

## **RULE XXVI**

### **CASE MANAGEMENT IN CIVIL CASES**

Except for Small Claims, Eviction or Reference to Magistrate which shall be governed by Civil Rule 53 and the Order of Reference of the Local Rules of Court, this rule shall apply to all civil cases.

(A) Purpose: The purpose of this rule is to establish, pursuant to Sup. R. 5, a system for civil case management which will achieve the prompt and fair disposal of civil cases.

(B) Scheduling of events: The scheduling of a case begins when a civil case is filed.

(C) Clerical Steps:

(1) Summons shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the clerk shall notify counsel immediately. If counsel fails to obtain service of summons within one year from the date the cause of action has been filed, then the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

(2) After the filing of any responsive pleading or motion under Civil Rule 12, the clerk shall immediately assign the case at random and forward the file to the judge.

(D) Judicial steps:

(1) Status Hearing: The court will then set a status hearing within 45 days. The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set. Also, at this hearing, pursuant to the Order of Reference of the Local Rules of Court, a case may be referred to a magistrate for disposition.

(2) Pretrials: For the purpose of this rule, "pretrial" shall mean a court supervised conference. The judge may require a formal pretrial statement to be filed seven (7) days prior to the scheduled pretrial.

Any attorney for a party to the action who fails to attend a scheduled pretrial conference, without just cause being shown, may be punished as for contempt of this court. In addition, sanctions such as default or dismissal may be imposed on the offending party.

Notice of pretrial conference shall be given to all counsel of record by mail and / or by telephone from court personnel not less than seven (7) days prior to the conference. Any application for continuance of the conference shall be addressed to the judge to whom the case has been assigned.

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

The court shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court shall, at that time, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.

Any judge presiding at pretrial conference or trial shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of plaintiff, and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any pretrial conference or trial as required; to make such other order as the court may deem appropriate under all the circumstances.

If the case is not settled at pretrial, then the case will be set for trial at a time reasonably convenient to all parties.

(3) Continuances: No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance.

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

(4) Judgment entries: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. If not prepared immediately for signature, that entry shall be submitted to opposing counsel within three (3) working days of the decision. Opposing counsel shall approve or reject the entry, within three (3) days. Within ten (10) days of the decision, the journal entry shall be submitted to the judge, or, thereafter, the court will prepare the journal entry.

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 entries shall be filed within ten (10) days, or the case will be dismissed for want of prosecution.

The journal entry shall state which party will pay the court costs.

The civil clerk shall provide each judge of the court with a monthly report that indicates all outstanding civil matters before the court.

## RULE XXVII

### SMALL CLAIMS MEDIATION

Those who file Small Claims cases may choose to have their case referred for mediation on the date of trial. Small Claims mediation shall be provided by the Municipal Court Mediation Service of the Department of Pretrial Services.

## RULE XXVIII

### ELECTRONIC TRANSMISSION FILINGS

[See also the Clerk of Courts information on Electronic Filing.]

#### A. Facsimile Filings

In conformity with Ohio Civil Rule 5(E) and effective upon approval by the Ohio Supreme Court Committee on Technology and the Courts [Such approval occurred on 9/2/04.], pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission subject to the following conditions:

#### 1. Definitions. The following terms in this Rule shall be as follows:

- (a) Facsimile transmission – means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
- (b) Facsimile machine – means a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system.
- (c) Fax or faxes – an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- (d) Source document – means the document transmitted to the court by facsimile machine/system.
- (e) Effective Original document – means the facsimile copy of the source document received by the Clerk of Courts and maintained as the original document in the court’s file.
- (f) Effective Date and Time of Filing - means the date and time printed in the fax transmission report generated by the Clerk of Courts (amended effective 2/28/09) facsimile equipment.

**2. Application of Rules and Orders.** This Local Rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the Municipal Court for Hamilton County, Ohio, assumes any new or additional responsibilities, obligations or liabilities by virtue of this Local Rule, except as expressly provided for herein. Further, this Local Rule pertains only to the method of filing; it does NOT override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Civil or Criminal Procedure respecting the requirements of any filings such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

**3. Filings Not Accepted.** This Rule authorizes the filing of facsimile transmissions for Municipal civil cases of all pleadings, motions and other documents that may otherwise be filed with the Clerk of Courts, but anything stated or implied above to

the contrary notwithstanding, the following documents may NOT be filed by facsimile transmission:

- (a) Any filing that commences an action for which the Clerk of Courts must collect an initial case deposit against costs;
- (b) Any filing for which a specific filing fee must be collected; or
- (c) Any filing for which the Clerk of Courts is required to effectuate service or summons.

As of the effective date of this Rule and until further notice Municipal Court criminal and traffic case filings are NOT being accepted via facsimile transmissions.

**4. Cover Page.** The person filing a document by fax shall provide therewith a cover page containing the following information:

- (a) the case number (or indicate none);
- (b) the caption of the case;
- (c) the assigned judge (or indicate none);
- (d) a description of the documents being filed;
- (e) the date of transmission;
- (f) the transmitting fax number; and
- (g) an indication of the number of pages included in the transmission, including the cover page.

If a document is sent by fax to the Clerk of Courts without the cover page information listed above, it will be deposited in the case jacket but shall not be entered into the Case Docket and shall be considered to be a nullity and thereby stricken. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.

**5. Facsimile Machine.** The telephone number of the facsimile machine available for receiving fax filings for Municipal civil cases is 513-946-5710. This line is available twenty-four (24) hours per day seven (7) days per week. Fax filings may NOT be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts. Transmissions sent to any other location are not covered by nor permitted under this Local Rule. Copies of filings otherwise properly filed with the Clerk of Courts, however, such as courtesy copies for the Court, may be sent by facsimile directly to the Court, but any such transmittals shall not be considered as having been filed thereby.

**6. Document Restrictions.** A "fax transmission", as referred to in this Local Rule, may contain more than one (1) document but may not apply to more than one (1) case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit

thereof shall be considered as being part of a single filing for purposes of this rule. If exhibits are impossible or burdensome to send by facsimile transmission the original exhibits may be separately filed if done so within forty-eight (48) hours of the related facsimile transmission. If the exhibits are filed separately, then an insert page describing the exhibit being filed separately must be included in the facsimile transmission. Facsimile transmissions may not be in excess of twenty (20) pages each regardless of the number of documents being sent.

**7. Fees.** There are no additional costs or fees related to facsimile transmissions except to the extent that the filings are taxed as cost to any case.

**8. Filing Acceptance or Rejection.** The Clerk of Courts is hereby authorized to reject any facsimile transmission filing if the sender fails to provide the Cover Page required under Section Four (4) of this Rule or if the transmission contains a filing not acceptable under Section Three (3) of this Rule.

**9. Date and Time.** Subject to the other provisions of this Local Rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision and for entering such filings into the electronic Case Docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed in the fax transmission report generated by the Clerk of Courts (amended effective 2/28/09) facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filings by the Clerk of Courts through whatever technological means are then available, such as the activity register or report function of the transmitting equipment.

**10. Original Filing.** A document filed by fax shall be accepted as the effective original filing if the person sending the fax complies with all of the requirements set forth in this Local Rule. The person making a fax filing need not file any source document with the Clerk of Courts. However, until the case is closed and all opportunities for post judgment relief are exhausted the filer must maintain in their records and have available for production on request by the Court the source document of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.

**11. Signatures.** Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.

## **B. Internet Electronic Filings**

In conformity with Ohio Revised Code Civil Rule 5(E) , pleadings and other papers may be filed with the Clerk of Courts electronically via the Internet, subject to the following conditions:

### **1. Definitions.** The following terms in this Rule shall be as follows:

- (a) **Electronic Filing – (E-filing or e-filing)** The process of transmitting a digitized source document electronically via the Internet to the Clerk’s office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.
- (b) **Electronic Mail – (Email or e-mail)** Messages sent by a user and received by another through an electronic service system utilizing the public Internet.
- (c) **Source document –** Means the document created and maintained by the filer which is then electronically transmitted to the Court.
- (d) **Original document –** Means the transmitted copy of the source document received by the Clerk of Courts that becomes part of the court record and is maintained in the Court's file.
- (e) **Date and Time of Filing -** means the date and time the Clerk of Courts has received the entire transmission of the filing, unless rejected. (See Filing Acceptance below.) The date and time of receipt will be indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts.
- (f) **Electronic Signature –** An electro electronic sound, symbol or process that is attached to, or logically associated with, an electronic record and that is executed or adopted by a party with the intent to sign the electronic record. Or signatures by an attorney or party indicated by the typewritten name of that person preceded by “s/”.
- (g) **Vexatious Litigators -** Individuals who have been declared vexatious litigators pursuant to R.C. §2323.52 and/or Local Rule 13.
- (h) **Personal Identifiers -** Shall have the same meaning as provided in Sup. R.44(H).
- (i) **PDF/A—**a specialized version of PDF (Portable Document Format) for the digital preservation of electronic documents.

### **2. Application of Rules and Orders.** Unless modified by approved stipulation or order of the Court or a judicial officer, all applicable Federal Rules of Civil and Criminal

Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, and orders of the Court shall continue to apply to documents electronically filed.

### 3. Filings

- (a) Any document filed electronically that requires a filing fee may be rejected by the Clerk of Courts unless the filer has complied with this rule concerning the payment of filing fees.
- (b) Any document and/or court action that requires payment of a Filing Fee will be made by using a valid credit card through the Clerk's E-Filing System.
- (c) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken.
- (d) All documents containing notarizations shall be electronically filed only as a hand-signed scanned PDF document. The notary seal shall be visible.

### 4. Filings Not Accepted. The following Municipal civil filings may NOT be filed by electronic transmission:

- (a) Rent escrow applications
- (b) Anything that requires a cash bond posting or a jury demand fee
- (c) Applications for trusteeship filings
- (d) Request for transcript
- (e) Pro se poverty affidavits

\*\*\*Currently, we do NOT accept Municipal Criminal or Traffic electronic filings.\*\*\*

### 5. Account Assignment.

- (a) The user shall be required to fill out the on-line Registration, with a valid email address, and electronically accept the User Agreement and the Credit Card Authorization. Upon receipt of the required information, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing documents. The e-filer shall be notified of the new account information via email.
- (b) Individuals who have been declared vexatious litigators, will not be permitted to file documents electronically. The e-filing System will not provide an individual who has been declared a vexatious litigator with a user id and password to access the system. A vexatious litigator may only file in paper format, provided he/she has first obtained permission from the assigned Judge to file in that case. The



Clerk's office will accept the filings from the vexatious litigators in paper format, as needed.

- 6. Hours of Operation.** Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the Clerk of Courts receives the entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement. Time at the Court (Eastern Standard or Daylight) governs, rather than the time zone from which the filing is made.
- 7. Document Format.** Documents submitted must be in a digitized format specified by the Clerk of Courts as set forth in the online guide to electronic filing.

  - (a) All electronically filed documents, pleadings and papers shall be filed with the Clerk in Portable Document Format (PDF) or the preferred PDF/A on 8½ x 11 inch pages.
  - (b) Proposed Entries and Orders must be submitted in Microsoft Word (.doc or .docx) format and reference the specific motion to which it applies.
  - (c) Submissions shall be limited to twenty megabytes (20MB) in size per document. Larger sized documents shall be broken down and filed according to the directions maintained on the Clerk of Courts website e-filing page.
- 8. Personal and Private Information in Electronically Filed Court Documents.**

  - (a) **Document Content.** All documents e-filed shall omit personal identifiers as defined in Sup. R. 44(H). The responsibility for redacting personal identifiers rests solely upon the filer. The Clerk and the Court will not review each document for compliance with this rule. When the personal information is omitted from a case filing it shall be submitted or filed separately on a form provided by the Clerk.
  - (b) **Sealed Cases and/or Sealed Documents.** In accordance with Rule 45 of the Rules of Superintendence for the Courts of Ohio, and Municipal Court Local Rule 9.16(4) and 9.16(5) a document may be filed under seal or a filing may be made on a sealed case. E-filings on sealed cases must be clearly marked on the document below the title indicating that the case is sealed. A document to be sealed may be e-filed if there is a court Order on the case docket that allows the document to be sealed. The Order and its date must be noted on the e-filing under the document title (e.g. "Document filed under seal pursuant to Court Order of mm/dd/yyyy").
- 9. Fees.** Normal filing fees, case deposits, copy costs and any convenience fees will be collected via a valid user credit card at the time the filing is processed by the Clerk of Courts. Special accounts will be billed for their copy costs. Any document filed electronically that requires a fee may be rejected by the Clerk of Court unless the filer complied with the mechanism established by the Court for the payment or waiver of filing fees.

- 10. Filing Acceptance.** Every new filing will receive a confirmation number at its inception. Upon successful transmission, a confirmation page will be displayed with the corresponding confirmation number and all pertinent filing information. Upon successful processing of the filing by the Clerk of Courts, an electronic mail message containing but not limited to the confirmation number and case number assigned, if any, will be sent to the filer. Filers will be notified via electronic mail if the filing is rejected for any reason
- 11. Electronic Filed Stamp.** Upon successful completion of acceptance processing by the Clerk of Courts a document filed electronically will be electronically filed stamped. This stamp will include the date and time that the Clerk of Courts received the entire transmission as well as the confirmation number of the filing. Once the document is electronically file stamped and entered on the docket, it is considered a permanent part of the case record. A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection e-mail. (See Filing Acceptance above.)
- 12. Service of E-filed Documents.** Service is not automatically done by using the e-filing system.

  - (a) Civil complaints and summonses will be served by the Clerk in accordance with Civil R. 4 through 4.6. The filer must serve all other e-filed documents in the manner provided in applicable civil or criminal rules. Each e-filed document transmitted to the Clerk of Courts that is required to be served must be accompanied by a completed certificate of service which shall state the date and manner of service and be signed as provided in this rule.
  - (b) The filer may request that the Clerk serve an e-filing by the means provided in the operating procedures for e-filing on the Clerk of Courts website.
- 13. Disposition and Maintenance of Source Documents.** A document electronically filed shall be accepted as the original filing, consistent with Ohio Revised Code Civ. R. 5(E) and Crim.R. 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule. The person filing electronically need not file any original copy with the Clerk of Courts but must maintain the source document in his or her records, and have available for production on request by the Court, the Clerk of Courts or other counsel, the signed source document that was electronically filed. The filer must maintain this source document for five years after the final disposition of the case, including final disposition of all appeals.
- 14. Public Method of Access to Electronically Filed Public Documents.** Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper. Public access to electronically filed public documents will be available via the Internet web site of the Clerk of Courts as soon as the Clerk of Courts has processed the document. If Internet web site access is unavailable or is not provided by the Clerk of Courts, or if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available at one or more offices of the Clerk of Courts, either by computer terminal or in paper form in the case jacket or on

microfilm. However, if a document or case record is sealed or expunged it is unavailable for public disclosure.

- 15. User or Technical Errors.** Any e-filer whose filing is made untimely as the result of a technical failure of the Clerk of Court's system, or of the filer's computer hardware or software, phone lines or internet service provider (ISP), may move for leave to file instanter or for other appropriate relief from the court. Such technical failures cannot extend jurisdictional deadlines. The motion shall be accompanied by an affidavit stating the circumstances of and reason for missing the deadline, and must be filed no later than noon of the first day on which the Clerk of Courts is open for business following the original filing deadline. The Court will consider the matters stated in the affidavit and order appropriate relief.
  
- 16. Operating Procedures and Instructions.** The Clerk of Courts is authorized to prepare and maintain operating procedures and instructions for electronic filing. These are available online at the Clerk's website.

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