

RULE XIX

ACCURACY AND PROCEDURE

The accuracy of captions and the observance of proper procedure in the filing of papers with the clerk shall rest entirely on the one presenting the papers. The clerk shall not be required to verify the accuracy of such information prior to filing. Any garnishment or similar paper, other than a kind which may be amended by specific authority of the [Civil Rules](#), may be stricken from the files and returned to the person who filed it without a refund of costs upon the discovery of an error in the caption or form of the paper other than a typographical error, which can be corrected, resubmitted and processed within the time previously fixed by the clerk for the processing of said paper.

RULE XX

FAIR DEBT COLLECTION PRACTICES

Parties or their counsel who are classified as "debt collectors" under the Fair Debt Collection Practices Act, [15 U. S. C. 1692a](#), are hereby permitted to communicate in connection with the collection of the debt that is the subject of the pending suit, with any person with whom it is reasonably necessary to communicate in order to effectuate service of process, conduct discovery or present their claim in court.

RULE XXI

EVICCTIONS

1. SERVICE PURSUANT TO SECTION 1923.06:

Where service is made by posting pursuant to R.C. 1923.06(D)(2)(c) and the ordinary mail mandated by R.C. 1923.06(C) is returned by the postal authorities with an endorsement showing failure of delivery, service shall be deemed complete under R.C. 1923.06(G)(2). Where service is by certified mail, and the certified mail is returned for any reason, other than refused or unclaimed, the case shall be presented to a judge or magistrate, as appropriate, for a determination of whether service is complete. (Revised 4/29/08, Effective 5/12/08)

If service in an eviction action is not complete for any reason, the defendant may nonetheless appear and waive service.

2. TRIAL:

A. The clerk shall schedule each eviction trial no less than 18 days after the date the complaint is filed. If, however, it appears to the clerk that substantially fewer trials have been set on a particular day than would be necessary to balance the size of the eviction dockets, the clerk may set the trial on such earlier date, but in no event earlier than 14 days after the complaint is filed. The failure of the clerk to set a trial date in accordance with this rule is not grounds for dismissal of the complaint.

B. Civil Rule 53 shall not apply to eviction trials.

C. The magistrate shall promptly conduct the trial and shall prepare, sign and file a magistrate's decision with the clerk. The clerk shall submit the decision to the court on the day after the expiration of the seven-day objection period. The court may adopt the magistrate's decision if no written objections are filed unless it determines that there is an error of law or other defect on the face of the decision. The magistrate's decision will be effective when adopted by the court.

D. Where immediate relief is justified, the magistrate may so state in the decision, including the reason therefor, and the clerk shall submit the decision to the court without waiting for timely objections by the parties.

3. RESTORATION OF THE PREMISES:

The court shall issue a writ of restitution to the plaintiff in eviction immediately upon the entry of a judgment for possession. The plaintiff must contact the bailiff to schedule the execution of the writ.

RULE XXII

RENT ESCROW

Tenant may initiate the escrow process by filing a form supplied by the clerk which includes a statement that they are current in their rent and have given the landlord written notice of the defects.

The clerk shall assign the action a case number (91CV0000R) and shall give written notice by certified mail to the landlord. The tenant must deposit the rent with the clerk if the rent is due. If the rent is not yet due the tenant must deposit the rent with the clerk by the date due. In order to respond to the action, the landlord shall file a complaint under the same number paying costs specified in Rule XVIII.

After the landlord files such a complaint, a hearing shall be scheduled not less than thirty-five (35) days nor more than sixty (60) days from the date said complaint is filed.

At the conclusion of the hearing a written magistrate's decision shall be required within fourteen (14) days and submitted to a judge for signature.

When the escrowed money is released at the conclusion of the matter, a 1% fee shall be charged as additional cost.

RULE XXIII

GARNISHMENTS

Only one (1) garnishee may be listed on a wage garnishment form for filing.

The clerk is hereby authorized to release payment to the garnishor 5 (five) or more business days after receipt of the first payment.

RULE XXIV

PROCEDURE FOR OBJECTION TO MAGISTRATE'S EVICTION DECISION

1. OBJECTIONS:

A party may file written objections to the magistrate's eviction decision within seven days of the filing of the decision, regardless of whether the court has adopted the decision. Objections shall be specific and state with particularity the grounds of objection. The objecting party shall also file within that seven-day period a transcript of all of the evidence submitted to the magistrate.

2. BOND; STAY OF EXECUTION:

If the defendant files objections, the magistrate shall immediately enter an order requiring the defendant to post a bond in accordance with R.C. 1923.08. The bond shall be posted within seven days of the filing of the decision. If the defendant fails to timely post the bond, the court may adopt the magistrate's decision as if no objections had been filed, unless it determines that there is an error of law or other defect on the face of the decision. If the court has adopted the magistrate's decision, the defendant may move the court to stay execution of the judgment pending the court's ruling on the objections. If the court grants a stay, it shall be conditioned on the defendant posting the bond.

3. RULING ON OBJECTIONS:

The court shall promptly rule on any objections. The court may adopt, reject or modify the magistrate's decision, hear additional evidence, or try the matter *de novo*. The court may refuse to consider additional evidence proffered upon objections unless the objecting party demonstrates that with reasonable diligence the party could not have produced the evidence for the magistrate's consideration.

RULE XXV

[Effective 3/30/99]

SPECIAL PROCESS SERVER (EVICTIONS)

Special process server status approved prior to 3/30/99 shall terminate on such date, unless such status is approved pursuant to this rule. As of the effective date of this rule, all applicants for special process server status must meet the following requirements:

Special Process Server Requirements:

- (1) Must be at least 18 years of age and have a basic competency in the English language, including reading comprehension and writing; and
- (2) Except as provided in item 6 of this rule, must not have a felony or DUI conviction (or otherwise be disqualified under item 6), and must be licensed to drive and insured or otherwise meet Ohio's Financial Responsible laws. For the purposes of this item 2, the applicant must consent to have a criminal record check every year; and
- (3) May not be an immediate family member of the owner who is requiring special process; and
- (4) Corporations must have a disinterested party serve special process. A disinterested party is defined as someone having no equity interest in the corporation; and
- (5) An applicant must pay a \$250.00 one time fee upon application to become a special process server and if approved, an annual \$100.00 renewal fee.
- (6) A hearing will be conducted within three days from the receipt of the initial or renewal application to determine whether the applicant meets the requirements stated in this rule. The hearing will be held before a judge or magistrate who will determine if the applicant meets the requirements stated in this rule. Notwithstanding a prior felony or DUI conviction, or the lack of driving privileges, if the judge or magistrate determines after hearing, that public safety and the administration of justice would not be jeopardized by such conviction, or lack of driving privileges, the application for special process server status may be approved. Even though an applicant does not have a prior felony or DUI conviction, if the judge or magistrate determines, after hearing, that because of a prior conviction involving a crime of violence, moral turpitude or veracity, public safety or the administration of justice would be jeopardized by the person

acting as a special process server, the judge or magistrate shall deny the application for special process server status.

Procedures:

- (1) Special process servers will pick up the service copy of the summons and the return of service copy. The return of service copy will be completed by the special process server after service has been accomplished. The return of service copy shall be completed personally by the special process server and shall show the date and time of service, the name of the person served and the relationship of the person served to the defendant. If service was accomplished by posting in a conspicuous place, the return of service shall indicate specifically where the posting occurred. The civil bailiff will not fill in the return of service for the special process server. Special process servers must appear in court on the eviction action call date and testify how service was accomplished.
- (2) The use of special process server by a party in a civil cause of action is a courtesy or privilege extended by the Hamilton County Municipal Court. The landlord's privilege of using a special process server, or the special process server's status, may be revoked or terminated, after hearing, if it comes to the court's attention that the special process server or landlord has abused his or her position, or has falsified any return of service, or given false testimony.

Penalties:

- (1) If the Hamilton County Municipal Court is presented with credible evidence that a special process server has abused his or her position, falsified any return of service, or given false testimony, that person may, after hearing, be barred permanently from serving as a special process server.
- (2) If a special process server has abused his or her position, falsified any return of service, or given false testimony, the party employing that special process server may, after hearing, be prohibited for a six (6) month period of time from using special process servers. Upon the occurrence of a second violation by a special process server, the party employing that special process server may, after hearing, be permanently barred from using the services of a special process server.