TABLE OF CONTENTS

OF

RULES OF LOCAL PRACTICE AND PROCEDURE

FOR THE

CLERMONT COUNTY MUNICIPAL COURT

SECTION I-GENERAL RULES

Rule 1: Scope and Effective Date

Rule 2: Day and Time of Sessions

Rule 3: Use of Abbreviations and Identifiers

Rule 4: Administrative Judge of the Clermont County Municipal Court

Rule 5: Designations of Trial Counsel

Rule 6: Withdrawal of Trial Counsel

Rule 7: Unauthorized Practice of Law

Rule 8: Pleadings

Rule 9: Filings by Electronic Transmission

Rule 10: Exhibits

Rule 11: Continuances

Rule 12: Motion Practice

Rule 13: Court Costs and Fees

Rule 14: Jury Demands and Waivers

Rule 15: Trial Brief and Proposed Jury Instructions

Rule 16: Views

Rule 17: Court Stenographer-Recorder of all Proceedings

Rule 18: Assigned Judge Procedures

Rule 19: Refiling of Cases

Rule 20: Magistrates

Rule 21: Forms

Rule 22: Publication of Court Notices

Rule 23: Jury Use and Management Plan

Rule 24: Conduct in Facility
Rule 25: Courthouse Security
Rule 26: Court Record Retention Policy
Rule 27: Publication of Local Rules

SECTION II-CIVIL RULES

Rule 28: Classification Form
Rule 29: Case Management in Civil Cases
Rule 30: Deposits for Costs
Rule 31: Civil Pretrial

SECTION III-SPECIAL CIVIL PROCEEDINGS

Rule 32: Time Limits: Applicability of Civil Rules
Rule 33: Forcible Entry and Detainer
Rule 34: Rent Escrow
Rule 35: Small Claims
Rule 36: Judgments Upon Warrant of Attorney to Confess

SECTION IV-CRIMINAL RULES

Rule 37: Case Management-Arraignment
Rule 38: Jury Demands
Rule 39: Appeals/Transfers from Mayor’s Court
Rule 40: Pretrial Diversion/Private Complaint Program Procedure
Rule 41: Case Management-Plea or Trial Setting/Pretrial Conference
Rule 42: Case Management-Trials, Motions
Rule 43: Appointment of Counsel for Indigent Defendant
Rule 44: Violations Bureau

SECTION V-SPECIAL CRIMINAL PROCEEDINGS

Rule 45: Case Management-Special Criminal Proceedings

Rule 46: Concurrent Supervision with the Court of Common Pleas

Rule 47: Specialized Docket for Multiple OVI Offenders

RULE 1

SCOPE AND EFFECTIVE DATE

These Local Rules of Court govern practice and procedure in the Clermont County Municipal Court. They are adopted pursuant to the Court's inherent authority as set forth in the Rules of Civil and Criminal Procedure and Rules of Superintendence. These rules may be cited as "Loc. R. x". They are effective as of May 1, 2013 and shall govern all proceedings filed subsequent to that date.

These rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court, case law, and statutes governing proceedings, functions and services of this Court; to provide equity and simplicity in procedure; to avoid technical and unjustifiable delays; and to secure just and expeditious determination of all actions and proceedings in this Court. These Local Rules and any amendments thereto shall govern practice and procedure in this Court.

RULE 2

DAY AND TIME OF SESSION

The sessions of the Clermont County Municipal Court shall be from 8:30 a.m. until 12:00 noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, except on holidays. The offices of the Clerk of Court shall be open from 7:00 a.m. until 3:00 a.m. the following day, seven (7) days a week.

These hours may be extended or reduced by order of the Court to accommodate special circumstances at the court's discretion.

RULE 3

USE OF ABBREVIATIONS AND IDENTIFIERS

The Court may adopt abbreviations and/or symbols that may be used in entries, and special identifiers that shall be used in cases with multiple counts or charges.

RULE 4
ADMINISTRATIVE JUDGE OF THE CLERMONT COUNTY MUNICIPAL COURT

The Administrative Judge of the Clermont County Municipal Court shall be selected and exercise the powers provided for in Sup.R. 4. The Administrative Judge of the Clermont County Municipal Court shall also serve as the Presiding Judge of the court and exercise the powers provided in Sup. R. 4. During any extended absence of the Administrative Judge of the Court, the next most senior Judge of the Court shall be acting Administrative Judge and shall perform all duties related thereto; including the duties of the Presiding Judge.

RULE 5
DESIGNATION OF TRIAL COUNSEL

Attorneys shall designate their capacity as trial counsel on all documents in civil, criminal and traffic cases and shall include their office address, telephone number, fax number, email address, and Supreme Court registration number or pro hac vice registration number.

Trial counsel's designation in a criminal-traffic case shall be made on the appropriate form. One copy of the designation form must be filed per case number.

No designation of a law firm or governmental agency will be acceptable as trial counsel. However, substitution of counsel within the same law firm or agency may be authorized by the assigned judge or magistrate.

RULE 6
WITHDRAWAL OF TRIAL COUNSEL

Counsel may be granted leave to withdraw as trial counsel with the consent of the assigned judge or magistrate. No such application will be considered unless a motion is made stating the reasons for the application. Withdrawing counsel shall notify the client of the motion to withdraw. The court, at its discretion, may hold a hearing on the matter. An entry ruling on the motion shall be journalized. Withdrawing counsel shall mail a copy of the entry to the client at his/her last known address.

RULE 7

UNAUTHORIZED PRACTICE OF LAW

No person, not a party in interest, who is not an attorney licensed to practice in the State of Ohio or admitted to practice pro hac vice, will be permitted to file, conduct or defend any action or proceeding in the Clermont County Municipal Court.

A corporation may, through a bona fide officer or salaried employee, file and present its claim or defense in an action heard on the small claims docket where the corporation is a party to the underlying contract or claim. The officer or employee may not engage in argument, cross examination, or other acts of advocacy.

RULE 8

PLEADINGS

Other than the original complaint, every pleading, motion, or other paper filed with the Clerk shall contain a certification of service on the other parties to the action.

RULE 9

FILINGS BY ELECTRONIC TRANSMISSION

Pleadings and other papers may be filed with the Clerk of Court by facsimile transmission to 513-732-7831 for criminal and traffic filings, and 513-732-8134 for civil filings from 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding holidays. A party filing by fax shall ensure that all fees are paid in a timely manner. A document shall not be considered filed until the document is received and all applicable fees are paid.

A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court, but must maintain in their record, and have available for production on request by the court, the source document filed by fax with original signatures as otherwise required under the applicable rules and the source copy of the facsimile cover sheet used for the filing. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post-judgment relief are exhausted.

A signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the filing was transmitted without authority, the court may order the filing stricken from the record.

Any risk associated with transmitting a document electronically shall be borne by the sending party.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing.

No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees will not be filed.

No additional fee shall be assessed for facsimile filings.

Facsimile filings shall not exceed fifteen (15) pages in length. The filer shall not transmit service copies by facsimile.

RULE 10
EXHIBITS

All evidence of a tangible nature to be offered at trial shall be:

a. Marked numerically and identified as "Plaintiff's Exhibit:" or "State's Exhibit" or marked alphabetically and identified as "Defendant's Exhibit;" and
b. Prepared in numbers sufficient to provide one copy each for the Court, the witness and each party;

RULE 11
CONTINUANCES

Except by leave of Court, upon good cause shown, every request for continuance shall be made by motion and be granted upon showing of good cause. The motion shall set forth a date from which a continuance is requested and the reason for the continuance.

Any praecipe for subpoena or order designating a person to serve a subpoena shall be filed with the Clerk not later than seven (7) days before the date of trial. If a witness fails to appear at a trial and the filing for such service was made less than seven (7) days before trial, then such non-

appearance may not constitute a ground for continuance. The application for continuance on the grounds of unavailability of a particular witness shall be made as soon as a party is informed of that fact.

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, the case which was set first for trial shall have priority and shall be tried on the date assigned. If a prior trial conflict exists, the date of scheduling shall be stated in the motion. Criminal cases shall have priority over civil cases.

The granting of any request for continuance shall be a matter within the discretion of the court. Consent of opposing parties or counsel shall not, in and of itself, constitute good cause. No continuance shall be granted without first setting a definite date of trial or hearing. An entry may accompany a motion for continuance with signature of opposing counsel if agreed upon.

If a designated trial attorney has such a number of cases assigned for trial in this Court so as to cause undue delay in the disposition of such cases, the Administrative Judge may summon such trial attorney who persistently requests continuances and extensions to warn the attorney of the possibilities of sanctions and to encourage the attorney to make necessary adjustments in the management of their practice. Where such measures fail, restrictions may properly be imposed by the Administrative Judge on the number of cases in which the attorney may participate at any one time.

RULE 12
MOTION PRACTICE

All motions, except those normally made at a trial, shall be in writing, signed by the party or counsel making the motion, served on opposing counsel or party, and made within the applicable time limits.

All motions for a definite statement and all motions to strike shall set out the language, in full, sought to be stricken or claimed to be indefinite. In a motion to suppress, the items of evidence in question shall be specified.

Motions interposed under Civil Rules 12, 37, 41(B)(1), 42, 50(B), 56, 59, 60(B) and 65(A), and pretrial motions timely filed under the Criminal and Traffic rules, shall be scheduled

for hearing before the Court. A party filing such a motion shall obtain a date for hearing from the Assignment Commissioner or the court, and shall promptly notify the other parties to the action.

All other motions will not be set for hearing except as required by law, or as the Court, in its discretion, orders. A party desiring an oral hearing shall request the same in a clearly identifiable portion of the motion.

A party filing a motion, not required to be scheduled for hearing pursuant to this Rule, shall submit a proposed entry at the time of filing of the motion.

Unless otherwise defined by statute or rule of procedure, or pursuant to a schedule established by the court, parties wishing to file a written response to a motion shall do so no later than fourteen (14) days following service of the motion or three (3) days prior to the oral hearing date, if one is scheduled, whichever is earlier. When a motion is set for hearing, the Court shall advise the parties to the action of the date and time of the hearing.

Any motion not filed in compliance with this Rule may be summarily dismissed.

RULE 13
COURT COSTS AND FEES

Costs and fees shall be assessed in accordance with the Schedule of Deposits and Costs published by the Clerk of Courts and as amended from time to time by the Court.

In criminal and traffic cases, if a defendant is charged with more than one offense arising out of the same act or transaction or series of acts or transactions, and one or more but not all of the offenses charged are felonies, the felonies shall be given one case number and the misdemeanors a separate case number. The basic cost identified in the Schedule of Deposits and Costs shall be charged for the felonies, and for the misdemeanors, and costs shall be charged as determined by the Court and included in the Schedule of Costs.

In all other criminal and traffic cases, if a defendant is charged with more than one misdemeanor arising from the same act or transaction, or series of acts or transactions, the basic cost identified in the schedule of costs shall be charged with respect to these misdemeanors, and an additional cost may be charged as determined by the Court and included in the Schedule of Costs.

RULE 14

JURY DEMANDS AND WAIVERS

Any party filing a jury demand shall include a motion to continue a prior scheduled non-jury hearing with certificate of service to all parties. A party may file a withdrawal of jury demand in a civil case. The withdrawal must include written consent of all parties and a motion to continue any scheduled jury trial with a certificate of service to all parties.

RULE 15

TRIAL BRIEFS AND PROPOSED JURY INSTRUCTIONS

In the event the Court determines that the issues in a particular action require it, the Court may require the parties or their counsel to file with the Court trial briefs and/or proposed jury instructions at least five (5) days before a trial is to commence. Counsel for the parties shall submit with proposed jury instructions citations of authority for any such instructions.

RULE 16

VIEWS

A request for a view by a judge or jury will be made at the time of the pretrial conference.

RULE 17

COURT STENOGRAPHER -RECORDING OF ALL PROCEEDINGS

The official record of this Court shall be taken by audio electronic recording.

A party appealing a decision of a trial court shall file a praecipe advising the Court what portion(s) of the record he/she wishes transcribed. If the party wishes a typewritten transcript, then payment arrangements shall be made with a certified court stenographer who will certify the typewritten transcript. Subject to prior certification by the Court, a party may make arrangements with another to provide a typewritten transcription.

All audio electronic recordings will be maintained on file for a period of one year. These will be deleted after one year unless an appeal is pending and a request is filed with the Court requesting that the recording be maintained for a longer period of time.

RULE 18
ASSIGNED JUDGE PROCEDURE

All cases shall be assigned to an individual judge or to a particular session of court in accordance with Sup. R. 36 and Local Rule 19. The assignment of individual judges shall be accomplished in compliance with Sup. R. 36.

One of the judges of the Court may be substituted for another judge of the Court when the assigned judge is unavailable for any reason including illness or a scheduling conflict. Where related cases are assigned to different judges, and consolidation is appropriate, a judge may transfer one or more of the related cases to the judge having the lowest case number for trial. Before transferring the case(s), the consent of the transferee judge shall be obtained by an endorsement on the proposed entry consolidating the cases.

Where necessary or proper, a judge may disqualify himself/herself from a particular case. In those circumstances, an entry shall be prepared and signed by the Administrative Judge transferring the case to another judge of the Court, to be selected in accordance with Sup. R. 36

Where a case is returned on an appeal for further review or action by the Municipal Court, the case file shall be submitted for review to the originally assigned judge for proper disposition.

If a case has been individually assigned to a judge and a warrant is issued, upon recall of the warrant or establishment of bond, the matter shall be rescheduled to the assigned judge.

All probation violation cases shall be assigned to the judge who imposed the original sentence. When more than one judge has been assigned to the same defendant on more than one case, the probation violations shall be heard by the judge presiding over the case with the lowest case number. If the defendant has been charged with new offenses, the judge assigned to the new case may adjudicate the probation violation subject to the agreement of the State, Defendant, and both judges.

A motion for new trial, for judgment notwithstanding verdict or for relief from a judgment or Order shall be heard by the judge who rendered the judgment or Order from which relief is sought.

RULE 19
REFILING OF CASES

In any instance where a previously filed and dismissed case is refiled, that case shall be referred to the Assignment Commissioner for scheduling and shall be assigned to the judge originally assigned to hear it, unless for good cause that judge is precluded from hearing the case. In a criminal/traffic case, the complainant in such case shall indicate to the Clerk, upon refiling, that the complaint was previously filed and dismissed, and the Clerk shall so advise the Assignment Commissioner.

RULE 20
MAGISTRATES

A Magistrate may be appointed by the Administrative Judge and shall have all of the authority and powers set forth in the applicable Rules of Procedure, statutes, and this court's general order of reference.

The Court may, from time to time, establish forms for the Magistrate's report on various types of cases which will be used by the Magistrate.

When a party asserts as error any of the factual findings of the Magistrate, and a copy of all relevant portions of the transcript is not filed with the objections, a statement shall be included that a transcript was ordered and the approximate date when the transcript will be provided. An affidavit in lieu of a transcript will only be accepted when no audio electronic recording is available of a hearing to allow for the making of a transcript.

RULE 21
FORMS

The court may develop standardized forms for the convenience and use of the court, attorneys, and parties to an action. The Clerk of Courts shall make those forms available on the court's website.

RULE 22
PUBLICATION OF COURT NOTICES

The Clerk of Court is authorized to publish notices authorized by the Court or by law in any newspaper of general circulation in the County of Clermont.

Unless waived by order of the Court for indigency or hardship, upon filing of a praecipe for publication of notice in a particular cause of action, the party filing such request shall deposit with the Clerk of Court security for the costs of such publication as set forth in the Schedule of Deposits established from time to time by the Court. The party shall not publish the notice until such deposit has been received.

RULE 23
JURY USE AND MANAGEMENT PLAN

All jury trials shall be heard by the judges of this court. Upon the filing of a jury demand, the magistrate shall transfer the case to the docket of the assigned judge for a formal pretrial conference after disposing of all preliminary matters.

The responsibility for administration of the jury system shall be vested in the Clermont County Jury Commissioner. The Jury Commissioner shall be responsible for the selection of potential jurors from the public at large, determination of eligibility, notification, compensation, and assignment to the Municipal Court. All procedures concerning jury selection and service should be governed by Ohio Rules of the Court.

The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury

duty and the number assigned to jury panels.

Voir dire examination shall be limited to matters relevant to determining the juror's fairness and impartiality. Basic background information regarding panel members will be made available to counsel for each party. The court may conduct a preliminary voir dire examination of the jurors. Counsel will then be permitted to voir dire panel members.

The court shall ensure that the privacy of prospective jurors is reasonably protected, and questioning is consistent with the purpose of the voir dire process.

If the court determines that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual may be removed from the panel. Such a determination may be made on motion of counsel or by the court.

Jury deliberations shall take place under conditions that are designed to ensure impartiality and to enhance rational decision making. The court shall instruct the jury concerning appropriate procedures to be followed during deliberations. A jury shall not be required to deliberate after a reasonable hour unless the court determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

The jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences. The trial Judge shall have the discretion to sequester a jury on the motion of Counsel or on the Judge's initiative and shall have the responsibility to oversee the conditions of the sequestration. The court shall ensure that training is provided to personnel who escort and assist jurors during sequestration.

RULE 24
CONDUCT IN FACILITY

No smoking is permitted in a courtroom or the court facilities under any circumstances. No eating or drinking is permitted in a courtroom or the court facilities without the express permission of the judge or magistrate. Counsel and parties shall be dressed appropriately for all court appearances.

RULE 25

COURTHOUSE SECURITY

No person shall enter areas marked “Court Personnel Only” without prior authorization of any court personnel authorized to permit such entry.

RULE 26

COURT RECORD RETENTION POLICY

All dockets, indexes, journals, and cash books of the Court shall be retained and preserved by the Court in a manner consistent with Sup. R. 26. Court docket, indexes, journals, cash books, and all other court records shall also be subject to destruction or other disposition.

RULE 27

PUBLICATION OF LOCAL RULES

The Clerk of Clermont County Municipal Court shall order production of copies of these rules and amendments made thereto. Such copies shall be made available by the Clerk of Court at the costs of production. The Clerk shall make a copy of these rules available on its website.

CIVIL RULES

RULE 28

CLASSIFICATION FORM

The plaintiff(s), or counsel for the plaintiff(s), shall, when filing a civil complaint, attach a completed Classification form indicating the classification into which the case falls and all other information which may be requested on the Classification form.

RULE 29

CASE MANAGEMENT IN CIVIL CASES

Sufficient copies of pleadings shall be filed with the Clerk to accomplish service of process, if required. Summons shall be served in accordance with Ohio Rules of Civil Procedure.

The Clerk of Court shall accept service of process methods as outlined in Civ. R. 4.1 and

include “virtual” service of process through the U.S. Post Office’s eCertified mail. All service of process of complaints or other documents served with virtual services are subject to review and/or challenge as further outlined in Civ. R. 4.1 with confirmation of service of process data being made available through the Clerk’s office.

In the event there is a failure of service, the clerk shall notify the party or counsel immediately. If no action is taken within sixty (60) days thereafter, the Clerk shall notify the party or counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary. The action shall be set for an informal pretrial conference within thirty (30) days after an answer or other responsive pleading is filed by at least one defendant.

After any responsive pleading or motion is filed, the Clerk shall immediately forward said pleading or motion and file to the Assignment Commissioner for scheduling and/or submission to the judge for a ruling.

If no action has been taken on a case for a six (6) month period, and the case is not set for trial, then the Clerk shall set the matter for report/dismissal and notify all parties or their counsel of the report/dismissal and inform them that their failure to appear may result in a dismissal of the action without prejudice.

When a file has been marked “entry to be submitted” and the entry has not been received within thirty (30) days, then the Clerk shall set the matter for report and notify all parties or their counsel of the report and inform them that their failure to appear may result in a dismissal of the action without prejudice.

The court may refer any matter to a magistrate to conduct a settlement conference or to a private organization for participation in alternative dispute resolution activities. The cost of participation shall be borne by the parties.

RULE 30
DEPOSITS FOR COSTS

Unless waived by this Rule, no civil action or proceeding shall be accepted for filing by the Clerk of the Court unless there is deposited a sum of money set forth in the Schedule of Deposits as amended by this Court. A copy of such schedule shall be made available by request

to the Clerk of Court and shall be placed on the court's website. The Clerk may, in a case where the deposit of costs is insufficient, require additional security if deemed necessary.

In the event that a party wishing to file an action in this Court is indigent, the party or his counsel shall file an Affidavit of Indigency. The Clerk shall submit such affidavit to a magistrate or judge for review before accepting any pleadings for the filing. Upon finding that such indigency does exist, the deposit by that party shall be waived.

Where a jury demand is filed in a civil case, the demanding party shall pay the fee established by the court at the time of filing their demand. For good cause shown, this deadline may be extended by the magistrate or judge assigned to the case. Failure of the parties to timely comply with this provision shall be deemed a waiver of the jury demand.

Notice to the Court of withdrawal of a jury demand shall be made to the Court no later than seven (7) days prior to the date of a jury trial. In the event a party or counsel fails to comply with this Rule, or if the case is settled or dismissed prior to trial and notice is not made to the Court at least seven (7) days in advance of the commencement of the trial, the requesting party shall bear the costs of juror fees incurred if a panel of jurors appears for service, unless such failure to comply is a result of an extreme emergency or conditions beyond the control of the party or his/her counsel, and such compliance is waived by the Court.

RULE 31
CIVIL PRETRIALS

A Pretrial Conference shall be conducted in civil cases where an answer has been filed, except in forcible entry and detainer actions, small claims, and Bureau of Motor Vehicle license suspension appeals, unless waived by the Court. A Pretrial Conference will be scheduled by the Assignment Commissioner within ninety (90) days of completion of the pleadings. All parties or their counsel are encouraged to have a preliminary conference before any Pretrial Conference at which time they will inspect exhibits, arrive at all possible stipulations and fully explore the question of settlement.

Subsequent to the completion of a Pretrial Conference, the Court may enter upon the record a Pretrial Order embracing all stipulations, admissions, and other matters which have come before the Court. The Court may require a pretrial memorandum of law and/or proposed jury

instructions, where applicable, and may request that the Pretrial Order be prepared and submitted by the parties.

For the purpose of this Rule, a "Pretrial Conference" is defined as a court-supervised conference designed to help produce an amicable settlement; to establish the procedure to be followed in the case; to establish time limits to be observed in the case pertaining to discovery and other matters; to establish procedures to inform the Court as to the law and as to jury instructions; and to limit the issues at trial. A Pretrial Conference may be formal or informal.

Informal Pretrial Conference

The Court may, in its discretion, conduct one or several Informal Pretrial Conference(s) by telephone provided that every statement is audible to every person. Each party is responsible for its own long distance charges or other fees associated with their appearance. A party's failure to appear may result in a dismissal of the action or counterclaim and/or a finding that the party or its counsel is in contempt of court.

Formal Pretrial Conference

The court in its discretion may order the parties to appear in person at a Formal Pretrial Conference. Upon scheduling of a Formal Pretrial Conference, each party shall, at least three (3) days before the conference, present the Court in writing with a statement of:

1. The issues involved;
2. Whether or not a jury trial previously demanded will be waived, and if not, the number of jurors demanded;
3. Whether the case is one where the issue of liability should be tried separately with a subsequent trial on the issue of damages, if liability be found;
4. Any discovery difficulty;
5. List of exhibits;
6. Itemization of special damages;
7. Witness list;
8. Whether a view is requested;
9. Other matters which are expected to be involved in the case.

Counsel will have in their Pretrial statements a list of all witnesses they expect to call or testify. In the absence of reasonable notice to opposing counsel of additions to this list, only those

witnesses listed in the Pretrial statement, or Pretrial Order issued by the Court, will be permitted to testify at the trial. The only exception will be witnesses solely for the purpose of impeachment, rebuttal or other witnesses permitted to be called upon the showing of good cause.

All Pretrial statements must contain certificates of service.

Each counsel shall bring to a formal Pretrial Conference all exhibits which are expected to be offered as evidence at the trial. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Pretrial statement, or Pretrial Order issued by the Court, with the exception of exhibits solely to be used for the purpose of impeachment.

Upon the failure of a party to appear at a Pretrial Conference or otherwise comply in any respect to this Rule, and any Order made pursuant thereto, the Court may make such Order as deemed appropriate under the circumstances, including, but not limited to dismissal of a cause of action for lack of prosecution, a hearing on whether the non-complying party shall be held in contempt of court, and/or an ex parte proceeding for the party in compliance.

At the completion of a Pretrial Conference, a trial date shall be scheduled by the assigned judge unless another Pretrial Conference or a motion hearing is scheduled at that time.

SPECIAL CIVIL PROCEEDINGS

RULE 32
TIME LIMITS; APPLICABILITY OF CIVIL RULES

Cases that have time limits established by the Ohio Revised Code and the Ohio Rules of Civil Procedure shall be set for hearing within those time limits. In all other special proceedings, a case shall be set for a hearing within a reasonable time not to exceed six (6) months.

The Civil Rules pertaining to case management in civil proceedings shall also apply to special civil proceedings, including provisions for notice of service, dismissal of an action, submission of entries, notification of the judge upon filing of a responsive pleading and other such provisions.

RULE 33

FORCIBLE ENTRY AND DETAINER

Actions in forcible entry and detainer shall be filed and proceedings conducted in accordance with the provisions of Ohio Revised Code and case law. A complaint in forcible entry and detainer shall state the reason for the eviction, and plaintiff shall include copies of the required notice(s) and a copy of any written instrument upon which the claim is based as attachments to the complaint. If an action in forcible entry and detainer contains an additional cause of action for money, then the court shall schedule a separate hearing on the additional cause of action.

The plaintiff's failure to appear on a claim for forcible entry and detainer may result in the dismissal of the claim, in addition to the dismissal of any other causes of action which are stated in the complaint. Trial by jury will be deemed waived unless demand is made and the appropriate deposit required by these rules is paid unless such deposit is waived pursuant to these Rules.

Once judgment has been entered ordering a defendant to vacate property, a writ of restitution for the premises shall be issued by the Clerk upon receipt of a praecipe requesting that said action be taken and upon deposit of the costs set forth in these Rules.

Should actual physical eviction of property be required pursuant to writ of restitution of premises, the Plaintiff shall arrange for sufficient equipment and workers to be present to accomplish the vacation under the supervision of a Deputy Sheriff.

An objection to a magistrate's decision shall not stay the issuance and execution of a writ of restitution. A defendant who seeks a stay shall file a motion with the court requesting a hearing on the matter by the assigned judge.

RULE 34

RENT ESCROW

A tenant may initiate a rent escrow by filing a form supplied by the Clerk which shall include a statement that the tenant is current in his/her rent and has given the landlord written notice of the defect(s).

The tenant may apply to the Court for an order directing the landlord to remedy the

condition(s); and/or using the rent deposited to remedy condition(s). The tenant shall, in his/her application shall specify the periodic rental due from the date of filing. The tenant must deposit any rent due, subject to reduction by order of the Court, on or before the due date.

The Clerk shall assign the rent escrow a case number and shall give written notice by certified mail to the landlord. Upon filing of an application by a landlord, a hearing shall be scheduled before a judge or magistrate, within the time allowed by law.

A one percent (1%) fee shall be charged as costs to be applied against all amounts escrowed and shall be assessed to the landlord unless the court directs otherwise.

RULE 35
SMALL CLAIMS

Actions filed in the Small Claims Division of the Court shall be filed and proceedings had in accordance with provisions of the Ohio Revised Code and case law.

A plaintiff must file sufficient copies of any documents supporting his/her claim to allow for service of process and provide the current address of each defendant. The plaintiff may also file, at the time of filing the complaint, a request for regular mail service in the event of failure of certified mail service.

Upon failure of service on the defendant(s), the Clerk shall notify the party or counsel immediately. If no action is taken within sixty (60) days thereafter, the Clerk shall notify the party or counsel that the case will be dismissed unless good cause is shown to the contrary.

At any time before a trial is held on a small claims complaint the Court may, at the request of a party, or on its own motion, refer the parties to a conciliator for conciliation proceedings, if the Court determines that the parties have not previously attempted to settle their dispute, or if it appears that the matter might be reasonably resolved through conciliation. If the conciliation procedures are unsuccessful, this fact shall be reported to the Court and the matter shall then proceed to trial. If the conciliation procedures are successful, the case may be continued for report or be dismissed in accordance with the agreement reached between the parties.

No transfer to the regular docket of the Court will be permitted until filing costs are paid, unless waived by the Court pursuant to these rules.

If more than one attorney appears in a small claims action, the case shall be transferred to

the regular docket of the Court.

RULE 36
JUDGMENTS UPON WARRANT OF ATTORNEY TO CONFESS

Immediately upon entering a judgment by confession upon warrant of attorney, the attorney for plaintiff shall cause a praecipe to be filed with the Clerk of Court requesting a copy of the judgment entry to be forwarded to the defendant at the address shown in the complaint by certified mail, return receipt requested, in accordance with the Ohio Revised Code and case law.

CRIMINAL RULES

RULE 37
CASE MANAGEMENT-ARRAIGNMENT

Arraignment will be scheduled on the first working day after a physical arrest and lock up. Except in extraordinary cases, no case will be continued more than one time for arraignment.

A written “not guilty” plea may be entered prior to the date scheduled for arraignment. A written “not guilty” plea shall be made on the appropriate form. Such plea shall be filed with the Court, and the person filing the not guilty plea shall obtain a hearing date from the Assignment Commissioner.

When filing written “not guilty” pleas on multiple charges, it is required that a plea form be signed and completed for each case. The plea form shall contain the following information:

1. Full name of defendant
2. Case number

If a written not guilty plea is entered in accordance with this rule, neither counsel nor the defendant need to appear at the scheduled arraignment. However, if a separate hearing is required to be scheduled, for review of license or bond, the appearance of counsel and/or defendant is not excused from this hearing.

RULE 38

JURY DEMAND

All jury demands must be filed within the time limits established by the Ohio Rules of Criminal and/or Traffic Procedure and/or the Ohio Revised Code. A jury demand may be signed by counsel on behalf of a defendant. A jury demand shall be filed with the Clerk and shall be scheduled for Pretrial Conference.

A written jury demand is not required if the offense is "serious" as that term is used in the Ohio Rules of Criminal and/or Traffic Procedure.

No cash deposit for costs shall be required to accompany a demand for jury trial.

RULE 39

APPEALS/TRANSFERS FROM MAYOR'S COURT

In any case originating from a Mayor's Court, transferred for trial where a right to a jury trial exists, or appealed from the Mayor's Court to this Court pursuant to statute, or transferred pursuant to R.C. 1905.032, the clerk of the mayor's court shall present to the Court:

1. A notice of appeal or transfer;

2. The original traffic citation or criminal complaint and affidavit under which the Defendant was charged;

3. A docket statement, certified by the Mayor or the Mayor's designated authority which shall serve as certified transcript of the proceedings in such Mayor's Court, together with all papers filed in the case, every cost to date, the recognizance given and a copy of the ordinance section, including penalty section, under which the Defendant was charged.

All appeals or transfers shall be set on the arraignment docket.

RULE 40

PRETRIAL DIVERSION/PRIVATE COMPLAINT PROGRAM PROCEDURE

Before completing a complaint, affidavit and warrant, the Clerk of Court shall direct any private citizen wishing to "prosecute" another private citizen for alleged misdemeanor offense to the private complaint program for further prosecutorial review, unless the offense involves

domestic violence and there is no one available within the private complaint program to review the complaint.

If the private complaint program is unavailable to develop a solution satisfactory to the parties involved, or if the nature of the offense or other circumstances make processing of the case through the private complaint program unadvisable, the prosecutor may make a recommendation for warrant issuance to the Clerk, or alternatively, the prosecutor may recommend that a probable cause hearing be scheduled before a judge or magistrate of the Court. The Clerk of Court shall complete a complaint, affidavit, and warrant in a case in which a warrant referral form has been issued by a prosecutor indicating that the case was initially screened by the private complaint program and stating the specific reason why the case is being referred for warrant issuance. Where there has been a recommendation for probable cause hearing, the Clerk of Court shall schedule a probable cause hearing on an arraignment docket before a judge or magistrate of the Court.

Private citizen cases which reach the Court without a program hearing may be referred back to the program with the consent of all parties at the discretion of the judge in accordance with the following procedures:

1. Referral from Arraignment

A. No plea will be taken;

B. Arraignment will be continued for one month;

C. The defendant and complainant, if present, will be directed to schedule a program hearing to attempt an out-of-court settlement;

D. A protection order or bond hearing will be held where appropriate and any necessary entry made;

E. The defendant and the complainant, if present will receive a referral slip and proceed immediately to the private complaint program office;

F. The defendant shall execute a waiver of time limitations for the period of referral.

2. Referral from post-arraignment proceedings. The same procedure will be followed as with referral from arraignment, except that a report hearing shall be scheduled.

3. Reappearance at arraignment or trial court following a program hearing.

On the reappearance day, the prosecutor will report to the Court the results of the

mediation hearing.

A. If the parties have resolved their dispute, the Prosecutor will present to the Court a statement of voluntary settlement signed by both parties for inclusion in the case jacket.

B. If, for any reason, the complainant requests a dismissal of charges, the Prosecutor will present to the Court such a request signed by the complainant for inclusion in the case jacket.

C. The Court will take note of the Prosecutor's report and proceed with or dispose of the case as it deems appropriate.

RULE 41
CASE MANAGEMENT—PLEA OR TRIAL SETTING
PRETRIAL CONFERENCE

No case, with the exception of a minor misdemeanor case, shall be scheduled for trial without first being scheduled either for a plea or trial setting or pretrial conference, unless the Defendant is represented by, or waives his/her right to, counsel and requests the immediate scheduling of a trial to the Court or the assigned judge directs the immediate scheduling of the case for trial.

Unless a pretrial conference is requested, or counsel files a jury demand, a case shall be scheduled for plea or trial setting within twenty-one (21) days (1 week if the Defendant is confined), unless there is a time waiver, or unless the judge directs otherwise. Without prior approval from the assigned judge, no plea or trial setting shall be scheduled more than six (6) weeks from the date of arraignment. At the plea or trial setting, if the case is not concluded, the case shall be scheduled by the Judge, Magistrate, or Assignment Commissioner for a subsequent hearing.

A pretrial conference shall not be scheduled except upon request or if the judge so directs. The filing of a jury demand by counsel for a Defendant shall be construed to include a request for pretrial conference. Pretrial conferences shall be scheduled within fifteen (15) days of the arraignment unless there is a time waiver, or the judge otherwise directs. Without prior approval from the assigned judge, no initial pretrial conference shall be scheduled more than six (6) weeks from the date of arraignment.

Unless the assigned judge otherwise directs, the defendant, counsel for the defendant,

private complainant, and prosecutor who will try the case shall be present at the pretrial conference.

If a case is not concluded at a pretrial conference, the case shall be scheduled for an appropriate hearing by the assigned judge.

If a jury demand has been timely filed, no case shall be scheduled for a bench trial, unless a waiver of jury trial is signed by the defendant and counsel, if applicable, and filed with the Clerk.

RULE 42
CASE MANAGEMENT-TRIAL, MOTION HEARINGS AND SENTENCING

In scheduling a case for hearing on a motion, trial to the court, or a trial to a jury, it shall be the responsibility of counsel to advise the court or the Assignment Commissioner of the estimated time required for the hearing or trial, if the time required will be more than fifteen (15) minutes.

Based on the number of cases scheduled for jury trials, and the need to resolve cases within the time limits specified in the Ohio Revised Code and the Rules of Superintendence, it may be necessary to schedule more than one case for trial to a jury on a given day. In such event, it shall be assumed that each case will proceed to trial on that day, and counsel and parties shall prepare accordingly. In the event more than one case remains unresolved seventy-two (72) hours prior to the time for commencement of a jury trial, the judge shall, in order to minimize inconvenience to parties, attorneys and witnesses, designate which case shall be tried on that date. The Assignment Commissioner shall then notify counsel and unrepresented parties to any other case scheduled for trial on that date, that their case is being continued due to a crowded trial docket. At the same time, the Assignment Commissioner shall notify the counsel and unrepresented parties to this case of the trial date(s).

Upon a finding of guilty, sentencing shall occur within seven (7) days from trial, if no pre-sentence investigation is requested, or, in the case of a pre-sentence investigation, within forty-two (42) days. The Court may extend these time limits for good cause shown.

RULE 43

APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

When it appears to the Court that an accused in a traffic or criminal case is indigent and cannot be represented by a public defender because of a conflict of interest, the Court may appoint an attorney from the approved counsel list to represent the defendant in a criminal case. Generally, the appointments shall be made sequentially from the list. However, the court may consider the skill and expertise of the attorney when making its selection. The court shall review appointments at least annually to ensure an equitable distribution of appointments among persons on the list.

The attorney master list of the appointed counsel program and the qualifications therefore shall be created by the court and shall be maintained by the Clerk of Court. Any eligible attorney whose name does not appear on the master list may have his name added upon request to the Clerk. The attorney is responsible for obtaining and maintaining eligibility.

An attorney appointed to represent an indigent defendant shall submit his/her request for payment, on a form approved by the Court, within thirty (30) days after the termination of the case. Any failure to comply with this requirement may result in a disallowance of the request, to the extent that the compensation would be subject to reimbursement by the State Public Defender's Office.

RULE 44

VIOLATIONS BUREAU

A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13 with authority to process and dispose of those traffic offenses for which no court appearance is required by law or Court. In accordance with Ohio Criminal Rule 4.1, there is hereby established a Minor Misdemeanor Violations Bureau, for which no court appearance is required by law. A schedule of fines shall be established from time to time by this Court and shall be posted in the Clerk's Office. The judges of the Court may prescribe statistical forms to be used in the reporting of cases processed through the Bureau.

SPECIAL CRIMINAL PROCEEDINGS

RULE 45
CASE MANAGEMENT-SPECIAL CRIMINAL PROCEEDINGS

The purpose of this rule is to establish, pursuant to Sup.R. 5 (formerly M.C. Sup. R. 18), a case management system for special criminal proceedings to achieve a prompt and fair disposition of these matters. Examples of special criminal proceedings include probation violations, contempt hearings, preliminary hearings, extradition hearings, and bond hearings.

A case that has a time limit established by the Ohio Revised Code or the Ohio Rules of Criminal Procedure shall be set for hearing within these time limits. In all other special proceedings a case shall be set for hearing within a reasonable time, not to exceed ninety (90) days unless, upon the request of the defendant or for other good cause, the Court extends this time limit.

When a defendant is charged with one or more misdemeanor offenses, together with one or more felony offenses, the misdemeanor offense(s) shall be scheduled for plea or trial setting at the same time, and before the same judge, as the preliminary hearing on the felony charge(s), if the offenses are of the same or similar character, or based on the same act or transaction, or are based on two (2) or more acts or transactions connected together or constituting parts of a common scheme or plan, or are part of a course of criminal conduct. Upon the dismissal or bind over of the felony charge(s), if there has been no resolution of the misdemeanor charge(s), the case(s) involving misdemeanor charges shall be scheduled for appropriate hearing before the same judge.

RULE 46
CONCURRENT SUPERVISION WITH THE CLERMONT COUNTY COURT OF COMMON PLEAS

For individuals placed on reporting community control in both the Clermont County Municipal Court and the Clermont County Court of Common Pleas, the probation departments of both courts shall confer to determine if resources can be conserved by having one probation officer supervise the offender's compliance with the sentences imposed by both courts. If the

Common Pleas Adult Probation Department and Municipal Court Adult Probation Department agree that only one department should supervise the offender, and further agree on which department should provide said supervision, then their joint recommendation shall be presented to the original sentencing Judges in both Common Pleas and Municipal Courts. If, upon consideration of the factors set forth in R.C. 2951.022(C), both judges agree with the recommendation of the Probation Departments to consolidate supervision, said supervision shall be consolidated per the agreement and this fact journalized by an Entry.

If, upon consideration of the factors set forth in R.C. 2951.022(C), either sentencing judge objects to the consolidation of supervision, the consolidation shall not occur, and the offender shall be supervised by both probation departments.

Individuals placed on court monitored, non-reporting community control in Clermont County Municipal Court shall remain subject to the Clermont County Municipal Court's monitoring of compliance with the sanctions imposed. No offender placed on court monitored, non-reporting community control in Municipal Court shall have their supervision transferred to the Common Pleas Adult Probation Program.

RULE 47

Specialized Docket for Multiple OVI Offenders

(A) Establishment of Clermont County OVI Court Specialized Docket. The Court hereby establishes the "Clermont County Municipal OVI Court Specialized Docket Program" effective March 1, 2013. This docket is created pursuant to the authority and requirements under Sup.R.36.20 through 36.29 of the Rules of Superintendence for the Courts of Ohio. The goals and objectives of the program are to provide supervision and effective treatment for multiple OVI offenders and to reduce recidivism of multiple OVI offenders.

(B) Placement in the Clermont County OVI Court Specialized Docket. Upon the request of an OVI offender or probation officer following a conviction for an OVI offense, a Judge may refer an individual to the OVI Court Team for consideration to participate in the Specialized Docket

Program. The offender will complete a screening and assessment. The OVI Court Team will then determine appropriateness for participation in the program based upon specific eligibility criteria and make recommendations to the OVI Court Program Judge. The OVI Court Judge will determine whether to accept the individual into the program. The program will consider offenders who meet the following legal eligibility criteria:

- Two or more OVI offenses in lifetime
- Clermont County resident and eligible for treatment services at the Clermont Recovery Center
- Out of county resident who possesses the financial resources to pay the cost of treatment at the Clermont Recovery Center

Offenders must have transportation as well as family or other sober support willing to be involved in the treatment process. Offenders may be disqualified from the program based upon the following factors:

- Significant mental illness
- History of violent offenses
- Pending felony charges
- Sex offense convictions
- Previous prison and/or parole history
- Currently on post release control or felony supervision
- Significant drug related charges
- Substantial drug abuse history
- Highly resistant to changing behavior in spite of previous interventions and/or punishments
- Lack of transportation or support from family/family assistance
- Receiving Developmental Disability services or eligible for such services
- Transient residency, or temporary or unstable housing

Individuals unsuccessfully terminated from the program are not eligible to re-enter the program. Offenders will not be eligible for the program unless they have a diagnosis of alcohol dependence.

(C) Case Assignment. If an individual is accepted into the program, the case shall be transferred to the OVI Court Judge for further proceedings. The OVI Court Judge is authorized to accept any plea from the offender, sentence the offender, and shall have supervision responsibility over the offender. If terminated from the OVI Court Program, the individual shall be sentenced by the OVI Court Judge. For purposes of Supreme Court statistical reporting, the case shall be considered disposed by the assigned Judge when the offender is found guilty of the offense. The OVI Court Judge may request the Administrative Judge to reassign an OVI case by lot to another judge in the event that the OVI Court Judge determines the reassignment is in the interest of justice.

(D) Clermont County Municipal OVI Court Specialized Docket Case Management. OVI Court participants shall be placed on reporting community supervision of the Clermont County Municipal Probation Department. Participants shall be placed in treatment with the Clermont Recovery Center and attend sober support meetings. Participants will be monitored by the OVI Court Probation Officer, the OVI Court Judge and the Treatment Agency. Requirements of the OVI Court Specialized Docket are set forth in the Program Description, Participant Handbook and the Participation Agreement, all incorporated herein and adopted by reference.

(E) Termination from the Clermont County Municipal OVI Court Specialized Docket. A participant will be terminated from the program when found to be in non-compliance with the terms and conditions of the program. Common behaviors that lead to unsuccessful terminations include:

- Ongoing noncompliance with treatment ;
- Resistance to treatment;
- New serious criminal, or new OVI conviction;

- A serious specialized docket infraction or series of infractions; and
- A serious probation violation or series of probation violations.

Termination proceedings will occur before the OVI Court Judge upon termination. A participant could face the imposition of the balance of sentence, transfer to an alternative supervision program, placement in a residential treatment program, or other penalties deemed appropriate by the OVI Court Judge. Individuals terminated unsuccessfully from the program are not eligible to participate in the future.