mediation process shall provide an opportunity to parties and their attorneys to engage in whatever appropriate steps may be helpful in settling the matters in dispute.

21.05 Scheduling Mediation. Mediation in small claim cases shall be scheduled at the time the case is set for hearing. All other cases shall be scheduled by the Joint Court Mediation Project Staff.

21.06 Attendance. The following persons shall physically attend the mediation session unless excused by the Court or mediator assigned to the case:

- (1) All individual parties; an officer, director, or employee having authority to settle the claim for a corporate party, or in the case of a governmental entity or agency, a representative with full authority to negotiate on behalf of the entity or agency and to recommend settlement to the appropriate decision making body; and
- (2) The party's counsel primarily responsible for handling of the matter, if any; and
- (3) A representative of the insurance carrier for any insured party who has full authority to settle without further consultation.

21.07 Sanctions for Failure to Attend. If persons identified in Section C above fail to attend a duly ordered mediation without good cause, the Court may impose sanctions, including an award of attorney fees and other costs, contempt or other appropriate sanctions.

21.08 Confidentiality. The provisions of R.C. 2317.023 regarding confidentiality apply to any case ordered to mediation pursuant to this local rule.

21.09 Concluding Mediation. Immediately upon conclusion of the mediation, the mediator shall submit a report to the Court indicating the status of the mediation. In small claims cases where the parties have entered into an agreement, the mediator shall submit a Memorandum of Understanding to the Court.

RULE 22 SECURITY

The "Ashtabula County Court Security Manual" dated January 20, 1998, heretofore adopted by this court, is hereby incorporated into the Eastern County Court Local Rules by reference together with any amendments thereto made before or after the enactment of these local rules, as part of its security plan. Said security plan shall not be a public record.