

# **CRAWFORD COUNTY MUNICIPAL COURT LOCAL RULES**

**(Effective April 1, 2015)**

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## **GENERAL PROVISIONS**

### **Rule 1. Scope and Effective Date**

- (A) These Local Rules of Court are adopted for the governance of the practice and procedures in the Crawford County Municipal Court, pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio.
- (B) The purpose of these rules is to facilitate the expeditious disposition of cases that come before the court.
- (C) Except where otherwise noted herein, these rules are effective as of January 1, 2009, and shall supersede and replace any local rules previously entered by this Court.
- (D) The Court shall amend or enact additional rules at its discretion and at any time, the Court deems necessary.

### **Rule 2. Jurisdiction of Court**

The territorial jurisdiction of the Crawford County Municipal Court includes Auburn, Bucyrus, Chatfield, Cranberry, Dallas, Holmes, Jackson, Jefferson, Liberty, Lykens, Polk, Sandusky, Texas, Tod, Vernon and Whetstone Townships in Crawford County. The monetary jurisdiction of the Crawford County Municipal Court shall be in an amount as provided for in the appropriate section of the Ohio Revised Code [Sec. 1901.17, Ohio Revised Code]

### **Rule 3. Hours of Court Sessions**

The sessions of this Court shall be from 8:00 a.m. until 4:30 p.m. during Monday through Friday each week. Legal holidays excepted. The Office of the Clerk shall be open for the transaction of business from 8:00 a.m. to 4:30 p.m., Monday through Friday each week, legal holidays excepted. The Clerk's office may be closed at such other times as the Court may designate.

To facilitate the issuance of such papers as might be discovered necessary during a trial which may extend beyond the conclusion of the Court day at 4:30 p.m., the Clerk is instructed to keep the Clerk's office facilities available. Should a trial extend beyond 4:30 p.m., the Clerk shall remain available or shall have at least one deputy clerk available until the conclusion of all trials for that day.

### **Rule 4. Magistrate and Acting Judges**

The Magistrate shall be appointed by the presiding Judge and will have all the authority and power set forth in the Rules of Procedure and Statutes. The Magistrate will hear all matters referred to him/her by the Administrative Judge.

Acting Judges shall be appointed pursuant to Section 1901.10 of the Ohio Revised Code and shall serve when the incumbent Judge is temporarily absent or incapacitated.

#### **Rule 5. Clerk of Court**

The Clerk shall maintain such dockets, books of record and indices as are required by law or practical necessity as public record, utilizing microfilm and computers for storage whenever possible.

The Clerk shall permit any person to examine and to make a copy of any papers filed after the Clerk has made illegible any and all social security numbers that may appear on said document. No original papers or depositions in any case or proceeding shall be removed from the Office of the Clerk, except for use in Court or by the Court, except on written Order of the Court.

The Clerk shall file and carefully preserve in the Office of the Clerk all papers delivered to the Clerk in every action or proceeding.

#### **Rule 6. Court Costs and Filing Fees**

The Court has adopted a schedule of costs and filing fees in civil cases, as well as criminal and traffic cases, which shall be available upon request at the Clerk's office. The Court may amend the same as the Court deems necessary.

#### **Rule 7. Facsimile filing**

The Court provides for the filing of pleadings and other papers by electronic means. All pleadings and other papers may be filed with the Court by facsimile [419] 562-7064, subject to the following provisions:

A] A document filed by facsimile transmission will be accepted as original and the signature accepted as original. The facsimile documents need not be followed with the original pleadings or other papers, but the originals must be maintained by the filing party and are subject to inspection by the Court if requested.

B] The attorney or other parties must provide the following information on the fax cover page:

- 1] the name of the Court;
- 2] the title of the case;
- 3] the case number;
- 4] the title of the document being filed;
- 5] the date of transmission;
- 6] the transmitting fax number;

- 7] an indication of the number of pages included in the transmission, including the cover page;
- 8] if a Judge or case number has not been assigned, state that fact on the cover page;
- 9] the name, address, telephone number, fax number, Supreme Court registration number, and, if available, an e-mail address of the person filing the fax document, if available; and
- 10] if applicable, a statement explaining how costs are being submitted.

C] The Clerk shall notify the attorney or other parties if the transmitted document cannot be filed for any reason. All document submitted will be considered filed only when the date/time has been stamped by the Clerk and the document has been properly docketed.

#### **Rule 8. Recording of Court Proceedings**

A record shall be made of traffic, criminal, civil and small claims proceedings by audio electronic recording devices. In a jury trial, a Court Reporter may be supplied at the discretion of the Court. In other actions, a Court Reporter may be supplied upon written request of either party or his/her counsel, provided such request is filed in writing at least five (5) court days prior to trial. In such a case, the Court Reporter's cost shall be borne by the party requesting the same, who shall pay the costs directly to the Court Reporter. In instances where one of the parties has requested a transcript, the party requesting shall pay for such transcripts.

The Court shall maintain exclusive custody and control of the electronic recordings of proceedings and shall maintain the storage of the same.

A party may have a full or partial transcript prepared from the Court's record by either arranging for the presence or by having the court reporter request a copy of the recording from which a transcript would be prepared. The Court shall charge a fee to retrieve and copy any electronic recordings of proceedings and the person requested said copy shall be responsible for the advance payment of said cost.

#### **Rule 9. Conditions for Recording and/or Broadcasting of Court Proceedings**

##### **Definitions and application**

For purpose of these rules, the terms "record and/or broadcast" shall be construed to include broadcasting, televising, and recording whether by video, movie, audio and/or photograph. The term "proceedings" shall be construed to include any public hearing held by the court.

Application for permission to record and/or broadcast proceedings shall be made in writing to the assigned judge as far in advance as reasonably practical, but in no event less than one-half hour prior to the proceeding unless otherwise permitted by the judge.

Although no special form of application is required, it must identify and be signed by the applicant and specify the type of equipment to be used. The "pooling" required by Rule 12 of the Rules of Superintendence for the Courts of Ohio shall be accomplished prior to submission of the application.

The judge shall grant or deny the application in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio and Canon 3 (B)(3) of the Code of Judicial Conduct.

**Permissible equipment and operators, unless otherwise permitted by the Court**

Not more than one portable television, videotape, or movie camera with one operator shall be permitted.

Not more than one still photographer with not more than two still cameras with not more than two lenses for each camera shall be permitted.

For radio broadcast purposes, not more than one audio system shall be permitted.

No electronic or photographic equipment shall be permitted that produces distracting sound and light. No artificial lighting other than that normally used in the courtroom shall be allowed. No motor driven cameras shall be allowed.

**Location of equipment and operators**

The television, videotape or movie camera(s) shall be positioned on a tripod in an area designated by the judge which provides reasonable access to coverage and shall remain fixed in that position. Equipment that is not a component part of the in-court unit shall be located outside of the courtroom.

Equipment operators shall position themselves in a location in the courtroom either standing or sitting and shall assume a fixed position in that area. Operators shall act so as to not call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about except to leave or enter the courtroom.

Cameras, microphones and taping equipment shall not be placed, moved or removed from the courtroom except prior to the commencement of or after adjournment of the proceedings or during a recess unless otherwise permitted by the assigned judge. Television film magazines, rolls or lenses, still camera film, and audio portable tape cassettes shall not be changed except during a recess.

Microphones shall be located only at the bench, witness stand, and attorney tables. Microphones shall be as inconspicuous as possible but shall be visible.

#### **Limitations**

No media recording of proceedings in a judge's chambers or access to the same shall be permitted, unless expressly granted by the judge.

There shall be no audio pickup or broadcast of conferences conducted in court between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.

No media recording shall be permitted in the jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors shall be permitted at any time.

The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed. Recording and/or broadcasting of victims of sexual assaults, informants and undercover police officers shall not be permitted.

No media recording shall be made of any document or exhibit before or after it is admitted into evidence, except those which are clearly visible to spectators (e.g. maps, charts, blackboards, etc.)

Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

#### **Revocation of permission**

Upon the failure of any media representative to comply with the conditions prescribed by these Local Rules, the judge, or of Rule 12 of the Rules of Superintendence for the Courts of Ohio, the judge may revoke the permission to record and/or broadcast the proceedings.

### **Rule 10. Court Decorum and Conduct**

Upon the opening of any Court session, all persons in the courtroom shall stand, except for those physically unable to do so. All persons in the courtroom shall conduct themselves with decorum and in such a manner so as not to interfere with or obstruct judicial activities or proceedings. All persons appearing before the Court shall, as far as practicable, appear in appropriate and clean dress.

Smoking, eating, or drinking is not permitted in the Courtroom, nor shall anyone bring food or drink into the Courtroom.

No person shall loiter or behave in an unseemly or disorderly manner in the Courtroom or in any halls, entryways, or stairways leading thereto, or otherwise interfere with or obstruct judicial activities or proceedings.

Small children are not permitted in the courtroom while the Court is in session without prior approval.

The Court expects that counsel shall call this rule to the attention of clients and witnesses.

Failure to comply with any aspect of this rule may result in appropriate sanction by the Court, including continuance or dismissal of matter before the Court, removal of non-compliant person, or a charge for contempt of court.

#### **Rule 11. Continuances**

Every request for a continuance shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on the opposing counsel or the opposing party. The motion shall set forth the date from which a continuance is requested and reasons for the continuance. If a prior trial conflict exists, the date of scheduling shall be stated, with a copy of the notice attached to the motion. Entries shall accompany the motions with blanks for the new trial time and date, and if agreed to by opposing counsel. No request for continuance will be considered if made less than seven [7] days before trial except for circumstances which by reasonable diligence could not be determined seven [7] or more days prior to trial. It is suggested that counsel provide available dates to the Clerk.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, cases set in Federal Court and Common Pleas Courts trial shall have priority and shall be tried on the date assigned. With regard to other cases set in Municipal or County Court, those cases set first in time shall have priority. Criminal cases assigned for trial have priority over civil cases. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court. If a designated trial attorney has such a number of cases assigned for trial in court of this state so as to cause undue delay in the disposition of such cases, the Judge may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.

**Rule 12. Holding of Jury Trials**

Jury Trials will be held throughout the year on Fridays, or as otherwise designated by the Judge to whom the case is assigned. In the event that a holiday precedes a jury day, the courtroom of the Judge shall be held available for arraignments and no jury trial shall be scheduled in that courtroom unless approved by the Judge.

**Rule 13. Jury Selection**

Jurors to be used in the Crawford County Municipal Court shall be chosen and summoned by the Jury Commissioners of Crawford County as provided in Sections 2313.01 to 2313.26, inclusive, of the Ohio Revised Code, subject to the exceptions hereafter set forth. The Court shall notify the Jury Commissioners of Crawford County of the number of jurors needed in the Crawford County Municipal Court for the next calendar year. Section 2313.16 of the Ohio Revised Code is hereby declared not to be applicable to the Crawford County Municipal Court pursuant to the authority of Section 1901.25, Ohio Revised Code.

The Judge may excuse a juror for good cause shown with such excuse to be in writing and signed by the Judge. Such excuse may be for a particular date or dates, or for the entire term.

**Rule 14. Objections to Magistrate's Decision**

Any objections shall be made in conformity with Civil Rule 53, Criminal Rule 19 and Traffic Rule 14. They shall be ruled upon in conformity with Civil Rule 53, Criminal Rule 19 and Traffic Rule 14.

Any party may file written objections to a magistrate's decision within fourteen days of the filing of the decision.

Thereafter, any other party shall have a period of ten days to file objections. If a party makes a request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files a decision including findings of fact and conclusions of law.

Objections shall be specific and state with particularity the grounds for the objections. They shall further contain a statement signed by the filing party that copies have been served on all other parties.

Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available.

In ruling upon any objections, the court may adopt, reject or modify the magistrate's decision, hear additional evidence, recommit the matter to the magistrate with instructions or hear the matter.

**Rule 15. Reserved.**

**CRIMINAL AND TRAFFIC**

**Rule 16. 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 in the discretion of the arresting officer.

A Minor Misdemeanor Violations Bureau is hereby established in accordance with Ohio Rules of Criminal Procedure Rule 4.1, with authority to process and dispose of minor misdemeanors for which no court appearance is required either at the discretion of the arresting officer or the Court.

The Clerk of Court is hereby appointed as clerk thereof.

A schedule of fines has been adopted and is posted in the Clerk's office.

**17. Affidavits and Complaints**

All criminal and traffic cases shall be commenced in this Court by the filing of a complaint. All complaints shall state the name of the offense charged and shall contain the numerical designation of the statute or ordinance. If a warrant is requested on a complaint, the complaint shall be accompanied by an affidavit of fact pursuant to Ohio Criminal Rule 4(A)(1) whereby the Court can determine probable cause. An affidavit of fact merely phrased in statutory language and in substantially the same language as the complaint is not sufficient. In the alternative, the Court may hold a probable cause hearing in open Court before authorizing the issuance of the warrant. Complaints may be in statutory language, but should not contain surplus language from the statute or ordinance which is not involved in the case.

The Clerk of this Court and the deputy Clerks of the Court shall not prepare or actively assist in the preparation of criminal or traffic complaints. This prohibition is not applicable to minor typing assistance such as corrections of errors or last minute changes on papers filed with the Court, if requested and supervised by the filing party, or ordered by the Court.

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Crawford County Municipal Court. The electronically produced ticket shall conform in all substantive respect to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offence, the issuing officer shall provide the Defendant with a paper copy of the ticket in compliance with Traffic Rule 3 (E).

**Rule 18. Numbering of Actions**

Cases are to be categorized as to criminal or traffic, and will be serially numbered within each category. They will be identified by the year in which they are filed. Where, as the result of the same act, transactions, or series of acts or transactions, a defendant is charged with more than one misdemeanor, one case number shall be used, together with an additional letter of the alphabet identifying the particular case in sequence.

**Rule 19. Bail, Fine and Costs Schedules**

The Court has established a bail schedule for certain criminal and traffic offenses by separate entry and is available at the Clerk's office. In all criminal cases where the Defendant posts a property bond, his/her attorney or an attorney for the surety whose property is being used to secure the bond must provide the Clerk of the Courts with a title search, certifying the following:

- A short description of the property;
- The names that appear on the deed;
- The true value of the property as shown on the records in the County Auditor's office; and
- Whether there are any liens on file against the property.

**Rule 20. Sessions of Court**

Sessions of Court shall be divided into particular session and individual assignment session, in accordance with the Rules of Superintendence for Municipal and County Courts.

**Rule 21. Arraignment Time**

Bucyrus - Western Division: Arraignments for traffic citations shall be held at 9:00 a.m. Wednesdays and 10:00 a.m. Wednesdays for criminal citations, when Court is in session, and at such other times as the Judge deems appropriate.

Galion - Eastern Division: Arraignments for both traffic and criminal citations shall be held at 9:00 a.m., Tuesdays, when Court is in session, and at such other times as the Judge deems appropriate

Should a holiday observed by the Court occur on Wednesday, arraignments set in the Western Division shall then take place on the next court day with traffic arraignments beginning at 9:00 a.m. and criminal arraignments beginning at 10:00 a.m.

Should a holiday observed by the Court occur on Tuesday, arraignments set in the Eastern Division shall take place on the next court day beginning at 9:00 a.m. All Western Division traffic and criminal arraignments shall then take place on Wednesday beginning at 1:00 p.m.

**Rule 22. Appearance of Defendant**

Persons charged with traffic and/or criminal offenses must be present at the initial appearance as well as all subsequent hearings except as set forth herein. Failure to appear will result in the issuance of an arrest warrant and/or other appropriate sanctions.

**Rule 23. Written Plea of Not Guilty**

Written pleas of "not guilty" may be entered prior to the date of arraignment. The written plea of "not guilty" must contain the signed consent of the Defendant and the approval of the Prosecuting Attorney or Law Director. The Prosecuting Attorney or Law Director's office may file a general approval to apply in all criminal or traffic cases.

When filing written pleas of "not guilty" on multiple charges, it is Defense counsel's duty to insure that a plea form is signed, completed and file stamped for each offense and to notify the Clerk of the number changes.

**Rule 24. Video Hearings**

At the Court's discretion, hearings on criminal or traffic matters may be held by means of closed circuit video transmission to the Court from the Corrections Facility or County Jail where the defendant is being held.

The attorney representing the defendant, whether retained or appointed, shall be notified of the time scheduled for the video hearing, and may be present either at the Court or the correctional facility.

Video hearings will be scheduled at times mutually convenient to the Court and the correctional facility involved.

**Rule 25. Counsel for Indigent Defendants**

When the Defendant in a criminal case, which has the possibility of incarceration, indicates to the Court that he/she is indigent and desires counsel, the Court shall refer him/her to appointed counsel following a brief preliminary

qualification to be held in open Court. The Judge, in the absence of appointed counsel, in criminal and traffic arraignments may:

- [1] Enter a plea of "Not Guilty" on behalf of an indigent Defendant;
- [2] Direct that the Defendant proceed to the designated attorney's office, or return to Court at a specific date and time to meet with designated counsel or direct appointed counsel to meet Defendant at the Crawford County Justice Center;
- [3] Conduct a preliminary bail hearing, set the bail, with appointed counsel being permitted to move for additional in-Court bail hearings as the designated attorney in the case sees fit; and
- [4] Generate and file an appropriate Journal Entry recording the foregoing acts. In all subsequent proceedings, the designated counsel shall be treated and be responsible as though privately retained.

At arraignment, a Defendant may be required to answer questions under oath about his/her financial ability to obtain counsel. The Defendant may also be required to complete a certification of assets [i.e. *Affidavit of Indigency*] to verify indigence and eligibility for the appointment of counsel. The Court reserves the right to examine the documents comprising the investigation of the Defendant's indigence, but requires only the filing of the prescribed form of the Ohio Public Defender's Office in the Court's file regarding the individual Defendant.

Appointments will be made from such lists taking into consideration the qualifications, skill, expertise and case load of the appointee in addition to the type, complexity, requirements of the case and management of existing caseload.

Defendant shall pay the required twenty-five Dollars (\$25.00) fee upon request for a court appointed attorney. The Court, in its discretion, may waive this cost or assess it to the court costs.

Appointed counsel is responsible for ensuring that a completed Affidavit of Indigency has been signed by Defendant, notarized and filed with the Court. Failure to do so may result in the non-payment of Appointed Counsel fees.

The Court shall review Court appointment lists at least twice annually to ensure the equitable distribution of appointments.

#### **Rules 26. Notification as to Cases Set for Hearing**

The Court will notify the Law Director or his/her assistant, the attorney for the Defendant, and the Defendant as to the dates of any hearings. Notices shall be deemed sufficient if sent to the last known address listed on the papers making up the file on the case.

It is the order of the Court that all parties and their respective attorneys, notified of a hearing appear before the Court at the time designated unless otherwise excused from attendance by the Judge.

**Rule 27. Pretrial Procedure in Criminal Cases**

When a jury demand is filed in a criminal case, or when it is indicated to the Court that a jury is desired in a criminal case, the case will be assigned for trial or for pretrial conferences. It is the order of the Court that the Law Director or his/her assistant, the Defendant's attorney, and the Defendant be notified of a pre-trial conference in criminal cases and attend the pretrial conferences unless dispensed from attendance by the Court. Unless leave of Court is first obtained, any attorney or person required to attend the pre-trial who fails to appear for the pre-trial, may be cited for a contempt of this Court. A pretrial may be scheduled in a non-jury case at the request of Defendant or his/her attorney, or at the request of the Law Director or his/her assistant. No criminal or traffic charge will be reduced or dismissed after the last pre-trial unless parties show good cause excusing their failure to reach the result at the pretrial, and the Court may conduct an examination into the causes of said failure, in granting leave.

**Rule 28. Motion Practice**

All motions shall be made in conformity with Criminal Rule 12. All motions, except those normally made at trial, shall be made in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Criminal Procedure. Motions shall be supported by Memorandums of Law containing applicable statutory and case law citations.

Motions made outside the time limits prescribed in the Ohio Rules of Criminal Procedure shall not be filed without first obtaining leave to file from the Court. The Court will freely grant the leave to file if the motion is filed and appropriate time is available to hear the subsequent pretrial motion.

Any motion which, by its nature, is capable of being determined without a hearing shall be ruled on without a hearing.

All motions not heard or decided prior to trial will be disposed of at trial.

**Rule 29. Discovery.**

The Prosecuting Attorney or Law Director shall provide to Defendant or his/her attorney complete discovery within fifteen (15) days of the demand or before the pretrial, whichever is earlier.

The defense shall provide reciprocal discovery within ten (10) days of the receipt of discovery from the Prosecutor.

**Rule 30. Settlement Offers**

The Prosecuting Attorney or Law Director shall provide to Defendant or his/her attorney a written offer of settlement at least two (2) days prior to the scheduled pretrial or trial, if no pretrial has been scheduled.

**Rule 31. Subpoenas**

It is the responsibility of the counsel for the parties to see that subpoenas for prosecution witnesses are properly requested. Once subpoenas are issued, the Law Director or his/her assistant shall determine whether service has been obtained for the purpose of assuring service before trial or hearing date. All praecipes for witnesses shall, unless the case is set for trial less than five (5) days in advance, be filed not less than five (5) days prior to trial date. It is the responsibility of Defendant or his/her attorney to see that defense witnesses are properly subpoenaed, and that once subpoenas are issued, that proper service has been obtained. All praecipes for witnesses shall, unless the case is set for trial less than five (5) days in advance, be filed not less than five (5) days prior to trial date.

**Rule 32. Demand for Jury Trial**

In criminal cases the demand for jury trial must be filed within the time limits set forth in Ohio Criminal Rule 23(A), that is not less than ten (10) days prior to trial date, or on or before the third day following receipt of notice of the day set for trial, whichever is later. Failure to demand a jury trial within the time limits set forth is a complete waiver of the right to trial by jury, and absolutely no exceptions to this rule will be allowed.

**Rule 33. Waiver of Jury**

Once a written demand for jury has been filed, any subsequent waiver of the jury trial shall be made in writing at least eight (8) days prior to the trial date. Failure to abide by this rule will result in Defendant's paying all jury fees and expenses incurred by reason of such demand, unless otherwise ordered by the Court.

**Rule 34. Jury Questionnaires**

Jury questionnaires shall be submitted to potential jurors and shall be available for review by any party or their counsel one (1) week prior to trial date. In cases where the Defendant is pro se, the Prosecuting Attorney and Defendant shall receive a copy of the jury questionnaires in which prospective jurors address, telephone number and social security number have been made illegible.

### **Rule 35. Community Control Sanctions**

The court will determine eligibility for community control sanctions (CCS). Any defendant who is referred to CCS shall meet with the probation officer immediately following sentencing. In the event the probation officer is unavailable to meet with the defendant, it shall be the defendant's affirmative duty to schedule an initial appointment.

A determination by the probation officer that the defendant has failed to agree to or comply with the terms of CCS, shall result in the scheduling of a CCS violation hearing and may result in the imposition of the original sentence in whole or in part.

### **Rule 36. Collection of Fines**

In order that this Court may properly administer Sections 2947.14 and 2947.20 of the Ohio Revised Code, any person who claims inability to pay a fine shall furnish the Court with a written and signed statement setting forth information as to such person's assets and liabilities, including, but not limited to, current wages and employment and last employment, accounts in financial institutions, property owned, and debts, and shall set forth whether the fine could be paid by a certain date if time to pay were granted. The refusal to submit such statement, or the furnishing of a false statement, may be punished as a contempt of Court.

### **Rule 37. Costs of Incarceration**

In order that this Court may properly administer Section 2929.15 of the Ohio Revised Code and any City of Bucyrus, City of Galion and/or City of Crestline ordinance or resolution of the Crawford County Commissioners pursuant to Sections R.C. 753.02(B) and R.C. 341.23 of the Ohio Revised Code, any person before the Court for consideration under such Ordinance or Resolution who claims inability to pay the costs of incarceration, either in whole or part, shall furnish the Court with a written and signed statement setting forth information as to such person's assets and liabilities, including, but not limited to, current wages and employment and last employment, accounts in financial institutions, property owned, the costs of supporting dependents, and debts. The refusal to submit such statement, or the furnishing of a false statement, may be punished as a contempt of Court.

### **Rule 38. Caseflow Management in Criminal Cases**

The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a system for criminal and traffic case management which will provide the fair and impartial administration of criminal cases.

After arraignment, all jailable misdemeanors wherein the Defendant is represented by a defense counsel shall be set for pretrial by the Clerk or Deputy Clerk within twenty (20) days, except in those cases wherein the time allowed by R.C.

2945.71 is less than thirty (30) days. All other misdemeanors shall be set for trial unless the Law Director, his/her assistant, defense counsel or the Judge orders a pretrial hearing. The Law Director or his/her assistant shall contact the victim, witnesses, private complainants and/or law enforcement officers as necessary to obtain whatever information or authority he/she deems necessary to prepare for pretrial or plea negotiations. Both counsels shall sign and file evidence of having held said first pretrial on a form prescribed by the Court and signed by counsel for the parties.

If the case is not resolved at the first pretrial, the Clerk shall set the case for a final pretrial and jury trial. The final pretrial shall be held within seven (7) days of the scheduled jury trial. The Court may participate in the final pretrial conference if requested by the parties.

**Rule 39. Reserved.**

## **CIVIL RULES**

### **Rule 40 Court Costs and Security Deposits**

The schedule of costs, security deposits, and filing fee for all cases in the Crawford County Municipal Court will be as set forth by separate order of this Court.

No pleading, motion or other document shall be accepted for filing by the Clerk of Courts unless there is first deposited or simultaneously deposited the filing fee set forth in the schedule of costs.

Upon a claim of indigency, a party shall file a written motion and affidavit setting forth his or her income and expenses, and the Court shall rule on the same.

When a judgment for costs against a party appears unsatisfied, the Clerk may refuse to accept for filing any new action or proceeding instituted by or on behalf of such party, unless otherwise ordered by the Court, without such party first making payment to the Clerk for such unpaid costs.

When a jury trial is demanded, the party requesting the same shall make an advance deposit. If the deposit is not made within fourteen days of the scheduled trial, the jury demand will be deemed to have been waived and the case will proceed as a trial before the Court.

### **Rule 41. Filing of Pleadings, Motions, Etc.**

In every pleading, motion, or document filed on behalf of a party or parties, there shall be set forth in the caption the names of all parties with complete addresses, if known, whose names appear in the proceedings for the first time. Every pleading, motion, or document filed on behalf of a party shall have printed or typed thereon the name, address, telephone number, and attorney registration number of counsel filing the same, and if filed by a law firm, the name of the particular attorney having primary responsibility for the case shall be indicated thereon. Sufficient copies of every pleading, motion, or document to be served by the Clerk, Bailiff, or Sheriff, shall be filed with the Clerk. The Clerk shall make a copy of any pleading, motion, or document for the use of any counsel of record who has not previously been supplied with a copy, and charge the expense thereof as costs in the case.

In all cases where the filing of a pleading or amended pleading is not fixed by law or another rule, the pleading or amended pleading shall be served on or before the fourteenth (14) day after the date of the entry requiring or granting leave for the filing of such pleading or amended pleading, or overruling or sustaining a motion, unless otherwise specified in the entry. The opposing party shall move or plead to the pleading or amended pleading so filed on or before the fourteenth (14) day after such pleading or amended pleading is filed, unless otherwise ordered by the Court. Where a case is transferred from Small Claims Court to the regular docket of the Court pursuant to Section 1925.10, Ohio Revised Code, the answer of the defendant or defendants shall be filed within fourteen (14) days of the date of the entry ordering such transfer.

It shall be the duty of the party or attorney filing a pleading, written motion, or brief subsequent to the complaint to mail or deliver a copy thereof to each party to the case, or the attorney for such party. Failure to comply with this rule shall be sufficient cause to strike the pleading, motion, or brief from the files. If a copy of a pleading is to accompany a summons to be served in the case, it shall be sufficient compliance with this rule to deposit such copy with the Clerk. The fact of such mailing or delivery to the adverse party shall be noted on the original. Insofar as the party filing a document is aware of the Judge to whom the case is assigned, he/she shall note the same between the Case Number and the title of the document in the caption.

In the absence of a request to the Court for an oral hearing, notice of which request shall have been previously given to opposing counsel, a motion shall be deemed submitted on written briefs unless the opposing counsel requests in writing an oral hearing, which request shall be submitted within seven (7) days of receiving the motion.

Pleadings, motions, or other documents not complying with this rule of Court shall not be accepted for filing by the Clerk.

**Rule 42. Preparation of Papers in Civil Cases**

No official or employee of this Court is permitted to prepare or assist in preparing any pleadings, motions, or other documents on behalf of a party to a case to be filed in this Court or which may be pending in this Court. This prohibition is not applicable to assistance required by law to be rendered to parties in the Small Claims Division of this Court, or minor typing assistance, such as corrections of errors or last minute changes on papers filed with the Court, if requested and supervised by the filing party, or ordered by the Court.

**Rule 43. Failure of Service**

In the event there is a failure of service of summons, the complainant or his/her attorney shall make additional effort within six (6) months from the date the cause of action was filed. If the complainant or his/her counsel fail to comply with this rule, the Court may proceed to dismiss the case for failure to prosecute pursuant to Ohio Civil Rule 41.

**Rule 44. Assignment of Cases**

All cases are subject to being assigned for pretrial or trial at any time after the expiration of a full day from the time the issues are made up, unless they are otherwise disposed of by dismissal, settlement, continuance, or upon the order of the Court. All cases will be heard on the day assigned for pretrial and trial, and continuances to a day certain will only be granted upon the demonstration to the satisfaction of the Court of the necessity for the continuance.

**Rule 45. Jury Trials and Demands**

A demand for a civil jury trial shall be made as required by Civil Rule 38 and shall be accompanied by a deposit as security for the first day jury cost. Said sum shall be applied to the costs of the case in the event that costs are taxed to the party posting such deposit upon disposition of the case. Otherwise, the deposit shall be refunded to the party posting it as the conclusion of the case. In the event a party claims to be indigent and unable to post the deposit, an affidavit as to such indigence shall be filed with the demand for jury, and the Court may summon the party into Court for further investigation of the claimed indigence.

In the even a civil case is settled or dismissed prior to trial and it is not possible to notify all jurors of such cancellation, the requesting party shall bear the cost of juror fees for those jurors who report on the day of trial.

**Rule 46. Withdrawal of Trial Counsel**

Counsel shall be allowed to withdraw from trial counsel responsibility in cases where counsel was designated only with the consent of the Judge assigned to the case.

In the absence of judicial assignment, or in the absence of the assigned Judge, such application shall be made to the Court. No such application will be considered unless a written entry or motion is presented stating the reasons for the application. The entry or motion will contain the following:

- [1]** The time and date of trial, if set;
- [2]** A certification of service to opposing counsel;
- [3]** Certification that the client has been notified that the attorney is seeking to withdraw from the case;
- [4]** Counsel's professional statement that, if allowed, a copy of the entry will be mailed immediately to the last known address of the client.

Withdrawal of counsel within five (5) Court days of any hearing assignment shall not be permitted.

#### **Rule 47. Change of Trial Counsel**

Once trial counsel has been designated, such designation shall remain until termination of the case. Change of trial counsel may be permitted by the Court upon the filing of an entry containing the designation of new trial counsel and the agreement of prior trial counsel and provided such change will not delay the trial of such case.

#### **Rule 48. Pretrial Procedure for Civil Cases**

The Pretrial procedure called for in Ohio Civil Rule 16 shall be used by this Court insofar as may be applicable or practical, in all contested civil cases, that is, civil cases which are at issue on an answer or reply to a counterclaim.

It is the order of this Court that attorneys appear for pretrial conferences as scheduled, and that the parties to the case, or a representative of the party, also appear unless dispensed from appearance by the Court (service of notice pursuant to Civil Rule 5 is hereby deemed sufficient as to the notice of pretrial). Unless leave of Court is first obtained, failure of Plaintiff or Plaintiff's attorney to appear at a scheduled Pre-Trial conference may be grounds for dismissal of the case pursuant to Ohio Civil Rule 41(B)(1); failure of any other party or their attorney to appear may be deemed a contempt of this Court, and punished accordingly.

Continuances of pretrial conferences may be granted upon the showing of good cause, and no continuance shall be granted without approval of the Judge or Magistrate before whom the pretrial is scheduled.

**Rule 49. Jury Questionnaires**

Jury questionnaires shall be submitted to potential jurors and shall be available for review by any party or their counsel one (1) week prior to trial. Upon completion or termination of the trial, the Court shall gather any jury questionnaires previously distributed and dispose of the same.

**Rule 50. Notification of Settlement**

In cases of settlement or voluntary dismissal, the Court will accept notice of the same by telephone from the person pursuing each claim. Such notification must occur before the day of trial or next scheduled hearing. If notification is not received, the parties are required to be present for said scheduled hearing. The Plaintiff must submit a judgment entry detailing the settlement terms within fourteen (14) days of such notification, unless otherwise ordered by the Court.

If no judgment entry regarding settlement is received within the time allowed, the Court will issue notice of intentions to dismiss at the costs to Plaintiff.

It shall be the responsibility of the Plaintiff to notify the opposing party of the cancellation of any scheduled hearing due to voluntary dismissal unless otherwise ordered by the Court.

**Rule 51. Default Judgment**

A party seeking a default judgment pursuant to Ohio Civil Rule 55 shall file a written motion and a proposed *Judgment Entry* with the Clerk of Courts. *Military Affidavits* pursuant to the *Soldiers and Sailors Relief Act* shall be filed with the proposed entry, unless filed earlier.

If the claim is liquidated, in addition to the motion, the moving party shall file an affidavit or memorandum containing sufficient information in support of the claim. If the claim is un-liquidated, or if the party against whom judgment by default is sought has appeared in the action, or both, then a hearing is required before the Judge or Magistrate. In these cases, the motion for default judgment must include, on the face of the motion, notice of the date and time of the scheduled hearing on the motion. Service of the motion and notice of hearing shall be made on the opposing party in accordance with Rule 4(C) and not less than seven (7) days before the scheduled hearing. The moving party shall be responsible to show that the other parties have been properly served as required by this rule. At the hearing on the

unliquidated claim, the moving party shall present evidence to support the award of the default judgment. The Court may be required testimony under oath or by affidavit.

At the conclusion of the hearing, if the Court is satisfied that service of summons and complaint has been obtained, and the evidence presented establishes the party's entitlement to judgment, the Court shall prepare a decision and file it with the Clerk. Copies of the Court's decision shall be served upon the parties or their attorneys by the Clerk.

#### **Rule 52. Substitution of Parties**

Substitution of parties, at any stage of the proceedings, must be by motion and order of the Court. An assignment of judgment or other transfer of interest will not be effective unless it is approved by a Judge's entry. The motion for substitution may be made by any party or by the successor of any party and, together with a notice of hearing, shall be served on the parties as provided in Civil Rule 5, and upon persons not parties in the manner provided in Civil Rule 4 through Civil Rule 4.6 for the service of summons. Collection actions or other proceeding brought by assignees or agents are not permitted in the Small Claims Division. [R.C. 1925.02(A)(2)(a)(ii)]. Therefore, any request to substitute parties in such actions must be preceded by a motion to transfer the case to the regular docket of the Court.

#### **Rule 53. Sales and Proceedings in Aid of Execution**

The Bailiff shall follow the procedure set forth in Section 2329.13 et seq. of the Ohio Revised Code in the advertising and conducting of sales on attachment, execution, or foreclosure of chattel mortgages. In all attachments or executions to be levied upon personal property, the attorney or party shall describe in detail those items which are to be levied upon; an instruction to "levy upon all goods and chattels" is not sufficient. Information must be supplied to the Bailiff as to the type, size, and number of items to be levied upon, so that the Bailiff can make an accurate estimate as to the cost of the proceedings, and so that he/she can require a sufficient deposit to secure costs before proceeding with the execution or attachment. If the item to be levied upon is an automobile or other motor vehicle, the party or his/her attorney shall furnish the Bailiff with an accurate description of the automobile or motor vehicle, a license number or serial number, and a written statement as to whether there are any liens on it, and he/she shall also determine the fair market value of the vehicle to be determined by three (3) appraisers. If there is a lien on the vehicle, the name of the lien holder shall appear on the notice of sale. If the Bailiff determines that the vehicle, when sold, will not bring a sufficient amount to cover the cost of towing, storage, appraisal, advertising, and other Court costs, he/she shall require the party seeking the levy to post an additional deposit for costs to cover these expenses before proceeding with the levy. If the sale will encompass many items, the Bailiff may secure the services of an auctioneer and proceed in accordance with Section 2335.021, Ohio Revised Code.

**Rule 54. Garnishment Proceedings**

All garnishment proceedings shall be in the form required by Section 2715.11, Ohio Revised Code, and the garnishment papers will be properly filled out, including date. They will be accompanied by the proof of service of the demand required by Section 2715.02, Ohio Revised Code. The Clerk of this Court is instructed to refuse to accept for filing any garnishment papers not complying with this rule. The Court will accept no more than two (2) other personal earnings garnishments for each defendant at a single filing.

**Rule 55. Judgment Debtor Examination**

Judgment debtor examinations may be scheduled in front of the Court upon the specific request of the parties. All others shall be held outside the hearing of the Court. If the judgment debtor fails to appear after having been served with the *Order to Appear*, contempt of Court proceedings shall be initiated against the judgment debtor, unless the Court directs that other action to be taken.

**Rule 56. Satisfaction of Judgment**

No satisfaction of judgment shall be entered by the Clerk unless all court costs have been paid.  
No person other than the Clerk or Deputy Clerk may enter satisfaction of judgment upon the records of the Court.

**Rule 57. Forcible Entry and Detainer**

All forcible entry and detainer cases shall be set for hearing before the Court pursuant to time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied.

Actions in forcible entry and detainer shall be set for hearing before the Judge or Magistrate no more than ten (10) days after the issuance of summons.

At the conclusion of the hearing on the first cause of action, the Judge or Magistrate shall file a judgment entry and cause a copy to be served upon all parties.

If a second cause of action for money damages has been filed, the hearing on the same shall be scheduled within sixty (60) days of the hearing on the first cause. The Judge or Magistrate shall file a judgment entry and cause a copy of the same to be served upon all parties.

Jury demands in forcible entry and detainer actions shall be filed and notice given to all parties not later than three business days before the scheduled trial date. A jury demand must be accompanied by payment of jury costs. Such demand automatically continues the case and the moving party must post bond in accordance with R.C. 1928.08.

When a judgment has been rendered ordering a defendant to vacate premises, the person authorized by the Court shall not proceed until there is filed with the Court a praecipe requesting such action, and the praecipe shall be accompanied by a deposit in accordance with the Court's Court Costs Schedule.

#### **Rule 58. Small Claims Division**

The deputy Clerk of the Court assigned to Small Claims Division shall be responsible for assisting persons to file Small Claims complaints, entering these complaints in the docket, setting them for hearing, receiving the Court costs and money paid on judgments, and accounting for the same.

A Small Claims action is commenced by filing a Small Claims Complaint, pursuant to Ohio Revised Code Section 1925. No Defendant is required to file an answer or statement of defense. However, should the Defendant fail to appear for the hearing, after being duly served, then a default judgment will be entered against said Defendant. All pleadings will be construed to accomplish substantial justice.

Upon filing of motion and affidavit, as required by Ohio Revised Section 1925.10 (B), and upon payment of the required cost, the Small Claim may be transferred to the regular docket. No transfer will be granted until the filing costs are paid. If a Defendant, the same reduce his/her affidavit to an answer or move as though served with complaint within fourteen [14] days of the date of his/her filing.

#### **Hearing**

The hearing in Small Claims Court shall be conducted by the Court. The Court shall place all parties who plan to offer evidence under oath and then allow the Plaintiff and Defendant to state their case. The Plaintiff and Defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in Small Claims Court.

#### **Collection of Judgments**

The employees of the Court shall assist the prevailing parties in collecting their judgments pursuant to Ohio Revised Code Section 1925.13.

## **Rule 59. Trusteeship**

A trusteeship is one of the oldest institutions in money management. It allows a debtor to pay his/her debts in an orderly and manageable manner in line with his/her income without the fear of garnishment of his/her personal earnings.

### **Filing Fee**

The filing fee for establishing a trusteeship in this Court is \$35.00.

### **Requirements to file in this Court**

If the debtor/applicant is a resident of the State of Ohio, the debtor/applicant must file in jurisdiction where he/she resides. Residents of Crawford County, Ohio shall file in this jurisdiction.

If the debtor/applicant is not a resident of the State of Ohio, the debtor/applicant must file in the jurisdiction where the person's place of employment is located. Non-residents of the State of Ohio employed in Crawford County, Ohio shall file in this jurisdiction.

In order to establish a trusteeship, the debtor/applicant must have received a demand in accordance with ORC §2716.02 (commonly known as a "Fifteen Day Demand"). The debtor/applicant must complete the Court form "Application for the Appointment of a Trustee" along with the Court form "Statement as to Creditors" which shall contain a full, accurate, and complete statement, under oath, of the names of the debtor/applicant's secured and unsecured creditors with liquidated claims, the creditors' addresses, account numbers, and the amount due each creditor. The applicant shall attach a copy of the demand in accordance with ORC §2716.02 (commonly known as a "Fifteen Day Demand") to the application. Any application that does not have the above demand attached will be denied.

After a properly completed application and statement of creditors has been filed and the filing fee paid, the Court will appoint the Trustee to distribute the funds to the creditors. In all trusteeships, the Court hereby appoints the Clerk of Courts to act as the Trustee. The Clerk of Courts shall act without any additional bond pursuant to ORC §2329.70. An order shall be prepared appointing the Clerk of Court to act as Trustee and shall be approved by the Judge.

### **Excluded Debts**

Debts of less than Twenty-Five Dollars (\$25.00) shall not to be included in the trusteeship.

#### **Notification of Trusteeship**

After debtor/applicant has completed all the above, the Court shall provide notice to each creditor listed on the Statement of Creditors of the debtor/applicant's intent to satisfy the debt through the trusteeship program pursuant to ORC §2329.70. The notice shall include an order to each creditor to authenticate each claim and to provide the court with a proof of claim.

If a claim listed by debtor/applicant varies substantially in amount from that verified by the creditor, the Clerk shall notify debtor/applicant of the discrepancy and this matter shall be set for a hearing on said discrepancy. Notice of hearing shall be given to each party and hearing held and judgment rendered as in all other civil proceedings.

#### **Secured Creditors**

Upon receipt of a notice of the filing of an application for trusteeship as provided in ORC §2329.70, a secured creditor shall file with the Court, in writing, its election to participate and its agreement with the debtor/applicant, if such has been created, or its objection to being included. Failure of a secured creditor to answer such notice as provided in ORC §2329.70 within ten (10) days after receiving notice, shall be held by this Court as an election to participate in the trusteeship, and such creditor shall be estopped to assert its lien for so long as the debtor/applicant maintains his/her trusteeship agreement, as provided by ORC §2329.70.

If the secured creditor elects to participate in the trusteeship, it shall be subject to the terms of the written agreement with the debtor/applicant, filed and approved by this Court. If the secured creditor elects to participate, it shall be estopped from asserting its lien or other encumbrances so long as the debtor/applicant complies with the terms of such agreement and with ORC §2329.70. Upon the failure of the debtor/applicant to maintain such agreement, the creditor may be released from the trusteeship upon written request to this Court, to pursue its chattel property or other remedies as provided by law, which are not in violation of ORC §2329.70

#### **Payment Information**

Upon the filing of the application for trusteeship, the debtor/applicant may sign a wage withholding order directing debtor/applicant's employer to pay to the Court the non-exempt portion of debtor/applicant's personal earnings.

Until the employer makes payment under the wage withholding order or if debtor/applicant opts out of the wage withholding order, the debtor/applicant shall pay to the Trustee an amount equal to the non-exempt portion or

disposable earnings of the debtor/applicant's personal earnings for his/her present pay period determined according to ORC §2329.66. "Disposable earnings" means earnings after deductions required by law. "Present pay period" means the pay period for which you are receiving a paycheck. It is the debtor/applicant's responsibility to make required payments until the employer makes payments on debtor/applicant's behalf.

The debtor/applicant shall complete the Court form "Trustee Payment" for each present pay period. The debtor/applicant shall attach a copy of his/her pay stub or written statement of the debtor's pay for that period from the employer to the "Trustee Payment" form. The debtor/applicant shall forward a payment to the Trustee in the amount set forth in the above "Trustee Payment" form. Payments shall be made by cash, money order or personal check. When making a payment, the debtor/applicant shall provide the Court with his/her trusteeship account number. If the debtor/applicant makes his/her payment by mail and wishes to receive a receipt, he/she must send a self-addressed stamped envelope with his/her payment. Otherwise the receipts will be returned to the debtor/applicant with the disbursement letter at the time of distribution to the creditors. If a personal check is returned for any reason, the debtor/applicant will no longer be permitted to pay by personal check.

Payments are to be made into the trusteeship within three (3) working days of the date the debtor/applicant received his/her pay from his/her employer.

Payments made directly to creditors will not decrease your obligation to pay the above amount to the Trustee.

#### **Court Processing Fee**

A two percent (2%) processing fee will be assessed against all payments made to the Trustee towards the trusteeship. The Trustee shall distribute the processing fee to the Court before any other distributions are made.

#### **No Personal Earnings**

The debtor/applicant must report in person to this Court each month in which he/she had no personal earnings from employment. At said time, debtor/applicant shall complete an affidavit swearing that he/she did not earn any personal earnings for that month. If debtor/applicant becomes unemployed, the debtor/applicant shall provide to this Court written documentation demonstrating his/her efforts to obtain gainful employment.

#### **Additional Creditors**

If a debtor/applicant fails, through mistake or otherwise, to list a creditor, that creditor or debtor/applicant may apply to this Court, with notice to the other party, to list the omitted creditor in the trusteeship. Any person who becomes a

creditor after the appointment of the Trustee may be listed in the trusteeship, and that creditor shall share in any distribution made by the Trustee after the next ensuing distribution.

The filing fee for adding creditors for this Court is \$5.00 per creditor.

#### **Changes in Residence or Employment**

The debtor/applicant shall provide this Court and the Trustee with written notification of any changes in employment or place of residence within ten (10) days.

#### **Attorney Fees Listed**

The attorney representing the debtor/applicant shall be permitted to include his/her claim for such services in the trusteeship and said claim for attorney fees shall be given priority over all other creditors. Said attorney fees shall not exceed Two Hundred Dollars (\$200.00).

#### **Distribution of Funds**

The Trustee shall distribute funds to creditors at the end of each month unless the debtor/applicant has not paid into the trusteeship an amount that exceeds Five Hundred Dollars (\$500.00). In which case, the Trustee shall not make a distribution to creditors until the trusteeship has funds exceeding Five Hundred Dollars (\$500.00). Upon receipt of funds in excess of Five Hundred Dollars (\$500.00), the Trustee shall distribute the funds to the creditors. However, if the Trustee does not receive Five Hundred Dollars (\$500.00) into the trusteeship within a six (6) months period, the Trustee shall distribute to creditors any funds received during the six (6) months period.

Funds shall be distributed first to the Court for its processing fee as provided above, second to the claim of debtor/applicant's attorney in an amount not to exceed Two Hundred Dollars (\$200.00), third to the secured creditors pursuant to the written agreement filed with this Court and fourth to the unsecured creditors equally.

#### **Termination of Trusteeship**

Any trusteeship shall terminate upon the satisfaction of amounts owed to creditors.

Any trusteeship that is in arrears for payments for sixty (60) days shall be dismissed.

Any trusteeship that is inactive for a period of six (6) months shall be dismissed.

Any trusteeship shall be dismissed upon the debtor/applicant to fulfill any of his/her obligations included in these rules.

If a trusteeship is dismissed for nonpayment, the trusteeship shall not be reinstated, and the debtor/applicant shall not be permitted to file for a new trusteeship for a period of six (6) months from date of the dismissal of the trusteeship, unless, upon motion supported by affidavit, the debtor/applicant proves to the satisfaction of this Court that the failure to maintain the trusteeship was not due to willful neglect.

#### **Protections during Trusteeship**

No proceedings in garnishment, attachment or aid of execution or other action or proceeding to subject the personal earnings of the debtor/applicant to the payment of claims shall be brought or maintained by any creditor as long as at least the amount of the personal earnings of the debtor/applicant that is not exempt from execution, garnishment, attachment, or proceedings in aid of execution is paid to the Trustee at regular intervals as fixed in these rules.

The trusteeship does not prohibit creditors from recovering judgment against the debtor/applicant or prohibit levy, under a writ of attachment or execution, upon any other property that is not exempt from execution.

#### **Writ of Prohibition**

No creditor shall attempt to maintain any proceedings in garnishment, attachment, aid of execution, or otherwise in violation of ORC §2329.70. Upon the request of debtor/applicant, the Court shall issue a writ of prohibition or any other remedy provided by law against any creditor attempting to maintain any proceedings in garnishment, attachment, aid of execution or otherwise in violation of ORC §2329.70.

#### **Rule 60. Rent Escrow**

Rent escrow may be used by a tenant where the landlord has breached duties under state law. Currently, the landlord's duties are found generally under Chapter 5321 of the Ohio Revised Code. Rent escrow cannot be used against a landlord who only rent three (3) or less apartments. The Crawford County Municipal Court can handle rent escrow cases only when the rental property is in Crawford County.

Before a tenant can use rent escrow, the tenant must give written notice to the landlord, specifying the acts, omissions, or code violations that constitute a violation of the landlord's duties. The notice must be sent to the person or place where rent is normally paid and shall be mailed with a certificate of mailing. If the landlord fails to fix the problem within a reasonable time or within thirty (30) days and if the tenant is otherwise current on rent payments, the tenant may:

[1] Deposit all rent that is due and becomes due with the Court

- [2] Apply to the Court to order the landlord to fix the problem and deposit rent and if necessary request reduced rent
- [3] Or, terminate the lease

An application for rent escrow may be filed by a tenant along with one (1) month's rent. The tenant must bring the current address of the landlord or landlord's agent. The application must have attached to it, a copy of the notice sent to landlord and the certificate of mailing. The Clerk of Court shall serve the application on the landlord by certified mail, return receipt requested. The Clerk may also have the tenant sign a request for regular mail service in event that service by certified mail service fails.

#### **Filing Fee**

Court costs of one percent (1%) of the amount deposited shall be assessed against the rent deposited at the end of the case.

A complaint to release the total rent deposited may be filed by the landlord any time after the tenant's application for rent escrow has been filed. The Clerk shall serve the tenant by regular mail. A trial shall be scheduled within sixty (60) days.

At any time during the pendency of a rent escrow case, either party may file a motion for partial release of rent deposited. If no hearing or trial has been set, the Clerk of Court shall set a hearing date. If the matter has been set for an oral hearing or trial, the motion shall be consolidated with the pending trial or hearing.

#### **Rule 61. Caseflow Management in Civil Cases**

The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a system for civil case management which will achieve the prompt and fair disposition of civil cases.

Summons shall be served in accordance with the Ohio Rules of Procedure. In then event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service of summons within six [6] months from the date the cause of action has been filed, then the Clerk shall notify counsel that the counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.

After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the Judge so the matter may be set for hearing. If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within thirty (30) days unless good cause

is shown. When a file has been marked "settlement entry to come" and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that his/her case will be dismissed unless the entry is received within thirty (30) days.

#### **Status Hearing/Case Management Hearing**

After an answer is filed, the case will be assigned by the Clerk for trial and the Clerk will forward the file to said Judge. The Court will then set a status hearing which may be heard in Court or by phone. The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set.

#### **Motions**

All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the Court. There will be no oral hearing granted in said motions unless the parties request an oral hearing in writing and the Court deems it necessary.

#### **Pretrial conferences**

For the purpose of this rule, "pretrial" shall mean a conference chiefly designated to produce an amicable settlement. The terms "Party" or "Parties" used hereinafter shall mean the party or parties to the action and/or his/her/their attorney of record. Any attorney for a party to the action who fails to attend a scheduled pretrial conference without just cause being shown may be cited for contempt of this Court. Notice of Pretrial conference shall be given to all counsel of record by mail and/or telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Judge. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority. The primary purpose of the pretrial conference shall be to achieve an amicable settlement to the controversy in suit. The Court may require the parties to file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it at pretrial. In addition, the Court may determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. The Court, while presiding at a pretrial conference, shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of Plaintiff and/or his/her counsel to appear in person at any pretrial conference or trial; to order the Plaintiff to proceed with the case and to decide and determine all matters *ex parte* upon failure of the defendant appear in person or by counsel at any pretrial conference or trial; to make such other order as the Court may

deem appropriate under all the circumstances. If the case cannot be settled at pretrial, then the case will be set for trial at a time agreeable to all parties.

### **Judgment Entries**

Counsel for the party whose favor an order of judgment is rendered shall prepare a journal entry unless the trial Judge indicates that he/she will prepare same; if Court-prepared, the entry will not be submitted for approval. If counsel-prepared, the entry shall be submitted to opposing counsel within fourteen (14) days of the decision. Opposing counsel shall approve or reject the entry within seven (7) days or the same shall be transmitted to the Court marked "unapproved". Within twenty-one (21) days of the decision, the journal entry shall be submitted to the Judge for signature. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution. The journal entry shall state which party will pay the Court costs.

### **Rule 62. Case Management in Special Proceedings**

The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a case management system for special proceedings to achieve prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a Judge or Court, to wit: Small Claims, Forcible Entry and Detainer, Default hearing, rent escrow, replevin, motion to cite, garnishment hearings, debtor's exams, and Bureau of Motor Vehicles appeals. The following criminal matters are considered special proceeding and they are to be heard by a Judge, to wit: Preliminary hearings, and Extradition hearings.

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

In all new cases, if counsel fails to obtain serve of summons within six (6) months, the Clerk shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.

After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the Judge so that the matter may be set for a hearing.

If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within thirty (30) days unless good cause is shown.

When a file has been marked "Settlement to Come" and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that his/her case will be dismissed unless the entry is received within thirty (30) days.

**Rule 63. Reserved**

**Jury Management Plan**

**Rule 64. Introduction**

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18(C). It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Crawford County Municipal Court.

**Rule 65. Jury Eligibility**

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

[1] Persons less than 18 years of age;

[2] Persons who are not residents of the jurisdiction of the Court

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

**Rule 66. Procedure for Jury Selection**

Potential jurors shall be drawn from a jury source list, which shall constitute a list of all registered voters in Crawford County, by the use of random selection procedures using automate data processing equipment in conformity with O.R.C. §2313.08, and O.R.C. §2313.21. In October of each year, the Jury Commissioners, duly appointed by the Court pursuant to Revised Code §2313.01, shall convene and select jury panels to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from such list, in accordance with the powers provided to jury commissioners by O.R.C. §2313.01. In the event the jury panels drawn are insufficient to meet the needs for the Court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jury panels, in accordance with O.R.C. §2313.01.

If, in the opinion of the Court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law. Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during *voir dire*. Departures from random selection shall be permitted only as follows:

- [1] To exclude persons ineligible for service;
- [2] To excuse or defer prospective jurors;
- [3] To remove prospective jurors for cause or if challenged peremptorily;
- [4] To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned. Further, all prospective jurors shall be required to complete a jury questionnaire and, if appropriate, a request for excuse, exemption, or a deferral. Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequences of his failure to respond.

Any person who fails to respond to a duly served summons may be served with a citation for contempt of Court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

#### **Rule 67. Summoning of Prospective Jurors**

Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, a jury deposit of Two Hundred Seventy and 00/100 Dollars (\$270.00) shall be assessed. In the event the deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the Court for a waiver of the jury deposit requirement. In criminal cases, no deposit shall be required.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of fifty (50) persons per trial shall be summoned for service unless the Court determines that a lesser or greater number is necessary for a particular trial. Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial.

Persons summoned for jury service shall compensation at the rate of Twenty Dollars (\$20.00) per day. Such fee shall be promptly paid from the City or County treasury, as appropriate. Any juror wishing to waive his/her fee for service shall be permitted to do so in writing in the Clerk's office. All waived fees shall be returned to the City or County Treasury, as appropriate. The term of service for any prospective panel shall be one (1) day or the completion of one [ trial, whichever is longer.

#### **Rule 68. Exemption, Excuse and Deferral**

All persons, except those who exercise their right to exemption, are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excuse, exemption, or deferral must be made on the form provided, and shall be accompanied by appropriate documentation. These documents shall be retained by the Court. The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

- [1] Any person who suffers from a substantial physiological or psychological impairment;
- [2] Any person who has a scheduled vacation or business trip during potential jury service;
- [3] Any person for whom jury service would constitute a substantial economic hardship;
- [4] Any person from whom service on a jury would constitute a substantial hardship on their family, clients, or members of the public affected by the prospective jurors occupation;
- [5] Any person who has served on a jury within the last year;
- [6] Any person for whom it may be readily determined is unfit for jury service;
- [7] Any person for whom it is readily apparent would be unable to perform their duty as a juror;
- [8] Other valid excuse.

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

#### **Rule 69. Examination of Prospective Jurors**

Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the jurors fairness and impartiality. All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires. Jury questionnaires indicating basic background the day on which jury selection is to begin. Counsel is permitted to record or copy the information contained on the questionnaires, except addresses and telephone numbers, so long as all copies of jury questionnaires are returned to the Court upon the completion of trial. Under no circumstances may counsel or a party retain any jury questionnaire. Neither counsel nor party will be permitted to question prospective jurors as to matter contained in the questionnaire. Parties and counsel may be permitted to ask follow up questions concerning such information. The Court shall conduct a preliminary *voir*

*dire* examination concerning basic and relevant matters, and counsel shall be permitted a reasonable period of time to questions panel members thereafter. Counsel or parties shall conform their *voir dire* questioning to the following rules:

- [1] Counsel may not examine jurors concerning the law or possible instructions;
- [2] Counsel may not ask jurors to base answers on hypothetical questions;
- [3] Counsel may not repeat questions previously asked to the prospective jurors by the Court or counsel;
- [4] Counsel may not argue the case while questioning jurors;
- [5] Counsel may not engage in efforts to indoctrinate jurors;
- [6] Counsel may not ask jurors what kind of verdict they might return under any circumstances. No promises may be elicited from jurors;
- [7] Questions are to be asked collectively of the panel whenever possible;
  
- [8] Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there exists a potential for sensitive or potentially invasive questions, the Court of the parties may request a hearing preceding *voir dire* shall be held on the record, but may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment. If it is determined by the Court during the *voir dire* process that the individual is unable or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon motion of the Court. Further, Ohio Revised Code §2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.

Peremptory challenges shall be exercised alternatively as presently established by Revised Code §2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. All challenges shall be made in open Court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to that number as established by the Rules of Civil and Criminal Procedure. Challenges to the jury array shall be made in accordance with established rules of procedure. In criminal cases, the jury shall consist of eight [8] regular jurors and one (1) alternate juror at the option of the Court. In civil cases, the jury shall consist of eight (8) regular jurors and one (1) alternate juror at the option of the Court, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

#### **Rule 70. Jury Orientation**

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

by law or by rule of procedure. Prospective jurors shall be provided with oral orientation upon their initial appearance and prior to service.

The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations.

In accordance with Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury. Such proposed jury instructions shall not be submitted less than twenty-four (24) hours prior to the beginning of said trial. A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation.

All jurors shall be permitted to take notes and, if applicable, submit proposed questions during the course of the presentation of evidence, and the Court shall inform the parties of the process to be used in advance of trial.

Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate action. All communications between the Judge and the members of the jury panel, from the time of reporting to the Court through dismissal, shall be committed to writing or placed on the record in open Court. Counsel for each party shall be informed of any communications, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witness, have any contact with jurors.

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space, furnishing and facilities conducive to reach a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize contact between jurors, parties, counsel, and the public. Upon the commencement of deliberations, all jurors shall remain in the care of Court personnel and shall not be permitted to leave the Court without permission. Deliberations shall not continue after a reasonable hour, unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision. If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary.

If a jury is sequestered, the Court shall undertake the responsibility to oversee the conditions of sequestrations and the transportation of all jurors. Upon reaching a verdict, all jurors shall return to the Courtroom where the verdict or

verdicts shall be read in open Court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

**Rule 71. Review of Plan**

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

**Rule 72. Reserved.**