

BROWN COUNTY MUNICIPAL COURT

BROWN COUNTY, OHIO

LOCAL RULES

Adopted:

AUGUST 6, 2003

TABLE OF RULES

GENERAL PROVISIONS:

	PAGE
Rule 1.01 Scopes and Applicability of Rules; Division of Court	1
Rule 1.02 Terms of Court; Hours of Sessions	2
Rule 1.03 Administrative Judge	3
Rule 1.04 Records of the Clerk	4
Rule 1.05 Filing and Assignment of Cases (A) Consecutive Numbers (B) Assignment of Cases (C) Continuances (D) Dismissals (E) Disqualifications (F) Refilings (G) Attorneys of Record	6
Rule 1.06 Bonds	8
Rule 1.07 Recordings	9
Rule 1.08 Deposit for Costs	10
Rule 1.09 Reserved	11
Rule 1.10 Jurors/Jury Trials	12
Rule 1.11 Broadcasting and Photographing	13
Rule 2.01 Criminal Practice and Procedure	15
Rule 3.01 Civil Practice and Procedure	16
Rule 3.02 Complaint	17
Rule 3.03 Service of Process	18

Rule 3.04	Mail Service	19
Rule 3.05	Service by Publication	20
Rule 3.06	Extension of Time for Filing Pleadings and Motions	21
Rule 3.07	Copies of Pleadings	22
Rule 3.08	Journal Entries	23
Rule 3.09	Motions	24
Rule 3.10	Small Claims	25
Rule 3.11	Answer to Small Claims	26
Rule 3.12	Garnishment	27
Rule 4.01	Trusteeship Rules	28
Rule 4.02	Procedure Governing Criminal Pre-trial Conference	29
Rule 5.01	Case Management Rules for Criminal Cases	30
Rule 6.01	Case Management for Civil Cases	31
Rule 7.01	Case Management Rules for Special Proceedings	33
Rule 8.01	Case Management Rules for Forcible Entry and Detainer Hearings	34
Rule 9.01	Case Management Rules for Small Claims Court	35
Rule 10.01	General Order of Reference for the Magistrate	36

**RULE 1.01
SCOPE AND APPLICABILITY OF RULES;
DIVISION OF COURT**

The Rules hereinafter set forth shall apply to the Brown Municipal County Court of Brown County, Ohio, for the conduct, government and management of business, operations, proceedings and other functions and services of the Court. The Court may amend and supplement the Rules from time to time.

The Brown County Municipal County Court consists of Civil, Small Claims, Traffic and Criminal Divisions.

These Rules are intended to supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, and the Superintendence Rules of the Supreme Court of Ohio, and other controlling statutes in their application and administration in proceedings in the Court.

APPROVED:

Judge Thomas F. Zachman

Rule 1.02 LOCAL RULES

RULE 1.02
TERMS OF COURT; HOURS OF SESSIONS

The term of the Brown County Municipal Court is one calendar year.

Regular sessions of court shall be Monday through Friday, from 8:00 a.m. to 4:00 p.m.

At the direction and order of the Brown County Municipal Court Clerk the Clerk's office shall be open from 8:00 a.m. to 4:00 p.m. each day Monday through Friday, and Saturday from 9:00 a.m. to 12:00 Noon. The Court shall observe all State of Ohio legal holidays.

Rule 1.03 LOCAL RULES

**RULE 1.03
ADMINISTRATIVE ACTIONS**

The Judge shall have full control over the administration, docket and calendar of the Court, cause cases to be assigned to any individual Judge and to particular sessions pursuant to these rules; formulate accounting and audit systems with the Court and in the Clerk's office which insure the accuracy and completeness of all reports required by the Rules of Superintendence. .

Rule 1.04 LOCAL RULES

RULE 1.04
RECORDS OF THE CLERK

No files may be removed for any cause except to go into the Courtroom without express consent of the Deputy Clerk in charge.

The Clerk shall keep and have in his/her custody the following records:

1. Dockets which shall be separated into a civil docket, a trusteeship docket, and a criminal docket. Each docket shall list all cases filed in its category, serially in order of filing, and as to each case shall list the number and title by plaintiff and defendant of each case, the date of filing, and the nature of the charge or claim, a minute of each motion or pleading, a minute of each order of the Court with respect thereto, making reference to the Journal in which such order appears.

2. A journal which shall consist of a daily record of all orders of the Court showing as to each the caption and number of the case, civil, criminal, or trusteeship. No case shall be considered disposed of, nor shall any order concerning it be made unless the text of the order be reduced to writing, signed by the Judge making it, and be entered in the Journal which shall be a bound volume of permanent record. Entries made therein may be copies in typescript, by rubber stamp impression, by photographic process; or by binding in the volume an exact duplicate or the order signed.

3. A record which shall be a permanently bound volume in which each pleading, motion, order, verdict, and judgment concerning a case shall be transcribed, in the chronological order of filing, in each case. No case shall be transcribed into record except on order of Court made on motion of a party interested, or on the Court's own motion.

4. One or more cash books which shall be in such form either by electronic or paper means as is approved by the Bureau of Inspection of State Offices, and shall show a separate line of entries for each case or proceedings in which funds are collected by the Clerk, shall show the distribution of such funds received, the number of the receipt given therefore, and the number of the check or voucher disbursing funds.

5. From the date of filing of original pleadings in criminal cases from five days after filing (if there has, in the meantime, been no final disposition), the trial docket shall be kept on single separate sheets or by electronic means as approved by the Clerk. All journal entries shall be signed by the Judge making the same, and in any event, if entry of such order is not presented to the Judge by counsel of record within five days of decision, the entry shall be prepared by the Clerk from such trial docket notation signed, presented to the Judge for signature and entered in the Journal.

6. Case filed-a separate case file shall be maintained for each case file, and all individual documents filed in such case shall be securely inserted therein. When finally disposed of, each file folder shall be filed in chronological order of its filing. The folder shall carry on its face the title and number of the case and such information as the Clerk deems pertinent.

Until finally disposed of, such folders shall be kept separate and apart from the folders of disposed cases, either in the office of the Clerk, except when temporarily in the office of the Judge or Courtroom for ruling or disposition.

Rule 1.05 LOCAL RULES

**RULE 1.05
FILING AND ASSIGNMENT OF CASES**

(A) Consecutive Numbers

All civil and criminal actions brought by this Court shall be numbered consecutively as filed, and shall be entered upon the civil docket or criminal docket as numbered. Subsequent filings shall include the number of the case.

(B) Assignment of Cases

In accordance with the Rules of Superintendence, upon the filing in, or transfer to, a division of the Court of a civil case, or upon arraignment in traffic and criminal cases, such case shall be assigned by lot to a Judge who thus becomes primarily responsible for the determination of every issue until its termination. All matters including continuances must be submitted for disposition to the Judge to whom the case has been assigned, or if unavailable, to the Administrative Judge.

(C) Continuances

No continuances will be granted except by written motion set down for hearing. Hearing may be waived by opposing counsel. Requests for a continuance shall be to a time certain.

(D) Dismissals

No case, once filed, shall thereafter be dismissed except by the Judge assigned thereto on preliminary hearing, trial on the merits, on motion in open court, or on good cause shown by written entry.

(E) Disqualification

When necessary or proper, a Judge may disqualify himself or herself from a particular case. In those circumstances, written entry shall be attached to the case setting out the disqualification, and a new Judge assigned by lot.

(F) Re-filings

In accordance with the Rules of Superintendence, in any instance where a previously filed and dismissed case is re-filed, that case shall be reassigned to the Judge originally assigned by lot to hear it unless for good cause shown that Judge is precluded from hearing the case.

(G) Attorneys of Record

(1) Appearance: All pleadings and motions served and filed on behalf of any party represented by counsel shall be signed by one attorney in his individual name as the trial attorney with office address including zip code and telephone number, and Ohio Supreme Court registration number. Firm names and the names of co-counsel or associate counsel may appear for information only as "Of Counsel". All copies of pleadings or other court filings and notices of all subsequent proceedings shall be serviced upon the trial attorney, or the party if unrepresented. The attorney of record shall appear personally at all stages of the proceedings unless excused by the Judge.

(2) Withdrawals: Trial attorneys may withdraw from a matter pending only on written motion, hearing and entry.

Rule 1.06 LOCAL RULES

RULE 1.06
BONDS

(A) All persons, except those who may be denied bail under Article I, Section 9 of the Ohio Constitution, are entitled to bail and the purpose of bail is to ensure that the Defendant appears at all stages of the criminal proceedings subject to any conditions imposed by the Court under Criminal rule 46. Where summons has issued and the Defendant has appeared, the Judge shall, absent good cause, release the defendant on his personal recognizance or execution of an unsecured appearance bond.

Unless application is made for discharge of the surety, the same bond shall continue as a matter of right until the final disposition of the case.

AAA cards may be accepted by the Clerk for bonds of \$200.00 or less.

(B) No attorney at law or other officer of the Court, or police officer of Brown County or any political subdivision therein shall be accepted as a surety nor shall receipt for cash bail be issued to them unless they are Defendants.

(C) Upon the forfeiture of bond and payment into Court of the sum forfeited, the Clerk shall first satisfy any and all costs in the case. With the written consent of the person posting a cash bond, upon disposition of the case the Clerk will deduct all fines and costs due from the case from the cash appearance bonds posted by a Defendant or by another person on behalf of the defendant before any refunds are made. The balance of a cash appearance bond after deductions, if any, will be refunded to the person who posted the cash appearance bond upon presentation of the receipt when the case is concluded.

(D) Defendant may elect if he has posted a cash appearance bond to apply the cash bond as a payment for a minor misdemeanor disposition without a Court appearance pursuant to Criminal Rule 4.1 and in appropriate cases under Traffic Rule 13 with written consent of the person posting the cash bond.

In accordance with Traffic Rule 13 and Criminal Rule 4.1 payments may be made for disposition of such cases through the violations bureau. If the Defendant's cash, money order or certified check is received by the violations bureau within thirty (30) days after the Court date, no bench warrant shall issue even though the Defendant failed to appear. If Defendant does not post cash, money, or certified check by date specified in this paragraph, then the Clerk shall proceed in accordance with law.

(E) Any bond money received on out-of-state bench warrants may be accepted by the Clerk of Courts and the warrant recalled without hearing.

(F) Unless bail has been set by order of any Judge of the Court pursuant to Criminal Rule 46, a person charged for a misdemeanor enumerated in the Court's bail bond schedule, and who is not released pursuant to Criminal Rule 4(F), or has not appeared before a Judge pursuant to

Criminal Rule 5, shall be eligible for release by doing any of the following at the person's option:

(1) Posting in the amount set by the bail bond schedule, a surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash at the option of the defendant.

(G) A person may use a recognized and established credit card issuer only if the Clerk of the Court has approved the credit card issuer, and no service charge is made by the credit card issuer against the Court or Clerk unless allowed by law.

**RULE 1.07
RECORDINGS**

All matters which come before the Court shall be recorded by any means and media approved by the Administrative Judge which includes but is not limited to digital audio and visual recording devices and medium of any type as well as digital or analog tapes. Use or placement of any type of recording media or device to be used to record court proceedings in any place in the courthouse shall be deemed to be in compliance with this rule and approved by the Administrative Judge. Authorized court reporters may remove recording media of any type and description from the court upon their signature alone. Transcription of the recording media of any type or description approved by the Administrative Judge shall be at the expense of the requesting party. Recording media of any type and description shall be stored for time period as required by law unless by request for a longer period.

**RULE 1.08
DEPOSIT FOR COSTS**

No civil action shall be accepted by the Clerk for filing without a deposit to secure the costs. The Clerk may require the said deposit to be increased from time to time, or a deposit to be made by a counter, cross or third party claimant, so as to secure all costs that may accrue.

Where any party required to deposit or secure costs by affidavit shows inability to pay, the Clerk shall submit such affidavit and claim to the assigned Judge, for review before accepting for filing.

In all criminal cases, costs shall be taxed at the sum of \$20.00 plus Sheriff's costs at the rate fixed by the Judges of the Brown County Municipal Court, plus witness fees, mileage and service, court ordered costs as provided by law, and fees. A list of costs shall be compiled per the ORC on an annual basis and shall be posted in the office of the Clerk of Courts.

In addition, costs shall include service of execution of process whenever necessary.

No civil matter will be assigned jury trial date without a deposit of \$450.00 as one day's jury fees.

LOCAL RULES

Rule 1.09

**RULE 1.09
RESERVED**

Rule 1.10 LOCAL RULES

**RULE 1.10
JURORS/JURY TRIALS**

Jurors in Municipal Court shall be chosen and summoned by the Jury Commission as provided by law.

Jurors reporting, impaneled or sworn in any case shall receive the same prevailing compensation of Jurors in the Court of Common Pleas.

Demand for a jury trial must be made in writing in accordance with Criminal and Civil Rules.

All jury demands properly filed will be set by the Clerk on the next pretrial docket of the assigned Judge.

Rule 1.11 LOCAL RULES

RULE 1.11
BROADCASTING AND PHOTOGRAPHING

The Court finds it necessary for the safety, security and maintenance of all court proceedings to issue certain orders governing the conduct of all participants and those in attendance at trials.

In issuing these orders the Court considers the physical facilities in which the court proceedings are conducted, the ingress and egress available to the courtroom for all participants, including the jury, the jury room and court office facilities, the length and width of the available hallways and stairways leading to the courtroom, the exits available from the courtroom, the rights of all parties and participants to have free access to the area of the trial.

It will be the order of the Court that all recording and photographic equipment, including still, moving, video, and digital equipment, together with lights and accessories, tape recorders, etc., will not be permitted closer to any door of the courtroom or Clerk's office than ten feet.

It will be the further order of the Court that no individual, or group of individuals, acting individually, or in concert, or with equipment, shall impede or bar the free access of all participants, jurors, witnesses and the general public in going to or from the courtroom in the hallways of the courthouse.

It will be the further order of the Court that no one shall interfere with, impede or attempt to impede or interfere with the Sheriff's Department in the conduct of any defendant from the jail quarters to the courtroom for the purpose of appearing at trial.

It is further ordered that all broadcasting, televising, recording and taking of photographs in the courtroom by news media during sessions of the Court, including recesses between sessions, shall be subject to Canon 3 of the Code of Judicial Conduct and Superintendence Rule 12, as effective July 1, 1997; October 1, 1997, or as amended and conditions imposed there under. A written application and permit shall be filed by 2:30 p.m. of the business date before the start of the day's proceedings to be covered under Canon 3 and Superintendence Rule 12.

The Court considers the physical access to and conditions within the courtroom, the rights and privileges of all parties, ordering as follows:

(A) Due to limited space facilities only one portable camera (television, video, digital or movie) with one operator shall be permitted in the courtroom designated Courtroom A and B. In the event more than one application is filed for the same date or time, the Rules of Superintendence shall control.

(B) Due to limited space facilities not more than one still photographer shall be permitted to photograph trial proceedings. In the event more than one application is filed for the same date or time, the Rules of Superintendence shall control.

(C) Due to limited space facilities and exits from the courtroom all persons using photographic and recording equipment in the courtroom shall be in the designated area before Court convenes and shall not leave until Court recesses or adjourns for the day.

(D) No witness, party or juror who has objected to recording will be recorded unless the Court has determined that there is no reasonable cause for such objection.

(E) The Court may record by digital means any public proceeding, trial, hearing, arraignment, or other Court proceedings under this Rule and the use of such recordings shall be in

accordance with law or by order of this Court.

RULE 2.01
CRIMINAL PRACTICE AND PROCEDURE

(A) Criminal cases may be taken out of their order of filing and shall have precedence over all civil cases on the trial list. The rules of practice for civil cases apply to all criminal procedures except where clearly inapplicable.

(B) Traffic offense defendants and criminal defendants may be arraigned jointly.

(C) Affidavits shall be executed in the presence of the Judge, Clerk or Deputy Clerk, and the Clerk may require same to be approved by the Prosecuting Attorney before receipt for filing.

(D) Where a felony and a misdemeanor arise from the same act, transaction or series of acts or transactions, one case shall be assigned for the felony and one for all other offenses.

RULE 3.01
CIVIL PRACTICE AND PROCEDURE

(A) All civil actions are hereby divided into the following classes: Civil and Small Claims.

(B) All uncontested civil cases that have not been disposed of on a default docket within six months will be set for dismissal at the next regularly scheduled civil session.

**RULE 3.02
COMPLAINT**

(A) Civil actions, except small claims, shall be commenced by filing in the office of the Clerk, a pleading on 8-1/2 x 11 inch sheets of paper subscribed by the Plaintiff, his/her agent or attorney, which shall be known as a Complaint and which shall contain:

1. Full name and, if known, the residence address of each Plaintiff or an address at which service of process may be obtained.
2. The full name and, if known, the residence address of each Defendant.
3. A statement in plain and direct language of the facts constituting the cause of action with sufficient certainty fairly to inform the Defendant(s) of the nature of the case he is called upon to defend.
4. If in contract, set forth whether the agreement was oral or in writing; and, if in writing, set forth the substance thereof fully or annex a copy thereof.
5. A statement of the amount claimed or the relief demanded.
6. Any civil complaint filed which contains a jury demand shall be set for pretrial hearing before the assigned Judge upon receipt of an answer therein or after thirty days from the date of filing, whichever comes first.
7. See Rule 1.08 - Deposit for Costs.

(B) Corporations must be represented by counsel.

RULE 3.03
SERVICE OF PROCESS

On filing of complaint and payment of deposit for costs as prescribed by rule, the Clerk shall forthwith issue summons by certified mail.

Said complaint shall be dated the day it is received and be made returnable according to law.

If the action is for money only, or money and other relief, there must be endorsed on the writ the amount stated in the complaint for which, with interest, judgment will be taken if the Defendant fails to appear or answer.

If the action is for the recovery of property, forcible detention, or equitable relief, the summons shall be so endorsed.

The summons shall state the date within which the Defendant(s) is required to answer or on which he/she is to appear, to avoid default.

Unless a definite street address, or if rural, a description of Defendant's house and the road on which it is situated is furnished in the petition or by praecipe, the Sheriff may forthwith return the summons endorsed "not found".

Where wage attachment is claimed by way of provisional remedy notice to garnishee of wage attachment and summons may appear on the same form as summons, and the Sheriff may make single return showing service on both Defendant and garnishee of the summons and notice and of the true copy of the affidavit on Defendant.

In the event summons is returned "not found", alias writs may issue on praecipe of Plaintiff until Defendant(s) is served and the alias writs shall be endorsed as above provided.

Service of process on second and third causes of actions in forcible entry and detainer actions shall be obtained in accordance with Civil Rules 4 through 4.6, and no action for default judgment or trial on second or third causes of actions shall be determined until at least 31 days have passed since service was obtained under the Civil Rules.

Service of Process as to first causes of actions in forcible entry and detainer actions shall be in accordance with R.C. 1923.06.

RULE 3.04
MAIL SERVICE

In an ordinary mail service, the writ or summons shall be enclosed in a sealed envelope, bearing proper postage and such envelope shall be addressed to the party to be served at his residence address. In case of a corporation, domestic or foreign, or partnership, the envelope shall be addressed to the corporation or a partnership to be served at its office or place where it regularly receives mail, if within the jurisdiction of the Court. The envelope shall bear a request for return of the envelope to the Clerk in case of non-delivery after three days, and the instruction in bold type **"DO NOT FORWARD"**.

No writ or summons shall be served by mail unless it appears to the Clerk that mail delivery is made to the residence of the Defendant(s). This provision shall not apply in cases where property or earnings of the Defendant within the territorial jurisdiction of the Court has been attached and the Defendant is a non-resident of the territory of the Court; in such case, notice by ordinary mail may go forward to the Defendant wherever his residence may be.

RULE 3.05
SERVICE BY PUBLICATION

Service may be made by publication in those cases in which such service is authorized by the laws of Ohio, in which this Court has jurisdiction, and such service shall be made in the manner and form as provided in law and such service shall be deemed completed and the rule days computed from the last publication in the same manner as provided for Common Pleas Court.

Rule 3.06 LOCAL RULES

**RULE 3.06
EXTENSION OF TIME FOR
FILING PLEADINGS AND MOTIONS**

Leave for extension of time to plead will be granted only on approval of opposing counsel or on motion, in writing, showing good cause accompanied by proof of notice to opposing counsel.

Leaves to move will ordinarily not be granted, notwithstanding approval of opposing counsel.

Leaves to plead for more than ten days will require showing of cause, notwithstanding approval of opposing counsel.

**RULE 3.07
COPIES OF PLEADINGS**

It shall be the duty of Plaintiff or his counsel to furnish to the Clerk, at the time of filing of Complaint, one copy of the Complaint for each Defendant to be served and the Clerk shall issue such copies with summons. It shall be the duty of the party or his counsel filing any suit pleading or motion either (1) to show proof of mailing copy to opposing party or counsel at the address of record, (2) furnish the Clerk with sufficient additional copies thereof for mailing to all adverse parties or counsel, in which case, Clerk shall immediately mail such copies to them at their respective addresses of record.

Failure of party offering pleading or motion to comply with this rule may be cause for striking the same from the files.

LOCAL RULES

Rules 3.08

RULE 3.08 JOURNAL ENTRIES

(A) Civil Cases

In all cases in which parties are represented by counsel, prevailing counsel shall, within five days after the announcement of decision, prepare a Journal Entry giving effect to such decision and submit same to opposing counsel. If the opposing counsel refuses to approve within ten days, or if there be no opposing counsel, same shall be submitted to the Court. If no entry is received, an entry shall be prepared by the Court and filed within thirty days of trial. Default entries, including an order to garnishee in wage attachment cases, will be prepared by Plaintiff's counsel or Plaintiff, and submitted to the Court within five days after default or answer of garnishee, whichever is later.

In the event of an appeal, counsel for Appellant shall prepare an Entry of Judgment for signature by the assigned Judge.

In the event of the prevailing party is not represented by counsel and the matter is a contested one, Court may prepare its own Entry or direct the Clerk to prepare appropriate Journal Entry.

(B) Criminal Cases

In criminal cases, the attorney for the defendant shall immediately prepare the Judgment Entry and shall be filed forthwith.

**RULE 3.09
MOTIONS**

(A) Any motion made during a hearing or trial once case has been assigned, shall be heard by the Judge presiding. A motion for new trial, for judgment notwithstanding verdict, or for relief from a judgment or order shall be heard by the Judge who rendered the judgment or order from which relief is sought.

(B) All motions, unless made during a hearing or trial, shall be made in writing and the Clerk shall accept for filing only those motions (other than motions for a new trial pursuant to Civil Rule 59) which are accompanied by a memorandum in support of the motion which shall be a brief statement of the grounds for the same, with citation of authorities relied upon, and (except in the case of an ex parte motion or an agreed entry situation) proof of service in accordance with Civil Rule 5.

(C) Any memorandum contra to said motion shall be served upon movant's attorney, or if there be none of record, upon movant, within seven days from the date of memorandum in support of the motion and proof of service thereof, was served. Failure to serve and file a memorandum contra may be cause for the Court to grant the motion as served and filed. A reply memorandum may be served and filed within seven days of the service of the memorandum contra. The time periods set forth in this paragraph may be extended by the Court, for good cause shown, upon applications therefore.

(D) All motions for a definite statement, pursuant to Civil Rule 12(E) and all motions to strike pursuant to Civil Rule 12(F) shall set out the language in full, sought to be stricken or claimed to be indefinite.

(E) Upon the filing of any motion which requires a notice hearing by reason of the Ohio Rules of Civil Procedure or any other provision of law, or upon which oral argument is automatically granted in accordance with this paragraph (other than one which may be heard ex parte) or an agreed entry situation the attorney filing such motion shall obtain a date for such hearing and shall promptly notify the other parties to the action, on their respective attorneys of record, in writing, of the date and time of the hearing and file proof of service of said notice of hearing with the Clerk, prior to the hearing. Other than motions interposed under Civil Rule 55(A), the hearing obtained shall take into account the time periods set forth in Paragraph (C) hereof.

(F) At the time a written motion is interposed in accordance with Paragraph (B) hereof, the movant may submit to the Clerk, with his motion, an agreed entry signed by all parties or their attorneys, which motion and entry shall immediately be submitted by the Clerk to the proper Judge of this Court or a Magistrate under Paragraph (A) hereof for approval of the entry by the Judge or Magistrate.

**RULE 3.10
SMALL CLAIMS**

(A) The Rules of Practice of this Court, to the extent that they would, by their nature, be clearly inapplicable, shall not apply to the practice and procedure in the Small Claims Division of this Court, which has been established under Ohio Revised Code Chapter 1925.

(B) In order to avoid multiple court appearances, the assigned hearing date of a matter in Small Claims Court shall be the date of trial, and all parties and their witnesses shall appear in Court on that date, prepared for trial.

RULE 3.11
ANSWER TO SMALL CLAIMS

In Small Claims cases, no written answer pleading will be required unless defendant desires to file a counter-claim demanding relief. In the event an answer containing new matter is filed in a small claims case, the new matter will be deemed denied by plaintiff and the case may be set for hearing on the filing of the answer.

LOCAL RULES

Rule 3.12

**RULE 3.12
GARNISHMENT**

Garnishment for personal earnings shall be accepted by Clerk as provided for by law.

**RULE 4.01
TRUSTEESHIP RULES**

Applicant must be a resident of Brown County.

At the time of application, applicant shall exhibit to the Clerk of legal fifteen day notice received from a creditor listed in his/her application within thirty days prior to filing of Trusteeship application.

The acceptance of the filing by the Clerk of the debtor's application for trusteeship will not cause any attachment or garnishee filed prior to application to be dismissed by the Court.

List of Creditors:

Applicant must present to the Clerk a list of all creditors, their correct addresses with zip codes, and the amount of money due each (on separate sheet of paper).

Lay-Off, Change of Employment, or Address.

Debtor will report to the Clerk any lay-off or change of employment, or his address at the regularly scheduled pay day, whether pay is received or not. Failure to do so, will be grounds for termination of Trusteeship.

Payments:

At the time of application, Debtor shall disclose to the Clerk his pay day and whether it is weekly, bi-weekly, semi-monthly, or monthly and at the time of filing must make a full payment; and every pay day thereafter, shall appear and show pay stubs to the Clerk as Trustee, and pay twenty-five per cent from his gross pay (before deduction for taxes, union dues, hospitalization, or any other sum deducted by the employer). Failure to pay accordingly will be cause for termination of Trusteeship.

Termination:

The Clerk, in event Debtor shall fail to make any scheduled payment, shall, within ten days after scheduled payment is due, mail a letter, by ordinary mail, to Debtor at the address listed by him, requiring him to appear at a date not less than five days more than ten days from date of letter, to show cause why the trusteeship shall not be terminated. If Debtor appears, the hearing may be had before the Judge at Debtor's insistence. If he shall fail to appear, the Clerk shall forthwith prepare an entry terminating the Trusteeship for cause.

Any Debtor whose Trusteeship is terminated for cause, shall not be eligible to be reinstated for a period of six months from the date of termination, except on motion to and by the order of the Court.

RULE 4.02
PROCEDURE GOVERNING CRIMINAL
PRE-TRIAL CONFERENCE

Pursuant to this local rule, once a criminal case has been assigned and given a pre-trial date and the defendant is represented by counsel, it shall be incumbent upon the State and the defendant's counsel, to confer at the earliest possible time with one another relative to any issues of discovery as requested and permitted under the Ohio Rules of Criminal Procedure.

At the time and place set for pre-trial conference, all parties and their representatives to the criminal proceeding, that is, the Prosecutor for the State of Ohio, the defendant, and defendant's attorney of record, shall be present and shall have authority to act and consider all matters pursuant to this rule as are relevant to the case in issue and Criminal Rule 17.1 of the Ohio Rules of Criminal Procedure.

At the pre-trial conference, the State shall present its position on the case at bar, and the defendant and the defendant's attorney, shall, upon review of the State's position, determine whether or not this matter shall be set for trial on the merits, pending motions in limine or to suppress evidence, or disposed of through negotiated plea with concurrence of the defendant.

In the event that no agreement is reached between the State of Ohio and the defendant, then the case will be set for trial with notice and a memorandum in accordance with Rule 17.1 of the Ohio Rules of Civil Procedure as to date and time of trial being given personally by the Court to all parties present to the date and time of trial. No continuances will be granted once a trial date has been set other than for good cause shown and upon motion and entry signed by the parties and approved by the Court.

Based on the requirements of this local rule, it is incumbent upon all parties to the case to be present at the pre-trial when called and be prepared to proceed forthwith in accordance with this rule. Failure to adhere to this rule may result in appropriate sanctions as permitted by law and found necessary in the circumstances by the Court.

Pre-trial conferences will be set by the Clerk of the Court in blocked intervals of one-half hour of time periods with four (4) hearings allotted within each block.

RULE 5.01
CASE MANAGEMENT RULES FOR CRIMINAL CASES

(A) The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a system for criminal case management which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

(B) Scheduling of Events.

The scheduling begins after arraignment. Thereafter, the case is managed in four (4) judicial steps.

(1) Pretrials: After arraignment, all misdemeanors, except minor misdemeanors, shall be set for pretrial by the assignment commissioner within thirty (30) days. All minor misdemeanors shall be set for trial unless the judge orders a pretrial in said case.

The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a pretrial entry of the matters agreed upon should be filed in said case. Any attorney who fails to appear for pretrial without just cause being shown may be punished for contempt of court.

If the parties cannot resolve the case, then the case should be set for trial to court unless a jury is demanded.

(2) Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. Motions may be set for oral hearing at the discretion of the assigned judge.

(3) Trials: Each case not resolved at pretrial shall be set for trial to court. If a jury demand is timely filed, then the case will be moved to the jury trial schedule. All attorneys shall notify the court by 9:00 A.M. of the day preceding their trial of any change in plea or jury costs will be attached to their case.

(4) Sentencing: Sentencing hearings shall be set within seven (7) days from trial if no pre-sentence report is requested. After the court receives the probation report, the court will set the hearing for sentencing within seven (10) days.

(C) Bench Warrant. When a bench warrant is issued, the Clerk may remove this case from active status for three (3) years court reports.

RULE 6.01
CASE MANAGEMENT FOR CIVIL CASES

(A) Purpose. 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 disposal of civil cases.

(B) Scheduling of Events. The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and five (5) judicial steps.

(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 six (6) months 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) Upon perfection of service, the clerk shall notify counsel of the default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.

(3) 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 a hearing.

(4) 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 one (1) week unless good cause is shown.

(5) 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 case will be dismissed unless the entry is received within ten (10) days.

(D) Judicial Steps.

(1) Status Hearing: After an answer is filed, the case will be assigned to a judge and the clerk will forward the file to said judge. The Court will then set a status hearing. The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set.

(2) 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 not oral hearings granted in said motions unless the parties request an oral hearing in writing and/or the court deems it necessary.

(3) Pretrials: For the purpose of this rule, "pretrial" shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record.

Any attorney for a party to the action who fails to attend at a scheduled pretrial conference, without just cause being shown, may be punished as for contempt of this court.

Notice of pretrial conference shall be given to all counsel of record by mail and/or by 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

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 primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit.

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 will 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 in the pretrial. 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 of 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 of trial as required; 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.

(4) Continuances: No party shall be granted a continuance of a trial or 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.

If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the administrative 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.

(5) Judgment entries: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That entry shall be submitted to opposing counsel within five (5) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days. Within fifteen (15) 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 entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution.

Upon notification from the clerk that the case has defaulted, prevailing counsel shall submit an application for default judgment within fifteen (15) days or the case will be dismissed for want of prosecution.

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

LOCAL RULES

Rule 7.01

RULE 7.01

CASE MANAGEMENT RULES FOR SPECIAL PROCEEDINGS

(A) Purpose. The purpose of this rule is to establish, pursuant to M.C. Sup. R18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a judge or Magistrate, to wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, motion to cite, garnishment hearings, and debtor's exams. The following criminal matters are considered special proceedings and they are to be heard by a judge, to wit: preliminary hearings, extradition hearings, and B.M.V. hearings.

(B) Scheduling of Events. 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 one hundred twenty (120) days.

(C) Clerical steps. In all new cases, if counsel fails to obtain service of summons within six (6) months, the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

(D) Upon perfection of service, the clerk shall notify counsel of said default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.

(E) 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 a hearing.

(F) 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 one (1) week unless good cause is shown.

(G) 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 case will be dismissed unless the entry is received within ten (10) days.

Rule 8.01

RULE 8.01
CASE MANAGEMENT RULES FOR FORCIBLE ENTRY & DETAINER HEARINGS

All forcible entry and detainer cases shall be set for hearing before the court pursuant to the 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.

If any answer or jury demand is filed in a forcible entry and detainer case, then the clerk shall forward the case to a judge so the case can be scheduled for the appropriate hearing.

LOCAL RULES

Rule 9.01

**RULE 9.01
CASE MANAGEMENT RULES FOR SMALL CLAIMS COURT**

(A) A small claim action is commenced by filing a small claims petition, pursuant to Ohio Revised Code Section 1925.04, the form is attached as Appendix "E". 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.

(B) Upon filing of motion and affidavit, as required by Ohio Revised Section 1925.10, and upon payment of the required cost, the small claim will be transferred to the regular docket. No transfer will be granted until the filing costs are paid.

(C) Hearing: The hearing in small claims court shall be conducted by the court. The judge 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 to the extent such rules of procedure and evidence are inapplicable in accordance with law.

(D) 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 10.01
GENERAL ORDER OF REFERENCE FOR THE MAGISTRATE**

In order to effectively and expeditiously administer the duties of the Court, all powers authorized in Rule 53 of the Rules of Civil Procedure, Rule 19 of the Rules of Criminal Procedure, and Rule 14 of the Ohio Traffic Rules, are hereby referred to the Magistrate.

CIVIL AND SMALL CLAIMS CASES

The Civil and Small claims cases of the Court are hereby referred to the Magistrate. The Magistrate is hereby authorized to conduct the following hearings:

1. Any pre-trial or post judgment motion in any case.
2. The trial of any case that will not be tried to a jury.
3. Upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury

The Magistrate shall regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the Magistrates' duties under this Order. The Magistrate may do all of the following:

1. Issue subpoena for the attendance of witnesses and the production of evidence.
2. Rule upon the admissibility of evidence.
3. Call the parties to the action and examine them under oath.
4. Put witnesses under oath and examine them.
5. In cases involving direct or indirect contempt of court, and when necessary to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor's and set bail to secure the alleged contemnor's appearance, considering the conditions of release prescribed in Criminal Rule 46.

The Magistrate may enter orders without judicial approval in pretrial proceedings under Civil Rule 26 to 37 and other as necessary to regulate proceedings.

Any person may appeal to the Court from any order of a Magistrate entered under the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten (10) days after the Magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the Magistrate's order unless the Magistrate or the Court grants a stay.

The Magistrate shall promptly conduct all proceedings necessary for decision of referred matters in civil and small claims cases. The Magistrate shall prepare, sign and file a Magistrate's decision of the referred matter with the Clerk. Findings of Fact and Conclusions of Law are not required unless requested by a party under Rule 52 or otherwise required by law or the court.

Within fourteen (14) days of the filing of a Magistrate's decision, a party may file written objections thereto. If any party timely filed objections, then any other party may also file objections not later than ten (10) days after the first objections are filed. If a party makes a

request for findings of fact and conclusions of law under Civil Rule 52, the time for filing objections begins to run when the Magistrate files a decision including findings of fact and conclusions of law. The filing of objections shall operate as an automatic stay of execution of the judgment until the Court rules on the objections.

CRIMINAL CASES

In accordance with Rule 19, the criminal cases of the Court are hereby referred to the Magistrate Kenneth Miller:

The Magistrate is hereby authorized to conduct the following hearings:

1. Initial appearances and preliminary hearings conducted pursuant to Criminal Rule 5.
2. Arraignments conducted pursuant to Criminal Rule 10.
3. Proceedings at which a plea may be entered in accordance with Criminal Rule 11.
4. In felony and misdemeanor cases, the Magistrate may accept and enter not guilty pleas.
5. In misdemeanor cases, the Magistrates may accept and enter guilty and no contest pleas, determine guilty or innocence, receive statements in explanation and in mitigation of sentence, and recommend a penalty to be imposed. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with the unanimous consent of the parties, in writing or on the record in open court.
Pre-trial conferences conducted pursuant to Criminal Rule 17.1.
6. Motions filed pursuant to Criminal Rule 19 and Criminal Rule 47.
7. Proceedings for the issuance of a temporary protection order as authorized by law.
8. Proceedings to establish bail pursuant to Criminal Rule 46.
9. The trial of any misdemeanor case that will not be tried to a jury. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with unanimous consent of the parties in writing or on the record in open court.
10. The magistrate shall regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the Magistrate's duties.

The magistrates may do all of the following:

1. Issue subpoenas for the attendance of witnesses and the production of evidence.
2. Rule upon the admissibility of evidence in misdemeanor cases.
3. Put witnesses under oath and examine them.
4. In cases involving direct or indirect contempt of court, and when necessary to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor and set bail to secure the alleged contemnor's appearance, considering the conditions of release prescribed in Criminal Rule 46.

The Magistrates may enter pre-trial orders without judicial approval which are necessary to regulate the proceedings and are not dispositive of a claim or a defense of a part.

Any person may appeal to the Court from any pre-trial order of a Magistrate entered under

the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed within fourteen (14) days after the Magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the Magistrate's order unless the Magistrate or the Court grants a stay. A party's failure to appeal does not preclude review of the order on objections to the Magistrate's decision.

The magistrates shall promptly conduct all proceedings necessary for decision of referred matters in criminal cases. Within fourteen (14) days after the filing of a magistrate's decision, a party may file written objections thereto. If any party timely files objections, any other party may also file objections no later than seven (7) days after the first objections are filed. The Magistrate's decision shall become effective when adopted by the Court. No sentence recommended by a Magistrate shall be enforced until the Court has entered judgment.

Traffic Cases

In accord with Rule 14 of the Ohio Traffic Rules, the traffic cases of the Court, including Driving Under the Influence Cases, are hereby referred to the magistrate Miller.

The Magistrates are hereby authorized to do the following:

1. Receive pleas, statements in explanation and in mitigation of sentence.
2. Recommend penalty to be imposed.
3. Hear contested cases for the taking of evidence and written report of findings and recommendations to the Court of guilty or innocence and penalty, if consented to by the defendant.

The Magistrates shall promptly conduct all proceedings necessary for decision of referred matters in traffic cases.

Within fourteen (14) days of filing of a Magistrate's decision, a party may file written objections thereto. If any party timely files objections, then any other party may also file objection not later than ten (10) days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law.

GENERAL AUTHORITY FOR ALL REFERRED CASES

Nothing in this order shall be construed as prohibiting a magistrate from the entry of orders when authority is specifically conveyed by statute to Magistrate.

All orders of the magistrate shall be in writing, signed by the magistrate and identified as a Magistrate's order in the caption. The Magistrate shall prepare reports of his work, recommendations and orders as directed by the Court.

The proceedings before the Magistrate shall be in accordance with the Ohio Rules of Civil and Criminal procedure, the Ohio Traffic Rules, any applicable statutes, and the Rules of the Court, as if before the Court.

In cases of contempt in the presence of the Magistrate, the magistrate may impose an appropriate civil or criminal contempt sanction. Contempt sanctions may be imposed

only by a written order that recites the facts and certifies that the Magistrate saw or heard the conduct constituting contempt. The contempt order shall be filed an a copy provided by the Clerk to the appropriate judge of the Court. The contemnor may by motion obtain immediate review of the magistrate's order by a Judge, or the Judge or Magistrate may set bail pending judicial review.