

UNIFORM COURT RULES
FOR MUNICIPAL COURT OF HURON

It is ordered that on and after January 1, 2001 the following be, and the same is hereby adopted as the Rules of Court, regulating the practice and procedure of this court until otherwise ordered. All other rules previously established are expressly revoked, except rules pertaining to court costs and deposits for costs which remain in full force and affect.

The Rules of Superintendence of the Ohio Supreme Court and the Ohio Rules of civil and Criminal Procedure, under which these local rules are promulgated shall also govern the practices and procedures of this court. Nothing in the rules shall be interpreted to conflict with such Rules of Superintendence.

These rules shall be effective on and after January 1, 2001 and may be amended by proper court order at any time thereafter.

RULE 2

GENERAL

Sessions of this court shall be as ordered from time to time for arraignments and Civil cases. Generally, sessions shall be held each Tuesday and Friday commencing at 9:00 A.M.

The office of the Clerk shall be open from 8:00 A.M to 4:00 P.M., Monday through Friday. Payments on fines and tickets can be paid after hours at the Police Station provided that Defendant has proper paperwork and Court date has not passed.

RULE 3

ADMINISTRATIVE JUDGE

The Municipal Judge of Huron Municipal Court is also the Administrative Judge. The Administrative Judge shall be governed by Rule 2 of the Rules of Superintendence.

RULE 4

DOCKET AND RECORDS

The Clerk shall prepare and keep all dockets, books and public records as required by law.

RULE 5

JOURNAL ENTRIES

(a) Every final order made by a Judge shall be evidenced by a journal entry, which journal entry shall be signed by the Judge. The journal entry may be by separate instrument or by entry on the jacket, in accordance with the practice in the respective Municipal Court. The journal entry in all civil cases shall be by separate instrument.

(b) Counsel for the party in whose favor, or on whose request, any order, judgment or decree is rendered, shall at request of the Judge, within three (3) days thereafter, unless the time be extended by the Judge, prepare the journal entry and submit it to counsel for the opposite party of parties, if any, who shall approve or reject it within twenty-four (24) hours after such presentation. If rejected, counsel so rejecting shall, within twenty-four (24) hours after rejection, prepare an Entry. Both entries shall be presented to the Judge forthwith. The Judge will thereupon approve one of said tendered entries, or prepare an entry to the Court's satisfaction, duly noting exceptions, and file the same with the Deputy Clerk.

(C) In any case not tried to a jury, any party may request a separate finding of law and fact any time before the decision of the Court is announced.

RULE 6

SATISFACTIONS

Satisfaction in whole or part of a judgment may be entered on the docket by the attorney of record, attested to by the Clerk or Deputy Clerk, or by Journal Entry signed by the party or the attorney of record and approved by the Judge.

RULE 7

FEES AND COSTS

(a) No action or proceeding shall be accepted for filing by the Clerk of this court unless there first shall be deposited the filing fee required by this court in its latest revised schedule of costs, except that upon a representation of indigency, the Clerk shall investigate the accuracy of such representation and upon finding that such indigency does exist, the security for costs shall be waived. The court shall maintain a current schedule of fees and costs for distribution to the public, not inconsistent with those of the Revised Code and the Court of Common Pleas.

(b) Deposits and advance payments of fees and costs shall be returned only by order of the Court and only when the same have been paid by the party against whom they are assessed by the court.

(c) When a jury has been summoned for trial in a civil case, the party demanding same shall be forthwith required to make an advance deposit as security for costs in such sum as the Clerk determines to be reasonable. The cost of summoning jurors and the fees of jurors shall be apportioned to the respective proceeding and shall be taxed as part of the Court costs. The minimum deposit for jury trial shall be \$750.00

RULE 8

PLEADING AND MOTIONS

- (A) Civil rules 7 through 15 shall govern the form and manner of pleadings.
- (B) all pleadings, orders, and entries must be presented and date stamped at the Clerk's office.
- (C) No pleading after being presented to the Clerk's office shall be amended or altered without consent of the Court. (subject to Ohio Civil Rules on Amendments to pleadings)
- (D) The original copy of all pleadings shall be the court's copy, possession of which shall not leave the Court's premises.
- (E) Only copies or certified copies of the files shall be taken from the court.
- (F) Sufficient additional copies of all pleadings must be filed with the Clerk's office to secure adequate coverage of all necessary parties.
- (G) All requests shall be in writing or by written precipe signed by the requesting party of interest or their attorney.
- (H) Attorneys must subscribe legibly all pleadings, entries and motions or in the alternative print the spelling of their name beneath the signature. The address, telephone number and supreme Court number of the respective trial counsel shall be placed on the pleading of first instance.
- (I) Where an assignment is part of a case and is expected to be offered into evidence, a true copy of the entire assignment in unconditional form shall be attached to the complaint. The assignment shall not be used as a ruse to prevent the action from being brought by the real party in interest. The assignment must be absolute and unconditional, in order to prevent duplicity of payment.
- (J) In attachment and garnishment proceedings, a true copy of the affidavit shall be served with the summons and order of attachment and garnishment.
- (K) In actions on account, the account must show the name of the party charged and contain the following:

1. A beginning balance (zero, or a sum that can qualify as an account stated, or some other provable sum.)
2. listed items (or an item, dated and identifiable by number or otherwise, representing charges, of debits and credits).
3. Summarization by means of a running or developing balance, or an arrangement of beginning balance and items which permits the calculation of the amount claimed to be due.

(L) In actions on account, interest shall be at the highest legal rate permitted upon the balance of the account as of the date of the last debit entry, unless otherwise pleaded.

(M) The filing of a motion or pleading subsequent to the complaint shall be accompanied by proof of service signed and dated. The copy served upon the opposite party or his attorney shall be signed and dated.

(N) All motions shall be accompanied by a brief or memorandum of authorities in support of said motion. In default thereof, such motions may be stricken from the files. Opposing counsel shall have seven (7) days to file an answer brief.

(O) Motion to advance cases out of numerical order must be accompanied by affidavit showing meritorious grounds for such advancement.

(P) All motions for continuance shall be made in writing and proof of service upon opposing counsel or a copy of such motion shall be filed not less than fourteen (14) days before the trial date.

(Q) The grounds for continuance must be stated in such motion. Such motion may be set for hearing before the trial date and the Court shall give opposing counsel notice of the time of such hearing. No case will be continued on the trial date, except for good cause shown, which was not known to counsel prior to the date of trial and provided that counsel had used due diligence to be ready for trial and has notified or made diligent effort to notify his opponent as soon as he became aware of his necessity to ask for a continuance. All continuances shall be to a certain date.

(R) The court shall give all parties not less than fourteen (14) days advance notice of any trial date, unless all parties waive such advance notice.

RULE 9

LEAVES TO MOVE OR PLEAD

(A) Except in actions for forcible entry and detainer or in replevin, when a party in any case is not prepared to move or plead by answer day, ONE extension of time may be had upon application to the court and without notice for a period of not exceeding thirty (30) days. Consent of counsel may be filed as a journal entry in the case and shall be evidence of

"good cause shown" for the first leave only. Any leave to move or plead thereafter may be had only with the approval of the Court and upon application to the court, with notice to the opposite party or counsel, and for good cause shown, consent of opposing party or counsel shall not in and of itself constitute cause.

(B) Default Judgments shall be governed by Civil Rule 55.

RULE 10

BRIEFS OTHER THAN TRIAL BRIEFS

(A) Counsel filing any motion or exception shall file therewith a memorandum containing a short, concise statement of the points relied upon and the authorities supporting such contentions and a true copy of it shall be served forthwith upon each opposing counsel and each party not represented by counsel.

(B) Unless the time be extended by the Court, a motion directed to any pleading shall be filed within the time allowed by the Civil Procedure for a responsive pleading.

(C) Any motion or exception to be heard upon evidence shall so state and shall be accompanied by requisite affidavits.

(D) Opposing counsel may, within fourteen (14) days after receiving a copy of such motion or exception, file an answer brief or memorandum of like character. Copies thereof, shall be furnished and delivered as provided in paragraph (A) of this rule.

RULE 11

HEARING AND SUBMISSION OF MOTIONS: OBJECTIONS TO INTERROGATORIES

(A) Motions, in general, shall be submitted and determined upon the motion papers hereinafter referred to. Oral arguments of motions will be permitted on written request and proper showing, or by mutual written request of the parties.

(B) The moving party shall serve and file with his motion a brief written statement of reasons in support of motion with supporting citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in support of the motion.

(C) Each party opposing the motion may serve and file within fourteen (14) days after filing of the motion, a brief written statement of reasons in opposition to the motion with supporting citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence which he desires to submit in opposition to the motion.

(D) Reply or additional briefs upon motions and submissions may be filed with leave of the court only upon a showing of the necessity therefor.

(E) Objections to interrogatories. Objections to interrogatories shall include, immediately preceding any discussions and citation of authority, the interrogatory in full to which objection is made.

(F) All pleadings and briefs containing references to statutes or regulations shall have attached thereto a copy of the statute or regulation.

RULE 12

DISMISSALS

(A) All cases pending for a period of sixty (60) days in the docket of this Municipal Court in which service of summons or service by publication has not been made, shall be dismissed by the court, unless good cause is shown to the contrary.

(B) If a party fails to comply with an order or decision of the Court, said case may be dismissed, or judgment may be rendered as upon default as the case requires.

(C) Cases assigned for trial, upon which no appearance is made by the plaintiff on trial date shall be dismissed for want of prosecution, or otherwise disposed of by the judge.

(D) In forcible entry cases, if plaintiff fails to appear at the time set for hearing, the cause shall be dismissed at the plaintiff's cost.

RULE 13

TERM

There shall be no term in this Municipal Court, but for the purpose of computing time, ninety days following judgment shall be considered within term and time thereafter shall be considered after term.

RULE 14

JOURNAL ENTRIES

(A) 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 cause shall, within ten (10) days thereafter unless the time be 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.

The judgment entry specified in Ohio Civil Rule 58 shall be journalized within thirty (30) days of the verdict, decree or decision. If such entry is not prepared and presented for journalization by counsel, then it shall be prepared and journalized by the court.

The court shall approve a journal entry deemed by it to be proper, sign the same and cause it to be filed with the clerk.

(B) When a request for finding of fact and conclusions of law is made, the judge shall direct the party making the written request to prepare, within five (5) days, proposed findings of fact and conclusions of law and submit them to the opposing counsel. Within ten (10) days after its receipt by the opposing counsel, the proposed findings shall be submitted to the court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the court shall form part of the record.

AMENDMENT: Upon motion of a party within ten (10) days after the filing of the findings, the court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend or a motion for judgment.

RULE 15

COURT FILES AND PAPERS

No person (except a judge of the court) without consent of the Clerk of Courts shall remove any court papers, files of the court or parts thereof from the custody of the Clerk.

RULE 16

PRETRIAL PROCEDURES

For the purpose of insuring the readiness of cases for pretrial and trial the following procedures shall be in effect.

Case Management Conference:

(1) All contested matters, except forcible entry and detainer and small claims, shall be set for a telephone case management conference where all parties are represented by counsel. The court shall place the call to the parties unless otherwise ordered.

(2) Where one or more parties are not represented by counsel, contested matters will be set for a case management conference at which all parties must be present unless otherwise ordered.

(3) Counsel or parties participating without counsel should be prepared at the case management conference to enter into a binding case management schedule setting forth a timetable for the amendment of the pleadings, the filing of motions, the exchange of witness reports and medical and hospital records, the termination of discovery, and the final pretrial and trial of the action. Such schedule shall thereafter be adopted as an order of the court.

(B) Pretrial Conference:

(1) The court will schedule a pretrial conference prior to the trial date unless otherwise ordered. The primary purpose of a pretrial conference shall be to achieve an amicable settlement of the controversy in suit. If the court concluded that the prospect of settlement does not warrant further court supervised negotiations, then the court shall act on any other matters which come before it at the time and efforts shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions and other matters which have come before it. 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. Subject to the provisions for arbitration hereinafter provided, the court shall also stipulate in writing whether the case shall be referred to arbitration. Counsel and parties must appear before the court at the final pretrial. Insurance adjusters may substitute for their insured provided they have full authority to settle the case on behalf of the insured. No appearances by telephone will be allowed unless specifically permitted by the court. The judge assigned to the case may for good cause shown waive the pretrial requirements stated herein. The judge assigned to the case may schedule additional pre trial conferences if it deems it necessary.

(2) At the time of the final pretrial, the court may consider other appropriate matters in accordance with Civil Rule 16, as well as the imposition of sanctions as authorized by Ohio Civil Rule 37, and such other matters as will aid in the disposition of the case.

(3) **ATTENDANCE REQUIRED:** The following are required to attend all pretrial conferences unless excused by the judge to whom the case is assigned after prior notice to opposing counsel.

- a) All parties in interest unless the claim for relief against the party is fully covered by insurance;
- b) An insurance company representative in all cases in which the claim for relief is covered in whole or in part by insurance.
- c) The attorney must have full authority to present and conclude all matters involved in the case.

(4) All questions relating to the listing, consolidating and severing of cases shall be submitted to the judge to whom the cases are assigned. The court, however, on its own motion, may consolidate or sever cases at any time before the taking of testimony begins.

RULE 17

TRIAL PROCEDURES

- (A) Subject to Ohio Supreme Court Rules of Superintendence the court may promote the use of any device or procedure which would tend to facilitate the earlier disposition of cases.
- (B) The court may provide for the selection of the petit jury outside the courtroom and establish the procedure for the examination of the prospective jurors.
- (C) On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the court.

RULE 18

JURY TRIALS

All cases shall be tried by the court unless a jury trial has been demanded in writing pursuant to the appropriate statutes and rule of Civil and criminal Procedure.

Jurors shall be chosen by the Erie County Common Pleas Court as provided by law and summoned by an officer of this Court. When a jury is demanded and not used, a jury fee of \$75.00 shall be assessed against the party making the demand.

For jury trials, one week prior to trial, each party or attorney is to provide the court with a complete set of jury instructions, cited to O.J.I. and/or case law, where applicable. These

instructions are also to be exchanged with opposing counsel. Jury instructions should include, but are not limited to, the names of possible witnesses. Also, counsel must notify the court one week prior to trial if you intend to use videotaped testimony or evidence.

In all civil cases said demand shall be accompanied by a deposit of \$750.00 for all cases. This rule shall be subject to the statutes regarding indigents.

RULE 19

DISCOVERY

(A) In General: Discovery shall be conducted in accordance with Civil Rules 26 through 37.

(B) Pretrial Objectives:

- 1) Settlement of the case;
- 2) Agreement upon and simplification of the issues;
- 3) Obtaining admissions and stipulations of fact and making them part of the record.
- 4) The exchange, if necessary, of
 - (a) The names and addresses of witnesses;
 - (b) The names, addresses and specialties of expert witnesses;
 - (c) Reports of expert witnesses;
 - (d) Medical reports and hospital records.
- 5) Itemization of special damages and expenses;
- 6) Determination of the number of witnesses and exhibits to be introduced at trial and the probable length of trial;
- 7) Such other matters as may aid in the disposition of the case.

(C) Further Assignments: at the pretrial conference, if no settlement has been reached, the judge may, by journal entry, assign a further pretrial date or a firm trial date and shall give a copy of the entry to each attorney and party without counsel. Delivery of such a copy shall constitute sufficient notice so that further notice under local Rule 8 shall be unnecessary.

Rule 20

CONTINUANCES IN CIVIL AND CRIMINAL CASES

(A) Continuances of Civil and Criminal cases shall be in accordance with the Rules of Superintendence.

(B) Requests for continuances: All requests for the continuance of a trial must be by written motion which complies with the Civil Rules. Continuances shall be granted only by the judge to whom the case is assigned.

(C) Appearing at trial unprepared: If a party or counsel appears for trial but shows good cause as to why he is not ready for trial, the court shall make such order or orders as it deems proper. If a party or counsel appears for trial but indicates that he is not ready for trial without showing good cause for his unreadiness, the court, if such party is one seeking affirmative relief, shall enter an order dismissing the claim for want of prosecution, or if a party defending a claim, shall order the party seeking relief to proceed with the case and shall determine all matters ex parte.

(D) Failure to appear at trial: If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the court shall enter an order dismissing a claim for want of prosecution. If a party defending a claim, either in person or by counsel, fails to appear for trial and the party seeking affirmative relief does appear, the court shall order such party to proceed with the case and shall determine all matters ex parte.

(E) Settlements prior to Trial: If a case set for trial is settled, the trial counsel shall immediately notify the court and thereafter, as provided by the rules, file a stipulation of dismissal or other proper entry.

Rule 21

Proceedings in Aid

Unless a certified return receipt, United States Post Office Form PS 3811 is received, or a properly completed and stamped certificate of mailing is received, together with a copy of the fifteen (15) day demand, the proceedings in aid shall be returned to the party filing the same.

Rule 22

Entries, Etc. Part of Regular File

Stipulations, final entries and other similar documents filed with the clerk must be entered upon the regular docket as filed and become a part of the regular files of the case.

Rule 23

Jury Selection

All juries shall be drawn through the Clerk of Courts of Erie County Common Pleas Court in the same manner as juries for Common Pleas Court.

Rule 24

Trusteeships

An application by a debtor for a trusteeship under Section 2329.70 of the Ohio Revised Code must contain a full and complete statement, under oath, setting forth:

1. The names of the secured and unsecured creditors with liquidated claims, their complete address, account numbers and amount due and owing to each. If account is being administered by someone other than the creditor list their name and complete address.
2. The disposable amount of money earned in a thirty (30) day period by the applicant, as set forth in Section 2329.62 of the Ohio Revised Code, the usual day or days applicant receives his pay, his place of residence, the number of his dependents, their ages and relation to the applicant.
3. The name of the person who made a demand upon him or her in accordance with Section 1911.40 of the Ohio Revised Code and date of such demand.

Appointment

An order shall be prepared appointing the Clerk of Court to act as Trustee and shall be approved by the Judge.

Notice

The applicant shall furnish a notice of the appointment for each creditor showing the amount owed said creditor and the amount of total indebtedness, together with addressed, stamped envelope. Notices to be mailed by the Trustee with notice for the creditor to answer within ten (10) days of mailing, or they will be included in the Trusteeship in the amount stated.

If a debtor fails, through mistake or otherwise, to list a creditor, said creditor or debtor, upon motion to the Court, with notice to the other party, may be listed in the trusteeship. A creditor who becomes a creditor after the appointment of a trustee, shall participate in any distribution made by the trustee after the next ensuing distribution.

Upon the filing of an application for Trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any creditor listed.

TERMINATIONS

Any trusteeship that is in arrears for payment for sixty (60) days shall be dismissed. Any trusteeship that is inactive for six (6) months shall be dismissed.

ATTORNEY FEES LISTED

The attorney representing an applicant for trusteeship shall be permitted to include his claim for such services in the trusteeship and said for attorney fees shall be given priority over all other creditors in the amount not exceeding two hundred dollars (\$200.00). Upon the first distribution of funds to creditors, the claim of such attorney shall be paid in accordance with this priority and shall not exceed an amount of two hundred dollars (\$200.00).

APPLICABLE

Sections 2329.62 through 2329.69 of the Ohio Revised Code provide for exemptions and are based upon disposable earnings. The trustee is hereby authorized to require proof of disposable earnings and eligibility for exemption of payment by affidavit or otherwise and at such times as he shall deem necessary.

RULE 25

AUTOMATIC BANKRUPTCY STAY

Upon written notification to the Court of any pending bankruptcy proceeding and the bankruptcy case number effecting any litigant in this court, there shall be a journal entry as follows:

"defendant having filed a petition in the US Bankruptcy Court, the Bankruptcy Act established an automatic stay of proceedings against the debtor, in 11 U.S.C. 362(a). It is hereby ordered that the commencement or continuation of any action to obtain or enforce any judgment against the Defendant/Debtor or his property is hereby stayed until the bankruptcy case is closed, dismissed, or a discharge granted or denied, or until Defendant/ Debtor's property is no longer property of the bankruptcy estate or until the Bankruptcy Court grants relief from its stay. Clerk to send copy to counsel of record.

Unless motion to the contrary is filed, the pending action will be dismissed after one hundred eighty (180) days.

Rule 26

NOTIFICATION PRIOR TO DEFAULT JUDGMENT FOR APPEARING PARTIES

Each party litigant shall be charged with the responsibility of maintaining a correct mailing address. In the event a forcible entry and detainer entry is issued causing the defendant to be removed from the residence, it will be deemed sufficient service and adequate notice for the Clerk to mail, by regular mail to the defendant, date of hearing to last known address notwithstanding the fact that said litigant does not reside at that address.

Rule 27

APPEARANCES AND WITHDRAWALS OF COUNSEL

An attorney, having entered an appearance or being of record in a case, shall be deemed responsible to appear in all hearings pursuant to notices or call therefor, unless a court entry of withdrawal is timely filed and approved by a Judge of the Court. If the subject case and time has been assigned for hearings, that fact and the hearing date shall be set forth in the entry. Proof of service on the client and opposing counsel shall be indicated on such entry when submitted to the court.

Rule 28

NON APPEARANCE OF COUNSEL AT PRE-TRIAL

In addition to Rule 13.05, counsel must provide substitute counsel as provided in M.C. Rule 16(c), if client appears and trial is set at a later time.

RULE 29

TAPES

All tapes of proceedings, trials and hearings in the Court shall remain in the exclusive care and control of the Judge and referee of said Court for a period of eighteen (18) months. A transcript of the tape recordings may be obtained by a certified court reporter obtaining permission of the Court to transcribe the tape recording into a typewritten transcript. Transcription of original tape shall not be permitted without court approval.

RULE 30

COURT SECURITY

The Huron Municipal Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court.

Accordingly, appropriate levels of security should exist in the Court to protect the integrity of court procedure, protect the rights of individuals before it, deter those who would take violent action against the court or litigants, sustain the proper decorum and dignity of the court, and assure that court facilities are secure for all those who visit and work there.

Therefore, pursuant to the Rule of Superintendence for Municipal Courts (Rule 18) the court establishes as follows:

The court shall appoint a local Security Advisory Committee, consisting of one representative of each of the following groups: judges, law director, law enforcement, city council, and other bar community groups as deemed appropriate by the court.

The court shall implement a local security policy and procedure plan by July 1, 1996, which plan shall address the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

The local Court Security Advisory Committee shall adopt a Security Operations Manual, which manual shall establish written directives for the purpose of ensuring security within the Court while maintaining accessibility to the community.

This Rule became effective July 1, 1995.

RULE 31

FACSIMILE FILING

The Provisions of this Local Rule are adopted under Crim.R.12(B). Pleadings and other documents may be filed with the Clerk of Courts by facsimile transmission to 419-433-5120 subject to the following conditions:

Applicability

These rules apply to Criminal, Traffic, Civil and Small Claims proceedings in the Huron Municipal Court. However, all initial Civil and Small Claims complaint documents will not be accepted for facsimile transmission.

Original Filing

A Document filed by fax shall be accepted as the original filing. The person making a fax filing need not file any source documents with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the

applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.

The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for appeals are exhausted.

Definitions

A "facsimile transmission" means the transmission of a source document by a system that encodes a document into optical or electrical signals, transmits and reconstructs the signals to PRINT a duplicate of the source document at the receiving end.

A "facsimile machine" means a machine that can send and or receive a facsimile transmission.

"Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

Cover Page

The person filing a document by fax shall also provide therewith a cover page containing the following information:

- a) the name of the court;
- b) the title of the case;
- c) the case number;
- d) the assigned judge;
- e) the title of the document being filed;
- f) the date of transmission;
- g) the transmitting fax number;
- h) an indication of the number of pages included in the fax
- i) if a case number has not been assigned, state that fact on the cover page;
- j) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and the e-mail address of the person filing the fax document; and
- k) if applicable, how costs are being submitted.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

- a) enter the document in the case docket and file document
- or
- b) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document SHALL NOT be considered filed with the Clerk of Courts. The Clerk of Court is not required to send any form of notice to the sender of a failed fax filing.

However, if practicable, the Clerk of Court may inform the sender of a failed fax filing.

Signature

A party who wishes to file a signed source document by fax shall either

- a) fax a copy of the signed source document
- or
- b) fax a copy the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.
- c) a party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

Exhibits

Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not less than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

Time of Filing

Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk of Court shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.

Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission. The risks of transmitting a document by fax to the Clerk of Courts shall be borne by the sender. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever means are available.

Fees and Costs

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.

No additional fee shall be assessed for facsimile filings.

Length of Document

Facsimile filings shall not exceed 20 pages in length. The filer shall not transmit service copies by facsimile.

This rule became effective: May 8, 2002

Rule 32

MEDIATION PRACTICE

Upon order of the Court, and in accordance with Rule 16 of the Rules of Superintendence for the Court of Ohio and Ohio Revised Code Section 2710, a civil action filed in this Court may be submitted to mediation as provided in this rule. Parties, if they wish, may have their attorneys and other individuals they designate to accompany them and participate in mediation. By participating in mediation, a non-party participant, as defined by Ohio Revised Code Section 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded. Mediator is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer.

Case Selection and Timing for Mediation

All civil cases may be referred to mediation. Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel. Mediation shall not be used as an alternative to the

prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order, or to determine the penalty for violation of a protection order. At the initial pre-trial conference the parties and counsel shall advise the Court of the results of their discussions concerning mediation. At that time and at subsequent conferences, if necessary, the Court may explore with the parties and counsel the possibility of using mediation.

A party opposed to either the referral or the appointed mediator must file a written objection with the Court within seven days of receiving notice of the referral or provider and explain the reasons for any opposition.

Referral to Mediation

The case is referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the motion of counsel or upon referral by the mediator.

Continuances

Continuances shall be granted only for good cause shown and after a mutually acceptable future date has been determined. No continuance will be granted if the mediation cannot be scheduled prior to the final pretrial.

No Stay of Proceedings

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

Mediation Privilege

Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05.

Client Defined Confidentiality

If the parties wish mediation communication to be confidential they will effect a written confidentiality agreement prior to mediation.

Mediator's Duty

The mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being

returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure. The mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

Duties of Attorneys/Parties

Trial counsel, all parties and, if applicable, the principal insurance adjuster(s), all with authority to settle, shall personally attend all mediation sessions prepared to discuss all relevant issues, including settlement terms. A party other than a natural person must be represented by a person other than counsel. If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge of such fact. If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the mediation staff. Such party shall have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 both prior to, and, in the mediator's discretion, during the mediation session(s).

Sanctions

If any of the individuals identified in the above-paragraph fail to attend mediation without good cause, the Court may impose sanctions, including the award of attorney's fees and other costs, contempt or other appropriate sanctions.

No Advice

The efforts of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

Administrative Dismissal

If the parties fail to dismiss a settled case within the later of sixty (60) days or the time noted in the entry that gave the Court notice of the settlement, then the Court may dismiss

the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

This rule became effective: February 2, 2007