

STATE OF OHIO:

THE CANTON MUNICIPAL COURT

§

**JOURNAL ENTRY**

STARK COUNTY:

IN RE: AMENDMENT OF COURT RULES

Pursuant to mandate from the Ohio Supreme Court found in M.C. Sup. R. 5, the Judges of the Canton Municipal Court hereby include the amendments of the Court's existing local rules which took effect as of January 1, 2010. Therefore, attached hereto are the rules, as amended, effective January 1, 2011.

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Honorable Mary A. Falvey, Judge

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Honorable Richard J. Kubilus, Judge

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Honorable John A. Poulos, Judge

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Honorable Stephen F. Belden  
Presiding & Administrative Judge

Date: 04 January 2011  
cc: The Supreme Court of Ohio  
Stark County Bar Association  
Stark County Law Library  
[www.cantonscourt.org](http://www.cantonscourt.org)

## TABLE OF CONTENTS

	<u>Page</u>
<b><u>PART ONE - GENERAL OR ADMINISTRATIVE RULES</u></b>	
<u>Rule No. 1.1 - Citation of Rules</u>	5
<u>Rule No. 1.2 - Hours of Session</u>	5
<u>Rule No. 1.3 - Official Notice of Court Proceedings</u>	5
<u>Rule No. 1.4 - Presiding-Administrative Judge</u>	5
<u>Rule No. 1.4(A) - Acting Presiding &amp; Administrative Judge</u>	5
<u>Rule No. 1.5 - Time</u>	5
<u>Rule No. 1.6 - Duties of Trial Counsel See also Super. Rule 6</u>	6
<u>Rule No. 1.7 - Assignment of Cases (Civil Cases)</u>	6
<u>Rule No. 1.8 - Costs</u>	6
<u>Rule No. 1.9 - Recording of Proceedings (Modified 2/18/2011)</u>	6
<u>Rule No. 1.10 - Magistrate</u>	7
<u>Rule No. 1.11 - Rent Deposits</u>	7
<u>Rule No. 1.12 - Court Files</u>	7
<u>Rule No. 1.13 - Filing of Judgment Entries</u>	7
<u>Rule No. 1.14 - Juries</u>	8
<u>Rule No. 1.14(A) - Jury Management Plan</u>	8
<u>Rule No. 1.15 - Pleading Requirements</u>	15
<u>Rule No. 1.15(A) - Facsimile Filing</u>	15
<u>Rule No. 1.16 - Motions</u>	17
<u>Rule No. 1.17 - Authentication of Court Records</u>	17
<u>Rule No. 1.18 - Marriage Ceremony Procedure</u>	17
<u>Rule No. 1.19 - Effective Date, Repeal, Amendments</u>	18

<u>Rule No. 1.20 - Court Records Management &amp; Retention Rules for the Office of the Clerk of Courts</u>	18
<u>Rule No. 1.21 - Court Security Measures</u>	20
<u>Rule No. 1.22 - Media Coverage in the Courtroom</u>	23
<u>Rule No. 1.23 - Mental Health Court Docket</u>	24
<u>Rule No. 1.24- Transcripts</u>	25
<b><u>PART TWO - CIVIL RULES</u></b>	
<u>Rule No. 2.1 - Leave to Plead</u>	26
<u>Rule No. 2.2 - Pretrial Conferences</u>	26
<u>Rule No. 2.3 - Default Judgment</u>	26
<u>Rule No. 2.4 - Motions for Relief from Judgment</u>	27
<u>Rule No. 2.5 - Small Claims Division</u>	27
<u>Rule No. 2.6 - Sales and Proceedings in Aid of Execution</u>	27
<u>Rule No. 2.7 - Dismissal for Want of Service - Other</u>	28
<u>Rule No. 2.8 - Satisfaction of Judgments</u>	28
<u>Rule No. 2.9 - Forcible Entry and Detainer (Modified 23 August 2011)</u>	28
<u>Rule No. 2.10 - Judgment Debtor's Examination</u>	29
<u>Rule No. 2.11 - Jury Costs</u>	29
<u>Rule No. 2.12 - Administrative Fee on Judgments Deposited</u>	29
<b><u>PART THREE - CRIMINAL AND TRAFFIC RULES</u></b>	
<u>Rule No. 3.1 - Branches of Criminal Division</u>	30
<u>Rule No. 3.2 - Criminal Court Sessions</u>	30
<u>Rule No. 3.3 - Traffic Court Sessions</u>	30
<u>Rule No. 3.4 - Arraignment and Pleas</u>	31
<u>Rule No. 3.5 - Pretrial Procedure</u>	31

<u>Rule No. 3.6 - Jury Demand</u>	31
<u>Rule No. 3.7 - Posting of Bonds</u>	31
<u>Rule No. 3.8 - Appearance of Persons in Custody</u>	31
<u>Rule No. 3.9 - Indigents</u>	31
<u>Rule No. 3.10 - Advance Deposit of Costs Waived</u>	32
<u>Rule No. 3.11 - Online Payments</u>	32

CRIMINAL/TRAFFIC COURT COSTS Appendix "A"

WAIVERABLE MINOR MISDEMEANOR FINE SCHEDULES Appendix "B"

CIVIL COURT COSTS Appendix "C"

BOND SCHEDULE Appendix "D"

## **PART ONE - GENERAL OR ADMINISTRATIVE RULES**

### **Rule No. 1.1 - Citation of Rules**

These Rules shall be known as the Canton Municipal Court Rules of Practice and may be cited as CMCR No. 1.1 through 3.11.

In the event of a conflict between these Rules and the Superintendence Rules, the Civil Rules, the Criminal Rules or the Traffic Rules, the State Rules shall govern.

### **Rule No. 1.2 - Hours of Session**

The hours for holding regular sessions of the Courts shall be from 8:30 a.m. to 12:00 noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, each week, except on those days designated by law or by entry as legal holidays. In addition to the regular Court session, evening Traffic Court shall be held at such times as the Judges may designate.

### **Rule No. 1.3 - Official Notice of Court Proceedings**

Notice to counsel of any assignment of any case shall be by personal delivery of said notification to all attorneys of record or by ordinary U.S. Mail to said attorneys.

Should a party be unrepresented, or the attorney of record have his office outside the county, notice will be mailed by ordinary U.S. Mail to the most recent address appearing in the Court's file.

### **Rule No. 1.4 - Presiding-Administrative Judge**

The Judges of this Court shall, by majority vote, elect one of their members to serve as the Presiding-Administrative Judge and such Judge shall have the powers set out in Rule 2(B) and carry out the duties set forth in Rules 3 and 4 of the Superintendence Rules.

### **Rule No. 1.4(A) - Acting Presiding-Administrative Judge**

During the temporary absence of the Presiding and Administrative Judge of this Court due to illness, vacation, seminar or other, that Judge shall elect, by singular Judgment Entry, one of their members to serve as the Acting Presiding-Administrative Judge and such Judge shall have the powers set out in Rule 2(B) and carry out duties set forth in Rule 3 and 4 of the Superintendence until such time the Presiding and Administrative Judge becomes available.

### **Rule No. 1.5 - Time**

The time allowed or permitted for the performance or completion of any act in handling matters shall be as established by the Civil Rules and the Criminal Rules, or if a particular matter is not covered by said rules, such time shall be established by Court order.

**Rule No. 1.6 - Duties of Trial Counsel See also Super. Rule 6**

Counsel shall, by individual personal signature, designate their capacity as trial counsel on all pleadings in civil and criminal matters. All such trial counsel shall be responsible to appear at all proceedings in the case, unless a timely Court approved entry or withdrawal is filed.

Counsel shall be allowed to withdraw from trial counsel responsibility only with the consent of the Judge assigned to the case after filing written motion containing certification of service to opposing counsel and the client.

No withdrawal of counsel shall be permitted within five (5) days of any hearing assignment except in extenuating circumstances.

Pursuant to Supr. Rule 6, every attorney practicing in this Court shall include his or her attorney registration number issued by the Ohio Supreme Court on all documents filed with the Court.

**Rule No. 1.7 - Assignment of Cases (Civil Cases)**

After any responsive pleading is filed, the Clerk shall assign a case by lot to a Judge pursuant to Supr. Rule 36(B)(1) and immediately forward the file for such case to the assigned Judge. "Responsive Pleading" shall mean any pleading filed by a party other than the Plaintiff. The assigned Judge shall be responsible for the determination of every issue and proceeding in the case until its termination or re-assignment.

Cases voluntarily dismissed under Civil Rule 41 and subsequently re-filed shall be assigned to the same judge to whom the case was originally assigned. Each Plaintiff who re-files a case voluntarily dismissed under Civil Rule 41 shall specify that the action is a re-filing by stating the prior case number and assigned Judge in the caption of the re-filed complaint.

Any re-assignment or transfer of a case shall be effected by a Judgment Entry signed by the Presiding-Administrative Judge, pursuant to authority granted in Superintendence Rules 3 and 4.

**Rule No. 1.8 - Costs**

No action or proceeding shall be accepted for filing by the Clerk of Courts unless there first shall be deposited the sum of not less than the amount specified in Appendix A as security for costs unless otherwise excepted by law or by order of the Court.

The Court may authorize commencement, prosecution or defense of any suit, action or proceeding, civil or criminal or appeal therein, without prepayment of fees and costs or security therefor upon good cause shown and upon the filing with the Clerk of an affidavit by the party making the request together with a statement of counsel that he has received no fees. Such affidavit shall state the nature of the action, defense or appeal, the assets of the affiant, the earnings of the affiant and the affiant's belief that he is unable to pay costs or give security therefore.

Judgment may be rendered for costs at the conclusion of the suit or action as in other

cases. Costs shall be as set forth in Appendix A as may from time to time be amended by the Court.

When a jury trial is held, the non-prevailing party shall be responsible for the jury costs unless the Court provides otherwise.

The Clerk of the Municipal Court may deposit any and all funds received in a non-interest bearing account at the discretion of the Clerk.

The Clerk of the Municipal Court shall refund the overpayment of any and all costs of Five Dollars (\$5.00) or greater to the party that tendered the overpayment.(Adopted 12/15/2009)

### **Rule No. 1.9 - Recording of Proceedings**

Proceedings, including discovery proceedings before the Court, may be recorded by stenographic means, by phonogram means, by photographic means, by use of audio electronic recording devices or by use of video tape recording systems. The Presiding-Administrative Judge may order the use of any method of recording authorized by this rule. If a Court-employed Court reporter is desired, reasonable notice shall be given to the Court.

### **Rule No. 1.9 – Digital Court Recordings, Copies of Digital Recordings** **(Modified February 18, 2011)**

The Canton Municipal Court shall record all proceedings electronically via a digital recording system. The digital recording shall serve as the effective original of the official record. The effective original recording shall be maintained for a period of not less than three (3) years from the date of the proceedings. Any interested party, or non-party desiring to preserve the record beyond that period shall file a motion with the Court to have the proceeding transcribed at the expense of the party requesting the motion or have the proceeding designated for permanent storage.

The Court shall make available digital copies of the effective original recording of proceedings upon proper request to the Court. Requests shall be submitted to the Judge's Office which presided over the case being requested. Digital copies which are requested to be electronically mailed to the requesting party will be emailed without charge. Digital copies requested on a compact disc shall be charged Ten Dollars (\$10.00) per compact disc.

### **Rule No. 1.10 - Magistrate**

The Court shall appoint one or more Magistrates to hear the actions authorized by Superintendence Rule No. 19. In addition, any Judge with the consent of the Presiding-Administrative Judge may refer other appropriate matters to a Magistrate.

The Magistrate shall file a written report stating his or her findings of fact and conclusions of law. Such report shall be sufficient for the Judge to make an independent review of the Magistrate's findings and conclusions. The report shall be mailed to the parties or their attorneys by the Clerk if not delivered to them at the conclusion of the hearing. The Court may, from time to time, establish forms for the Magistrate's report in various types of cases which will then be appended to these rules

and used by the Magistrate.

**Rule No. 1.11 - Rent Deposits**

All rent deposits made with the Clerk of Courts pursuant to Chapters 1923 and 5321 of the Ohio Revised Code shall be in cash, or by certified check or money order. Deposits shall be accompanied by a completed "Application by Tenant to Deposit Rent with the Clerk of the Canton Municipal Court," available through the Clerk of Courts.

**Rule No. 1.12 - Court Files**

No persons (other than a Judge, authorized Bailiff or deputy Bailiff) shall remove any Court papers or files or parts thereof from the custody of the Clerk, except with leave of Court.

**Rule No. 1.13 - Filing of Judgment Entries**

The judgment entry specified in Civil Rule 58 and Criminal Rule 32 shall be journalized within fourteen (14) days of judgment. If such entry is not prepared and presented for journalization by counsel, it shall be prepared by the Court and filed with the Clerk for journalization. In civil matters, the Clerk shall serve the parties with notice of the judgment by 1st Class U.S. Mail unless otherwise directed, within three (3) days of entry of judgment upon the journal.

**Rule No. 1.14 - Juries**

Jurors who shall serve in civil or criminal cases tried in this Court shall be chosen by the Stark County Jury Commission and shall be summoned by an officer of this Court.

When a jury of six (6) or less is demanded, not less than twelve (12) qualified electors of the Court district shall be requested as a venire; when a jury of more than six (6) is demanded, not less than twenty (20) such qualified electors shall be requested as a venire, unless ordered by the Court.

**Rule No. 1.14(A) - Jury Management Plan**

I. Opportunity for Service

- A. The opportunity for jury service will not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction of the Canton Municipal Court.
- B. Jury service is an obligation of all qualified citizens.

II. Jury Source List

- A. The names of all potential jurors will be drawn from a jury source list compiled from one or more regularly maintained list of persons residing in

the Canton Municipal Court jurisdiction.

- B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The Court will periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the Court determine that improvement is needed in the representativeness or the inclusiveness of the jury source list, appropriate corrective action should be taken.

### III. Random Selection Procedures

- A. Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods will be documented.
- B. Random selection procedures should be employed in:
  - 1. Selecting person to be summoned for jury service;
  - 2. Assigning prospective jurors to panels;
  - 3. Calling prospective jurors for voir dire.
- C. Departures from the principal of random selection are appropriate:
  - 1. To exclude persons ineligible for service in accordance with IV;
  - 2. To excuse or defer prospective jurors in accordance with VI;
  - 3. To remove prospective jurors for cause or if challenged peremptorily in accordance with VIII and IX;
  - 4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with XIII.

### IV. Eligibility for Jury Service

All persons should be eligible for jury service except those who:

- A. Are less than eighteen (18) years of age;
- B. Are not citizens of the United States;
- C. Are not citizens of the Canton Municipal Court jurisdiction;
- D. Are not able to communicate in the English language;
- E. Have been convicted of a felony and have not had their civil rights restored;
- F. Any other statutory exception not listed above.

### V. Term of an Availability of Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

- B. A term of one (1) week or the completion of one (1) trial, whichever is longer, will be the standard used by the Canton Municipal Court.
- C. Jurors will not be required to maintain a status availability for jury service for more than one (1) week unless the provisions of Subparagraph (B) above apply.

VI. Exemption, Excuse and Deferral

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service are eliminated.
- B. Eligible persons who are summoned may be excused from jury service only if:
  - 1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a Judge;
  - 2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a Judge or a specifically authorized Court official.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a Judge or a specifically authorized Court official.
- D. Requests for excuses and deferrals and their dispositions should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the Court.

VII. Voir Dire

- A. Voir dire examinations should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information regarding panel members will be made available to counsel in writing for each party on the day on which jury selection is to begin.
- C. The trial Judge will conduct a preliminary voir dire examination. Counsel should then be permitted to question panel members for a reasonable period of time.
- D. The Judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

VIII. Removal from the Jury Panel for Cause

If the Judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the Judge.

IX. Peremptory Challenges

- A. Peremptory challenges are limited in the Canton Municipal Court to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- B. In civil cases, the number of peremptory challenges should not exceed three (3) for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three (3) peremptory challenges.
- C. In criminal cases, the number of peremptory challenges should not exceed three (3) for each side in all misdemeanor prosecutions. At least one (1) additional peremptory challenge should be allowed for each Defendant in a multi-Defendant misdemeanor criminal proceeding.
- D. In criminal and civil proceedings, each side should be allowed one (1) peremptory challenge if one (1) or two (2) alternate jurors are impanelled, two (2) peremptory challenges if three (3) or four (4) alternates are impanelled, and three (3) peremptory challenges if five (5) or six (6) alternates are impanelled. These additional peremptory challenges shall be used against an alternate juror only and the other peremptory challenges allowed by law shall not be used against an alternate juror.

X. Administration of the Jury System

- A. The responsibility for administration of the jury system is vested exclusively in the four (4) Judges of the Canton Municipal Court.
- B. All procedures concerning jury selection are governed by Ohio Rules of Court.
- C. The responsibility for administering the jury system will be vested in a single administrator acting under the supervision of the Administrative Judge of the Canton Municipal Court.

XI. Notification and Summoning Procedures

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that prospective juror should be:
  - 1. Combined in a single document;
  - 2. Phrased so as to be readily understood by an individual familiar with the legal and jury systems;

3. Delivered by ordinary mail.
- B. The summons will clearly explain how and when the recipient must respond and the consequences of a failure to respond.
  - C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
    1. Determining whether a person meets the criteria for eligibility;
    2. Providing basic background information ordinarily sought during voir dire examinations;
    3. Efficiently managing the jury system.
  - D. The four (4) Judges of the Canton Municipal Court shall monitor failure of a prospective juror to respond to a summons and enforce the summons to report for jury service.

XII. Monitoring the Jury System

The Canton Municipal Court shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summons;
- D. The efficient use of jurors;
- E. The cost effectiveness of the jury management system.

XIII. Juror Use

- A. The Canton Municipal Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Canton Municipal Court will determine on a case by case basis the minimally sufficient number of jurors to accommodate trial activity. This information and appropriate management techniques will be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels. The Canton Municipal Court will ensure that each prospective juror who has reported to the Court is assigned for voir dire.
- C. The Canton Municipal Court will coordinate jury management and calendar management to make effective use of jurors.

XIV. Jury Facilities

- A. It is the desire of the four (4) Judges of the Canton Municipal Court to attempt to provide an adequate and suitable environment for jurors.
- B. Presently, the entrance and registration area will be clearly identified and

appropriately designed to accommodate the daily flow of prospective jurors to the Canton Municipal Court.

- C. It is the intention of the four (4) Judges of the Canton Municipal Court to seek out and create a separate jury waiting room; however, due to present space difficulties, this is not feasible. The Court will continue to attempt to eventually create a suitable jury waiting room.
- D. The jury deliberations of the Canton Municipal Court have been created to include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms has been ensured.

XV. Juror Compensation

- A. Persons called for jury service will receive a reasonable fee for their service and expenses.
- B. Such fees shall be paid promptly by the Clerk of Courts.

XVI. Juror Orientation and Instruction

- A. The four (4) Judges of the Canton Municipal Court shall make their best efforts to:
  - 1. Increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors;
  - 2. Present in a uniform and efficient manner a combination of written, oral and audio visual materials.
- B. The Canton Municipal Court will make its best efforts to provide some form of orientation or instructions to persons called for jury service:
  - 1. Upon initial contact prior to service;
  - 2. Upon first appearance at the Court;
  - 3. Upon reporting to a courtroom for voir dire.
- C. The trial Judge shall:
  - 1. Give preliminary instructions to all prospective jurors;
  - 2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed and the basic relevant legal principals;
  - 3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
  - 4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system;

5. Recognize utilization of written instructions if possible;
  6. Before dismissing a jury at the conclusion of a case:
    - a. Release the jurors from their duty of confidentiality;
    - b. Explain their rights regarding inquiries from counsel or for the press;
    - c. Either advise them that they are discharged from service or specify where they must report;
    - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D. All communications between the Judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in Open Court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.
- E. Upon lawful public records request for a juror response to any legal and pertinent question put to the juror by the Court, the Court shall notify the juror of the request and advise the juror of their right to an in-camera hearing as to the disclosure of the response. The Court shall further advise the juror of their right to have an attorney present during the in-camera hearing.

#### XVII. Jury Size and Unanimity of Verdict

- A. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law in the Canton Municipal Court.

#### XVIII. Jury Deliberations

- A. Jury deliberations will take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.
- B. The trial Judge shall instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with XVI.
- C. The deliberation room will conform to the standards set forth in XIV.
- D. The jury will not be sequestered except under the circumstances and procedures set forth in XIX.
- E. The jury will not be required to deliberate after a reasonable hour unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interests of justice.
- F. The Canton Municipal Court shall train personnel who escort and assist jurors during deliberation.

## XIX. Sequestration of Jurors

- A. A jury should be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences.
- B. The trial Judge shall have the discretion to sequester a jury on the motion of counsel or on the Judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- C. Standard procedures will be promulgated to:
  - 1. Achieve the purpose of sequestration;
  - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- D. Training shall be provided to personnel who escort and assist jurors during sequestration.

### **Rule No. 1.15 - Pleading Requirements**

All papers filed with the Clerk, including but not limited to pleadings, motions, applications, judgments and orders, shall be original copies neatly and legibly printed handwritten in ink, or typewritten on 8 & ½" by 11" paper. If consisting of more than one sheet of paper, the sheets shall be securely fastened together. The use of covers or jackets is not permitted.

Pursuant to Civil Rule 5(E), effective July 1, 1991, pleadings and other papers may be filed electronically by facsimile transmission to the Clerk's office [(330) 489-3075 Civil Division] [(330) 489-3372 Criminal Division], providing the transmitting equipment sends a neat, clearly legible facsimile of the original. Any document filed electronically which is subject to a filing fee of Ten Dollars (\$10.00) or more is subject to rejection by the Clerk if fees are not received within five (5) business days.

Each paper filed by each party represented by counsel shall designate, on the last page thereof, the name, address, telephone number and attorney registration number issued by the Ohio Supreme Court of the attorney responsible for the case.

The complaint must give the mailing address for all parties and counsel and must include the correct zip code.

It shall be the duty of the Plaintiff or his attorney to file with the complaint as many copies thereof as there are Defendants to be served with the summons in said action. Copies may be legible carbon copies or clear photostatic copies. Pleadings which do not conform to this rule may be ordered stricken from the file by the Court.

### **Rule No. 1.15(A) - Facsimile Filing**

The Canton Municipal Court provides for the filing of all pleadings and other documents by facsimile transmission, through the Clerk of Court's Office. All pleadings, motions, exhibits and other documents may be filed with the Court, twenty-four hours per day, seven days a week by facsimile transmission to **(330) 489-3075**, subject to the

following provisions:

## APPLICABILITY

- 1.01 These Rules apply to Civil, Criminal and Small Claims proceedings in the Canton Municipal Court.

## COVER PAGE

- 2.01 The person filing the document by facsimile shall provide a cover page containing the following information:
  - A. Name of court;
  - B. Caption of case;
  - C. Case number;
  - D. Assigned Judge, if assigned;
  - E. Title of document being filed (e.g. Defendant Jones Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G")
  - F. Date of facsimile transmission
  - G. Transmitting facsimile number
  - H. Method of Payment
  - I. Indication of the number of pages included in the transmission, including the cover page.

If a document is sent via facsimile to the Clerk of Court without the cover page information as cited above, it may be deposited in the case jacket, but need not be entered into the case docket and may be considered to be a nullity and thereby stricken from the record.

## ORIGINAL FILING

- 3.01 The document filed by facsimile shall be accepted as the effective original filing. The person making a filing by facsimile need not file any source document with the Clerk of Court but must, however, maintain in their records and have available for production on request by the Court the source document filed via facsimile, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover page used for the subject filing.
- 3.02 Documents shall be filed with a signature or notation "/s/" followed by the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.
- 3.04 A fax document will be accepted as original and the signature accepted as 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. The original pleading need not be filed.
- 3.03 The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post

- judgment relief are exhausted.
- 3.05 A transmitted document shall not exceed ten (10) pages, not including the cover page and must pertain to only one case.
  - 3.06 The Clerk of courts shall notify the attorney or other party if the transmitted document cannot be filed for any reason. The filing date for any electronically **facsimile** transmitted document shall be the date and time the document was received as evidenced by the file stamp of the Clerk of Court. The time and date so noted will serve as file stamp for the document. Any filings sent via **facsimile** electronically and received by the Clerk of Court after 4:30 p.m. Eastern Time will be file stamped the following business day.
  - 3.07 The Clerk of Court may, but need not acknowledge receipt of a facsimile transmission.
  - 3.08 The burden of confirming receipt of any filing shall be assigned to the sending party.

#### EXHIBITS

- 4.01 Exhibits in any medium that are unable to be transmitted accurately via facsimile may be replaced by inserting a page describing the exhibit. The original of said exhibit shall be filed within five (5) business days subsequent to the facsimile filing. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.

#### FILING FEES

- 5.01 Any document filed electronically **via facsimile** must utilize a Clerk of Court Pre-Paid Account or provide a credit card account, including expiration date, on the cover letter.

#### **Rule No. 1.16 - Motions**

Upon filing any written motion with the Clerk, the party or attorney filing the motion must: (1) Serve a copy of the motion, memorandum or brief and supporting affidavit, if any, either in person or by depositing it in the mail; and (2) Include a "Proof of Service" indicating the person(s) served, the date and method of service and the address at which the party or attorney was served. The only exception to this rule is when the motion is to be served with the summons, it may be deposited with the Clerk of Courts for such service. Failure to comply with this rule shall be sufficient cause to strike the motion from the file.

#### **Rule No. 1.17 - Authentication of Court Records**

All records and transcripts of records of the Court shall be authenticated over the signature of the Presiding-Administrative Judge, or in his/her absence, over that of any other Judge, and the Clerk of Courts, with the seal of the Court attached.

### **Rule No. 1.18 - Marriage Ceremony Procedure**

During Court sessions Monday through Friday, marriage ceremonies may be performed by the Arraignment Judge at a designated place in City Hall, upon presentation of a valid marriage license together with evidence of payment to the Clerk of the Canton Municipal Court (Civil Division) of a fee of Seventy-Five Dollars (\$75.00). Marriage ceremonies will be performed by appointment only. The Clerk shall provide the applicants with a receipt showing the names appearing on the marriage license. The marriage certificate and receipt must be presented to the Judge performing the ceremony prior to the performance of the marriage. The Clerk shall keep a record of the fees received.

### **Rule No. 1.19 - Effective Date, Repeal, Amendments**

All former rules of this Court are repealed as of the effective date hereof with respect only to the subject matter of those topics herein contained.

Amendments and additions hereto may be made from time to time upon the majority affirmative vote of all of the Judges in office of all of the divisions of this Court, but such amendments shall not be effective until filed with the Supreme Court of Ohio in accordance with Civil Rule 83, Criminal Rule 57, Traffic Rule 19 and Superintendence Rule 5.

### **Rule No. 1.20 - Court Records Management & Retention Rules for the Office of the Clerk of Courts**

#### **A. Maintenance of Indexes, Dockets and Journals**

The Court adopts the combined indexes, dockets and journals as defined in Supr. Rule 26.01 through 26.05. The indexes, dockets and journals shall be maintained permanently in an electronic medium. All existing paper bound books shall be retained permanently.

#### **B. Retention of Administrative Records:**

The following retention schedule shall apply to administrative records of the clerk of Courts.

- 1) Bank Transaction Records: (Whether paper or electronic) Shall be retained for three (3) years after audit
- 2) Cash Books: (Including receipt and disbursement records) Shall be retained for three (3) years after audit.
- 3) Communication Records: (Including routine telephone messages on any medium where official action will

be recorded elsewhere) May be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

- 4) Correspondence and General Office Records: (Including all sent and received correspondence in any medium) May be destroyed in the normal course of business.
- 5) Drafts and Informal Notes: (Consisting of transitory information used to prepare the official record in any form) May be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.
- 6) Fiscal Records: (Including, but not limited to, copies of the transactional budgeting, unclaimed funds, records, payment of jurors and witnesses) Shall be retained three (3) years after audit.
- 7) Grant Records: Shall be retained for three (3) years after audit.
- 8) Payroll Records: Shall be retained for three (3) years after audit.
- 9) Publications: May be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.
- 10) Receipt and Balancing Records: Shall be retained for three (3) years after audit.
- 11) Audit Reports: Shall be retained permanently.
- 12) Yearly Reports: Shall be retained permanently.

C. Retention of Civil, Criminal case files, Traffic, and Waiver cases

- 1) Civil cases: Shall be retained for ten (10) years.

- |   |   |
|---|---|
| 2) Criminal cases:                            | Shall be retained for fifty (50) years.                                     |
| 3) Traffic Cases:                             | Shall be retained for twenty five (25) years.                               |
| 4) Minor Misdemeanor Violations Waiver Cases: | Shall be retained for five (5) years.                                       |
| 5) Search Warrants:                           | Shall be retained for five (5) years after date of service or last attempt. |
| 6) Expungements:                              | Shall have same retention period as case files.                             |
| 7) Rent Escrow Accounts:                      | Shall be retained for ten (10) years.                                       |

**D. Destruction of Records**

The Clerk of Courts shall notify, in writing, the Ohio Historical Society, sixty (60) days prior to the destruction of the records and offer the original records for safekeeping to them. The priority of the offer shall be in the order listed above. These records may be transferred to the possession of said entity as long as they maintain the records as public records.

**Rule No. 1.21 - Court Security Measures**

**Security Police and Procedures Manual**

A. The Court hereby establishes a written Security Policy and Procedures Manual governing security of the Court and its facilities to ensure consistent, appropriate and adequate security procedures. The manual includes a physical security plan, routine security operations, a special operations plan, a hostage situation response plan, a high risk trial plan and emergency procedures (fire, bomb, disaster). A copy of said plan is incorporated herein by reference.

**Canton Municipal Court Security Advisory Committee**

B. A Local Court Security Advisory Committee, appointed by the Judges of this Court, shall direct the implementation of the Security Policy and Procedures.

**Security Screening**

C. All persons entering the Court facility, including elected officials, Court personnel, attorneys, law enforcement and security officers, shall be subject to security screening. All screening shall occur for each visit to the Court facility regardless of the purpose or the hour.

## Security Officers

D. Court Bailiffs and Canton City Police Officers, where appropriate, shall enforce the Court security measures to ensure the security of the Court and its facilities.

D(1). All security officers assigned to Court security shall be certified through the Ohio Peace Officers Training Council at the discretion of the Court. These officers shall receive specific training on Court security and weapons instruction specific to the Court setting.

## Weapons

### **Weapons in the Court Facility**

- E. The Court prohibits the possession or use of firearms or other dangerous ordnance as defined in Section 2923.11 of the Ohio Revised Code within the court facility. **The only exception to this policy extends to Court Staff who have been trained, certified, approved and issued security equipment by the Court as well as those Ohio peace officers and law enforcement officers of the State of Ohio and United States who are required to carry their firearm while in their official capacity and appearing in court.**
1. No person shall have on their person or in their possession any weapon or dangerous ordnance as defined in Section 2923.11 of the Ohio Revised Code while within the court facility or on court grounds.
    - a. Any person in violation of this policy is subject to criminal prosecution pursuant to Ohio Revised Code, Section 2923.123.
  2. No employee of the Canton Municipal Court shall have on their person or in their possession any weapon or dangerous ordnance while on court grounds, within the court facility, in a City/Court owned vehicle or while acting on duty in the performance of official court duties and/or business.
    - a. Should any employee of the Canton Municipal Court obtain a legal permit to carry a concealed weapon, outside of the scope of their employment, said employee shall not carry any weapon in conjunction with their official Court Identification or Badge, or while in the performance of their official duties.
    - b. Any employee of the Canton Municipal Court who is in violation of this policy is subject to employee disciplinary action up to and including termination of employment and well as criminal prosecution under ORC 2923.123.

3. Ohio Peace Officers, state and federal law enforcement officers requesting entrance into the court facility must present official identification indicating their department or organization.
  - a. Display of a badge is not sufficient identification unless the officer is known to the Court Security Officer or Bailiff.
  - b. In order to enter the court facility, all law enforcement officers will register with the Court Security Officer or Bailiff as well as sign out upon departing the court facility.
  - c. All officers shall be required to explain the nature of their official business to the satisfaction of the Court Security Officer or Bailiff.
  - d. Should the Court Security Officer feel at any time that under the particular circumstances involved, that the law enforcement officer should not be permitted to bring a weapon into the court facility, the court security officer may require the law enforcement officer to check the weapon in the locked weapon lockers or in their cruiser/vehicle.
4. In all cases, Ohio Peace Officers, state and federal law enforcement officers who are parties to a judicial proceeding outside of the scope of their official duties shall not be permitted to carry weapons into the court facility.
  - a. This shall apply, in particular to any officer who is involved as a litigant in a case or as an interested party to a case.
  - b. The court security officer shall require the officer to check the weapon in the locked weapon lockers or in their cruiser/vehicle.
5. Any weapons brought into the court facility for use as an exhibit in a judicial matter shall be secured with appropriate gun locks and or other safety devices.
6. Any weapon or dangerous ordnance found within the court facility or any violations of this policy shall be documented in full detail on the Court Critical Incident Report pursuant to established court policy.

#### Prisoner Transport

F. Prisoners shall be transported into the Court facility and within the Court facility through areas which are not accessible to the public. When a separate entrance is not available and public hallways must be utilized, prisoners shall be handcuffed behind the back and, when appropriate, secured by leg restraints.

F(1). Prisoners shall be held in a secure holding area equipped with video monitoring - where practicable - while awaiting Court hearings, and during any recess.

#### Duress Alarms

G. All courtrooms and hearing rooms shall be equipped with a duress alarm connected to a central security station. Duress alarms shall be located on the Judges', and Magistrates' bench(es) and at the work station of the Bailiff, the receptionist, the secretary and other officers. The duress alarm system shall be a system with enunciation capability.

#### Closed-Circuit Video Surveillance

H. When practicable, closed-circuit video surveillance shall include the Court facility parking area, entrance to the Court facility, Court lobby, courtroom and all other public areas of the Court facility.

#### Restricted Access to Judicial Offices

I. An effective secondary screening process at the entrance to the Judges' office space shall be utilized to ensure safe and secure work areas, and to protect against inappropriate interaction between judicial officers and Magistrates, and participants in the judicial process. The general public shall not be permitted in the area that houses office space for Judges and Court personnel, without prior Court approval.

#### After Hour Security

J. The Court, in conjunction with law enforcement officers, shall adopt procedures for the security of Judges and Court personnel for periods of time other than the normal working hours.

#### New Courtroom Design

K. New construction or remodeling of Court facilities shall include circulation patterns that govern the movement of people in the courtroom. Judges, Court personnel and prisoners shall have separate routes to and from the courtroom. Waiting areas shall be available to allow separation of parties, victims and witnesses.

#### Incident Reporting

L. Every violation of law that occurs within a Court facility shall be reported to the law enforcement agency having jurisdiction.

L(1). The policy of the Court for reporting security incidents shall be included with the Court's Security Policy and Procedures Manual.

L(2). All security incidents shall be reported annually to the Supreme Court of Ohio.

## **RULE No. - 1.22 MEDIA COVERAGE IN THE COURTROOM**

The Canton Municipal Court is committed to providing equal access to the Court for the media and the general public. However, circumstances may arise where physical space constraints may prevent access to court proceedings.

1. In accordance with Rule 12 of the Rules of Superintendence for Ohio Courts, the following procedures shall be adhered to when there is broadcasting or photographing of court proceedings in the Canton Municipal Court.
2. Media representatives must request permission of the Court Administrator in writing for televising, recording, radio broadcasting, or photograph taking in a courtroom, before the court session. Media request forms will be made available from the Court Information Office or website at [www.cantontcourt.org](http://www.cantontcourt.org). The Court Administrator will serve as a liaison between the court and the media to implement this rule.
3. All media requests shall be made on the appropriate form. Such application should be made as far in advance as is reasonably possible, but in no event later than 30 minutes prior to the courtroom session to be recorded. The Judge hearing the case may waive the advance notice provision for good cause.
4. Arrangements between or among media for “pooling” shall be the responsibility of the media representatives authorized to cover the proceeding without involving the court in any way, except to notify it of pooling arrangements. Television networks/stations and radio stations must decide which of them shall cover the proceedings, and only one of each may then cover any one proceeding. The newsprint media must decide which of them shall cover the proceedings for photographic coverage, and only one photographer may then be allowed in the courtroom at any one time. If a dispute arises among or between the media representatives during the proceeding, the judge shall exclude contesting representatives from the remaining case proceedings.
5. Media representatives must be in designated areas before court convenes and may leave only during a recess, lunch break, or afternoon adjournment. Media representatives are responsible for providing their own equipment. Designated locations for the media are at the discretion of the assigned judge or Court Administrator. Media representatives must wear appropriate attire in court.
6. The use of electronic or photographic equipment that produces distracting sounds or lights shall be prohibited. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without being obtrusive, may be permitted by the Judge hearing the case.
7. Limitations

- a. The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.
  - b. Jurors shall not be filmed, videotaped, recorded, or photographed without permission of the judge.
  - c. Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.
  - d. This rule shall not be construed to grant media representatives any greater rights than permitted by law.
  - e. There shall be no audio pick-up or broadcast of conferences conducted at the bench or between counsel and client.
7. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

#### **Rule No. 1.23 – Mental Health Court Docket**

The Canton Municipal Court, Mental Health Docket is intended to provide a mechanism to promote effective treatment as an alternative to incarceration for a person whose symptoms of mental illness, history of treatment non-compliance, and/or refusal to accept treatment results in a recurring pattern of misdemeanor offenses. The Docket requires judicial, clinical and probation involvement in treatment planning and compliance which should result in more effective utilization of other court resources

The Mental Health Court Docket will provide a comprehensive, coordinated approach to the misdemeanor cases of selected defendants with severe mental illness and/or co-occurring disorders in order to decrease criminal recidivism, improve public safety and improve the defendant's quality of life by stabilizing the defendant in the least restrictive environment.

#### **Rule No. 1.23(a) – Unassigned Case(s)**

Upon execution of a "Request for Assignment to the Mental Health Docket" form by a judge in arraignment court, the case shall be continued to the next Mental Health Docket date. Upon defendant's acceptance into the Mental Health Docket, the case(s) shall be assigned to the Judge elected to oversee the Mental Health Court Docket. If the defendant is not accepted into the program, the case shall be retained by the MHC Judge on their regular criminal docket.

#### **Rule No. 1.23(b) – Assigned Case(s)**

Upon the execution of a "Request for Assignment to the Mental Health Program" form by the assigned judge, pursuant to Sup. R. 4(B)(1), the assignment commissioner shall

transfer the case from the assigned judge to the Mental Health Docket. In the absence of the assigned judge, the administrative judge may authorize the transfer and sign the preliminary acceptance entry pursuant to Loc. R. 1.4

If the defendant is accepted into the Program, the transfer shall be permanently assigned to the judge who has been elected to oversee the Mental Health Docket. If the defendant is not accepted into the Program, the case shall be transferred back to the judge to whom the case was originally assigned.

#### **Rule No. 1.23(c) – Acceptance to the Mental Health Court Docket**

Acceptance into the Mental Health Docket shall be determined by the guidelines and procedures set forth in the Administrative Order adopted to govern the operation of said program.

#### **Rule No. 1.23(d) – Election of Judge(s) to Preside over the Mental Health Court Docket**

The judge(s) assigned to oversee the Mental Health Docket shall be elected by a vote of a majority of the judges at the first judges' meeting after the adoption of this rule. Thereafter, the judge(s) elected to preside over the Docket shall be elected each year at the meeting during which the administrative judge is elected. If the judge elected to oversee the Program is unable or unwilling to serve, a new judge shall be elected at the next judges' meeting.

#### **Rule No. 1.24 - Transcripts**

The Canton Municipal Court shall appoint Official Court Transcriptionists by Administrative Order of the Court, to transcribe verbatim, the record of proceedings from the effective original digital recording. Transcripts shall be completed upon request or Order of the Court.

1. The format of the Transcript of Proceedings prepared by the Official Court Transcriptionist shall be as follows:
  - A. 25 lines to a page; Not less than 12 point font;
  - B. Printed on transcription paper, bound in a clear-front jacket, to include a title page and Journal Entry;
  - C. Q & A to be 15 spaces from the left hand margin and identification of the speaker should be in upper case letters;
  - D. The indentation for the body of the Q & A should be 21 spaces from the left hand margin and paragraph indentation should be 30 spaces from the left hand margin;
  - E. The right hand margin is to be 5 spaces from the right hand edge;
  - F. An index to the proceedings and exhibits is to be included in all transcripts.
  - G. Transcriptionist statement of accuracy.
2. All supplies requisite for the preparation of an official transcript, to include

transcription paper and transcription jackets, shall be furnished by the Canton Municipal Court.

3. Transcript fees for all Divisions of the Canton Municipal Court are set at three dollars (\$3.00) per page for the original pages and one dollar and fifty cents (\$1.50) for copies. All fees for transcripts due the Official Court Transcriptionist shall be born by the requesting party and paid in full prior to the release of the transcript. Requests for Transcript made by an indigent party to the case shall be invoiced to the Stark County Commissioners. Invoices to the Commissioners shall be accompanied by Affidavit of Indigency and Appointment Entry.

Ohio law establishes the Court as the owner of the record made by the Court Transcriptionist in all courts of record. All notes, steno pads, paper and discs are the property of the Canton Municipal Court. The Court shall retain one (1) copy of each transcript produced and shall be retained pursuant to the Court Records Retention Schedule.

## **PART TWO - CIVIL RULES**

### **Rule No. 2.1 - Leave to Plead**

The time within which a party is required by the Civil Rules to serve and file a responsive pleading to a complaint, counterclaim, cross-claim or third party complaint may be extended by the Court for a period of twenty-eight (28) days upon written application. Additional time thereafter may be granted by the Court pursuant to a written stipulation of the parties approved by the Court and pursuant to Civil Rule 6(B).

### **Rule No. 2.2 - Pretrial Conferences**

After a case has been assigned to a Judge, the Judge will then set a pretrial conference. The pretrial conference is to review the possibility of settlement, determine the status of discovery, consider the resolution of some issues and, as necessary, to fix a trial date. Further pretrial conferences shall be scheduled as necessary within sixty (60) days, if the case is not resolved or set for trial.

If Plaintiff fails to appear at the pretrial conference, the plaintiff's complaint may be dismissed without prejudice. If Defendant fails to appear, the case may proceed to evidence.

### **Rule No. 2.3 - Default Judgment**

When the Defendant is in default for appearance or answer, judgment shall be rendered in accordance with Civil Rule 55(A) and 7(B)(1).

If an action is for recovery of money only arising out of damages to personal property and the Defendant is in default of answer, final judgment shall be entered for the Plaintiff in the amount of the prayer if an affidavit with supporting documentation is filed by the Plaintiff or his attorney verifying that the prayer of the complaint does reflect the proper measure of damages allowed by law. Contract, lease agreements and security agreements must contain information regarding agreed interest rate.

The Court shall set a hearing date to assess unliquidated damages in all other actions not covered above.

### **Rule No. 2.4 - Motions for Relief from Judgment**

Motions for relief from judgment (motions to vacate judgment) shall be made and delivered directly to the Judge who entered the judgment. Objection to the motion may be filed with the Court within fourteen (14) days of service of the motion. If the Court sustains the motion, the case shall be immediately assigned by lot pursuant to Rule 7.

### **Rule No. 2.5 - Small Claims Division**

Pursuant to the Ohio Revised Code 1925.01, a Small Claims Division has been established for cases for the recovery of money only, for amounts not exceeding Three Thousand Dollars (\$3,000.00), exclusive of interest and costs.

~~Any Plaintiff may file up to twenty-four (24) claims in the Small Claims Division during any calendar year.~~

Cases filed in the Small Claims Division shall be heard by a Magistrate appointed and assigned under Superintendence Rule 4. Sessions shall be set by the Presiding and Administrative Judge as required.

A filing under Ohio Revised Code 1925.01 for transfer to the regular docket shall be heard by the Magistrate immediately before the scheduled hearing on the merits of the small claims action. A filing to transfer a case to the regular docket may also be heard by the Judge on Civil Sessions.

If the Magistrate denies the transfer to the regular docket, the small claims hearing shall commence immediately. Upon a decision on the merits, the party requesting a transfer, if necessary, may object to the report of the Magistrate on the merits and/or the transfer denial. All objections to the Magistrate's report shall be decided by the Judge on Civil Sessions pursuant to Civil Rule 53.

### **Rule No. 2.6 - Sales and Proceedings in Aid of Execution**

For all sales and proceedings in aid of execution, the Judgment Creditor must complete the Execution Notice form provided by the Court and describe in detail the items which are to be levied upon. It will be insufficient to merely instruct the Bailiff to levy upon all goods and chattels of the Judgment Debtor. It is necessary for the Bailiff to know the type, size and number of items to be levied upon so that he can make an accurate estimate of the cost. The Bailiff shall serve the Notice Form on the Judgment Debtor providing the Judgment Debtor with notice of exemptions and opportunity for hearing thereon, and file the Notice Form and Proof of Service with the Court in the same manner as set forth in R.C. Section 2716.01 et seq.

The Bailiff shall appraise the fair market value of the property sold, file a completed Inventory Appraisal form with the Court and serve the Appraisal form on the Judgment Debtor and the Judgment Creditor.

If the item to be levied upon is an automobile or other motor vehicle, the Judgment Creditor shall complete the Execution Notice Form by including an accurate description of the automobile or vehicle along with the written statement as to whether or not there was a lien of record on this vehicle in the office of the Stark County Clerk of Courts. Before the Bailiff shall levy upon an automobile, he/she shall determine the fair market value of the automobile on the Inventory Appraisal form. If there is a lien on the automobile, the name of the lien shall appear on the Execution Notice form. If the Bailiff determines that the automobile, when sold, shall not bring a sufficient sum to pay the cost of towing, storage, advertising and other Court costs, he shall require the Judgment Creditor to post sufficient additional cost to cover these expenses before proceeding with the execution. If the sale is to encompass many items, the Bailiff may secure the services of an auctioneer and proceed according to R.C. Section 2335.021.

## **Rule No. 2.7 - Dismissal for Want of Service - Other**

Actions pending for a period of six (6) months and in which neither service of summons nor service by publication has been made shall be dismissed immediately unless good cause is shown to the contrary.

In any matter pending before the Court wherein Rule 40 of the Rules of Superintendence for the Courts of Ohio is otherwise applicable, a party may petition the Court for a period of time not to exceed sixty (60) days, unless otherwise approved by the Court, to perfect service or file any other appropriate pleading to reinstate the case.

## **Rule No. 2.8 - Satisfaction of Judgments**

No satisfaction of judgment in whole or in part shall be entered in the Civil or Small Claims dockets, except by the Clerk of the Court, or his deputy. All satisfactions must be attested by the Clerk or his deputy.

It shall be the duty of the Plaintiff or his attorney to immediately have an entry of satisfaction made upon the docket when a judgment is satisfied. Failure to so satisfy shall form the basis for appropriate sanctions by the Court.

## **Rule No. 2.9 - Forcible Entry and Detainer (Modified 23 August 2011)**

In forcible entry and detainer cases, the *original complaint and Eviction (CVG) Initiation Form* shall conform to the requirements of R.C. Section 1923.05 and provisions of 96 Ohio St. 3d 195 (2002). The Clerk of the Municipal Court shall not accept a forcible entry & detainer action where the plaintiff fails to declare the legally titled ownership of the real estate as required on the Eviction (CVG) Initiation Form.

Summons in forcible entry and detainer actions shall be drawn so as to notify each Defendant that he has been sued and to summon him to appear at a designated courtroom at the time specified therein or the complaint will be taken as true and judgment rendered accordingly.

In forcible entry and detainer actions involving residential property, the Court (including the Magistrate) may decide at the first hearing both causes of action. If the Defendant appears, the Court shall inquire whether the Defendant chooses to contest the second cause of action. If the Defendant responds affirmatively, leave shall be granted for response to the complaint. If the Defendant makes a knowing waiver of the right to respond to the second cause, the Court may proceed to hear both causes.

**(A) Objections to the Magistrate's Report:** The party objecting to the report of the Magistrate shall file such objections within ~~two (2)~~ fourteen (14) days following the filing of the report. ~~Objections to the Magistrate's Report shall point out specifically the matters complained of, and should indicate what it was that the Magistrate should have found. shall be specific and state with particularity all grounds for objection. Objections to the Magistrate's Report shall be assigned to Civil Sessions Judge for disposition.~~

**(B) Approval of the Magistrate's Report:** If no written objection to the Magistrate Report is filed, it shall be considered for approval on the same day, or as soon as practicable, upon filing of the Magistrate's Report. ~~Where there is a written acceptance by the parties of the Magistrate's report, it may be approved at any time thereafter, but not later than three (3) days.~~

~~If no acceptance or objections to the Report are filed, it shall be considered for approval on the third (3<sup>rd</sup>) day following the filing of the Magistrate's report. On the third (3<sup>rd</sup>) day following the filing of the Magistrate's report, the Clerk shall take the reports to which objections have been filed to the Judge for disposition.~~

**(C) Jury Demands:** In any case in which there has been service of process, upon the filing of a jury demand in accordance with R.C. Section 1913.09, and upon failure of the parties to agree to a waiver of the time requirement of R.C. Section 1923.08, and upon the failure of the Defendant to post an appropriate bond, the case will be transferred to the assignment commissioner. Assignment to a Judge shall be made immediately, by lot, to one of the Judges have jury availability within the time limitation.

**(D) Eviction:** Should actual, physical eviction of property be required following pursuant to a writ of restitution, Plaintiff may request the Court issue a Writ of Execution, pursuant to ORC 1923.13(A). Within ten (10) business days from the Court issuing a Writ of Execution, Plaintiff shall arrange for sufficient workers to be present to accomplish the set-out under the supervision of the Bailiff. Plaintiff shall post security for their payment, such security to be taxed as costs.

### **Rule No. 2.10 - Judgment Debtor's Examination**

Judgment debtor examinations will be set for hearing by the Civil Clerk of Court according to the court's regularly scheduled hours of operation. If both parties appear at said hearing, the debtor examination will be conducted according to law. Should a judge be required to preside over the debtor's examination, any Municipal Judge may be called upon to conduct said hearing.

If the judgment debtor fails to appear at the scheduled hearing, and proper service was made to the debtor, the creditor may thereafter move the Court that a show cause hearing be held as to why the debtor should not be held in contempt of court for failure to attend the judgment debtor examination hearing. The show cause hearing date shall be set by the Civil Clerk of Court, in conjunction with the creditor.

If the debtor appears for the show cause hearing, any Municipal Judge may be called upon to conduct said hearing.

However, if the debtor fails to appear for the show cause hearing, and proper service was made to the debtor, the creditor may thereafter request a bench warrant be issued for the debtor. Should a judge be required to preside over the debtor's examination, any Municipal Judge may be called upon to conduct said hearing.

### **Rule No. 2.11 - Jury Costs**

In any civil action or proceeding when a jury trial is demanded, the party making such demand shall be required to make an advance deposit of Two Hundred Dollars (\$200.00), unless upon affidavit or other evidence the Court concludes that such party is unable to make the required deposit. If a jury is sworn, the fees of a jury shall be taxed as costs. If the advance deposit is not paid in full seven (7) business days prior to the trial date, the case shall proceed to a Court trial unless otherwise modified by Court order.

**Rule No. 2.12 - Administrative Fee on Judgments Deposited with Clerk**

Consistent with provisions of Ohio Revised Code, Section 2303.20(V), The Judges of the Canton Municipal Court authorize the Clerk of the Municipal Court to impose an Administrative Fee of not greater than one-percent (1%) on all Judgments deposited to the Clerk for receipt upon the Judgment-Creditor.

**PART THREE - CRIMINAL AND TRAFFIC RULES**

**Rule No. 3.1 - Branches of Criminal Division**

The Criminal Division of the Canton Municipal Court shall consist of three (3) branches: Criminal Court, Traffic Court and Waiver Branch.

**Rule No. 3.2 - Criminal Court Sessions**

The Criminal Court shall consist of three (3) sessions:

A. The Arraignment Session and Initial Appearance Session which shall hold regular sessions beginning at 9:00 a.m., Monday through Friday, except on legal holidays. The Court shall consider all pleas of guilty or no contest, requests for setting bail, stays of execution and all other matters to come before the criminal Court not handled by other sessions. Judges of this Court will be assigned on arraignments for two (2) week periods.

B. The Trial Sessions which shall hold sessions beginning at 9:00 a.m., Monday through Friday, except legal holidays, and at such other times that the assigned Judge may order. The Trial Session shall hear all trials both to the Court and to a jury in accordance with prior assignments made.

**Rule No. 3.3 - Traffic Court Sessions**

Traffic Court shall consist of two sessions:

A. The Arraignment Session shall be held Monday, Tuesday, Wednesday, Thursday and Friday mornings at 9:00 A.M.; and Wednesday evenings at 6:00 P.M. on the first and third of each month. Traffic Arraignments shall be conducted by a Magistrate appointed by the Court. The Arraignment Session shall consider all pleas. All pleas of not guilty shall be assigned from the Arraignment Session. No Defendant shall be required to have his arraignment heard by a Magistrate; and at the Defendant's option, his case will be assigned to the Arraignment Judge for hearing as soon thereafter as possible.

B. The Traffic Violations Bureau is hereby established. The Clerk of Courts is appointed to be its violations clerk, who shall collect fines paid to, give receipts for and render accounts of the Bureau. The Bureau shall be open to the public from 8:00 a.m. to 4:30 p.m. Monday through Friday, except for legal holidays. All other hours the Clerk shall maintain a container in the Canton Police Department to receive fines and costs via a prepared envelope.

The Traffic Violations Bureau will display prominently at its public counter a Court-approved statement of Defendant's rights and a schedule of fines.

### **Rule No. 3.4 - Arraignment and Pleas**

Persons cited, summoned or arrested and charged with a misdemeanor must appear in Open Court (except as otherwise hereinafter provided), and after receiving an explanation of their rights, enter a plea of “not guilty,” “guilty,” or “no contest.” If a plea of “not guilty” is entered, the case shall be assigned by lot to a Judge and shall be immediately scheduled for a pretrial conference within fifteen (15) days.

Each case shall be assigned separately by lot, but multiple cases against the same Defendant or multiple Defendants which are alleged to be the result of the same act, transaction or series of acts or transactions, shall be considered as one case and assigned to one Judge by lot.

Pursuant to Criminal Rule 10(B) or Traffic Rule 8(C), the Court may permit a written Not Guilty plea presented by the Defendant’s attorney to be received in the absence of the Defendant. The case will be called in the regular order of arraignment as provided above and, upon acceptance of the plea, be immediately assigned by lot to a Judge.

### **Rule No. 3.5 - Pretrial Procedure**

When a pretrial is ordered, the following persons are required to attend: (1) the Prosecutor assigned to the case, (2) the Defendant, and (3) the attorney for the Defendant, if any.

If the case is not resolved at the pretrial conference, the case shall be set for trial except that the assigned Judge may, for good cause, continue the pretrial conference.

### **Rule No. 3.6 - Jury Demand**

Jury demands shall be made in accordance with Criminal Rule 23. In the event that a criminal or traffic case is settled prior to a scheduled jury trial and it is not possible to notify the jurors of the cancellation, the requesting party shall bear the costs of juror fees and of those jurors who report on the day of trial.

### **Rule No. 3.7 - Posting of Bonds**

Bond schedules are set forth for both felonies and misdemeanors in Appendix B.

### **Rule No. 3.8 - Appearance of Persons in Custody**

Persons arrested and in custody before 9:00 a.m. shall be brought before the appropriate session of the Court on the same day as the arrest, excepting Saturdays, Sundays and Court holidays.

### **Rule No. 3.9 - Indigents**

If a Defendant claims he is indigent and the Public Defender, due to a conflict, cannot

represent him, the Court may appoint private counsel.

Upon the disposition of a case through this Court, an entry of Court appointment and Court approval of fees shall be directed to the proper county or city official.

**Rule No. 3.10 - Advance Deposit of Costs Waived**

The Clerk of Courts shall automatically waive the advance deposit of Court costs in the following instances, to wit:

- A. Ohio Bureau of Employment Services,
- B. Bureau of Motor Vehicles,
- C. Norfolk and Western Railroad,
- D. Conrail,
- E. For any arrestee who is taken into custody without a warrant whether the complaint is signed by a private citizen or police officer (domestic violence, petty theft),
- F. Public school officials for crimes occurring on school property, and
- G. Non-profit charitable organizations such as Goodwill, Catholic Community League, etc., for crimes occurring on their property.

**Rule No. 3.11 - Online Payments**

The Judges of the Court authorize the Clerk of the Municipal Court to accept online payments on any minor misdemeanor or waiverable traffic offense. Further, the Court authorizes the Clerk of the Municipal Court to cancel the license forfeiture for on Interstate Compact procedure cases upon payment in full.

STATE OF OHIO:

IN THE CANTON MUNICIPAL COURT

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JOURNAL ENTRY

STARK COUNTY:

IN RE: CRIMINAL/TRAFFIC COURT COSTS

WE, the undersigned Judges of the Canton Municipal Court do hereby adopt and Order the following schedule of Criminal/Traffic Court Costs effective **December 21, 2009** in accordance with Ohio Revised Code Section 1901.26. Notwithstanding any other rule of this Court, the Criminal/Traffic costs of the Canton Municipal Court shall be as follows:

1. Basic Court Costs: Includes \$10 Clerk's Computer Fee and \$14. Capital Improvement fee.	105.00
2. Each Additional Charge	25.00
3. Waiver Cost: Includes \$10 Clerk's Computer Fee, and \$10 Capital Improvement fee.	60.00
4. State Reparation Fund (felonies - advanced cost)	30.00
5. State Reparation Fund (misdemeanor - advanced cost)	9.00
6. <b>Indigent Defense Support Fund (Apply according to HB1)</b>	<b>10.00/20.00</b>
7. Public Defender Indigent Application Fee	25.00
8. Bond & Recognizance	15.00
9. <b>State Bond Surcharge</b>	<b>25.00</b>
10. Issuing Warrants (includes \$10 Tech fee & <b>\$20 Sheriff's Fee</b> )	<b>85.00</b>
11. Issuing Summons	10.00
12. Forfeiture of License Fee	20.00
13. Advance Deposit for Private Complaint	80.00
14. Photo Copies	.25
15. Certified Copies	1.00
16. Certified Mail of Any Document	10.00
17. Filing of Motions	25.00
18. Computer Printout of Docket Entries	1.00
19. Trials	25.00
20. Filing an Appeal	25.00
21. Witness Fees - Full day	12.00
22. Witness Fees - Half day	6.00
23. Each Juror/Per day	10.00
24. Bailiff Fees for Jury Trials	50.00
25. Filing Precipes (per witness)	10.00
26. Sheriff Summons or Fees	To be determined by Sheriff

27. Bailiff Service of Subpoenas (per witness)	.50 first mile and .30 each additional
28. Clerk's Release of Prisoner Form to Jail	10.00
29. Preliminary Hearings	30.00
30. All Other Hearings	25.00
31. Expungement Filing Fee (Includes \$50.00 Fee to Probation Services Fund)	100.00
32. Out of State License (compact procedure)	25.00
33. TBS--Tele-Dispatch Collection Service	11.00
34. Immobilization of Vehicle by Bailiff	50.00
35. Immobilization Fee	50.00
36. Forfeiture of Owner's Automobile Fee	50.00
37. Guardian Interlock (Includes \$2.50 to State & \$2.50 to Local Interlock/Monitoring Fund)	25.00
38. Commitment to County Jail (Includes \$5.00 Sheriff's Fee)	21.00
39. Release From Jail (Sheriff's Fee)	5.00
40. NSF Check Fee	20.00
41. Convenience fee for credit card payment via the Internet	4.00
42. Digital CD Copy of Court Proceeding (per cd)	10.00
43. E-Copy of Court Proceeding via E-mail	NC
44. Crime Lab Reimbursement for Lab Analysis (ORC 2925.511)	103.00

**The following list of cost are for Probation services and shall be deposited by the Clerk into the Canton Municipal Court's Probation Services Fund, pursuant to O.R.C. 737.41**

45. Probation, Restitution, Community Service, Pre & Post Sentence Investigations	50.00	
46. Referral to Sanctions Monitoring	50.00	
47. Intensive Supervision Probation (ISP) Program	120.00	
48. Show Cause Probation, ISP, Community Service, EMHA and Restitution		25.00
49. Electronically Monitored House Arrest (plus \$2.50 per day to be paid into the indigent fund)	50.00	
50. GPS Monitored House Arrest (plus \$4.00 per day to be paid into the indigent fund)	50.00	
51. Continuous Alcohol Monitoring	50.00	
52. Community Service Time Extension (Per extension, collected prior to granting extension)	25.00	
53. Occupational Driving Privileges (Per extension of time, collected prior to granting extension)	30.00	
54. Extensions of Time to Pay (Per extension of time, collected prior to granting extension)	10.00	
55. Probation Fee (To be collected on all misdemeanor traffic and criminal cases 1-4 degree offenses)	5.00	

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Mary A. Falvey, Presiding & Administrative Judge

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Richard J. Kubilus, Judge

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**Appendix B**

**STATE OF OHIO )**

**IN THE CANTON MUNICIPAL COURT**

**§**

**JOURNAL ENTRY**

**STARK COUNTY )**

**IN RE:** Revised Waiverable Minor Misdemeanor Fine Schedule

WE, the undersigned Judges of the Canton Municipal Court do hereby approve the Waiverable Minor Misdemeanor Fine Schedule, herein attached and made a part hereof, pursuant to Section 2935.26(E) of the Ohio Revised Code, said revised schedule shall become effective on September 22, 2008 and remain in full force until further Order of this Court.

**WAIVER BUREAU PAYMENT SCHEDULE**

All waiverable violations are \$125 (includes \$31 fine and \$94 Court Costs), except those listed below:

No Seat Belt - Driver (Mandatory fine \$30)	\$75.00
No Seat Belt - Passenger (Mandatory fine \$20)	\$65.00
Drug Abuse Marijuana (under 100 grams, fine \$81, \$94 Court Costs)	\$175.00
Disorderly Conduct (fine \$81, \$94 Court Costs)	\$175.00
Open Container (fine \$81, \$94 Court Costs)	\$175.00

**A third speeding violation within a one (1) year period requires a Court Appearance.**

*Appendix C*

**STATE OF OHIO:**

**IN THE CANTON MUNICIPAL COURT**

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**JOURNAL ENTRY**

**STARK COUNTY:**

**IN RE:**

**CIVIL COURT COSTS**

WE, the undersigned Judges of the Canton Municipal Court do hereby adopt and Order the following schedule of Civil Court Costs effective May 25, 2011 in accordance with Ohio Revised Code Section 1901.26. Notwithstanding any other rule of this Court, the Civil costs of the Canton Municipal Court shall be as follows:

1.	Complaint with U.S. mail service for a maximum of 2 defendants	100.00
	(Includes \$26. fee for legal aid, \$10. computer fee, and \$12. Capital Improvement Fee)	
	a) Each defendant (over 2)	15.00
	b) Complaint with personal or residence service (one location to be served)	100.00
	(Required on all eviction cases that utilize Bailiff for service)	
	c) Alias Amended Complaints (per defendant)	15.00
	d) Third Party Complaint (per defendant)	15.00
2.	Small Claims	60.00
	(Includes \$11. fee for legal aid, \$10. computer fee, and \$12. Capital Improvement Fee)	
	a) Each defendant (over 2)	15.00
	b) Alias Small Claims (per defendant)	15.00
	c) Post Judgment Financial Questionnaire	15.00
	d) Transfer to Regular Docket	40.00
3.	Aid in Execution - Wages	75.00
	a) Aid in Execution - Bank Attachments (includes \$1. garnishee fee)	40.00
	b) Personal Service of 15 Day Demand	20.00
4.	Cognovit Note (includes \$26. for Legal Aid and \$10. for computer fee)	100.00
5.	Replevin (includes personal service)	100.00
	a) Alias Replevin (certified mail)	15.00
6.	Debtor Exam (per individual named via certified mail or process server)	25.00
	a) Debtor Exam (per individual named personal service including one address)	40.00
	b) Show Cause Hearing (includes personal service)	40.00
	c) Contempt Arrest Warrant (includes \$10 Tech Fee & \$20 Sheriff's Fee)	85.00
7.	Bonds for Execution on automobiles, light equipment, household goods.	750.00
	a) Appraisers fee (3 required @ \$100.)	300.00

8. Bonds for Execution On RV'S, Buses, Commercial Vehicles and commercial/industrial heavy equipment.	1000.00
a) Appraisers fee (3 required @ \$100.)	300.00
9. Bailiff's Execution of cash drawer	50.00
10. Bailiff's Eviction Fee (advanced before bailiff will appear to supervise set out of defendant)	50.00
11. Certificate of Judgment from Other Court located <i>in</i> Stark County	40.00
c) Certificate of Judgment from Court <i>outside</i> of Stark County	100.00
12. Jury Demand (Advance Deposit)	200.00
d) Jurors (each - after being sworn in)	10.00
13. Photo copy (per page)	.25
14. Certified copy (per page)	1.00
15. Subpoena (each person named & served by certified mail)	15.00
a) Advanced deposit for each witness for ½ day	6.00
b) Advanced deposit for each witness for full day	12.00
16. Revivor	15.00
17. Certificate of Judgment (Includes \$10. Computer Fee and \$10. Capital Improvement Fee)	25.00
a) Certificate of Docket Entries (includes \$10 computer fee)	25.00
b) Exemplified Transcript	20.00
18. Certified Mail of any document	15.00
19. Personal Bailiff service of any document, including Subpoena	20.00
20. Computer Diskette of Docket Record	20.00
21. Computer Print out of Docket Entries (per case)	1.00
22. BMV Petitions - point, refusals, limited driving privileges etc.	100.00
a) Driving privilege renewal	30.00
23. Marriage Fee	75.00
24. Credit Card Convenience Fee (per transaction)	4.00

Said costs shall be payable in advance upon the institution of any proceeding unless the party instituting the same shall be allowed for good cause shown, by one of the Judges to institute his action without any payment of costs.

A reasonable charge for driving, towing, carting, storing, keeping and preserving motor vehicles, and other personal property recovered or seized in any proceeding shall be taxed as part of the costs in the trial of the cause.

All payments and deposits for costs in general shall be refunded when the same shall have been paid by the losing party.

*Appendix D*

STATE OF OHIO)

**IN THE CANTON MUNICIPAL COURT  
JOURNAL ENTRY**

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STARK COUNTY:)

**RE: BOND SCHEDULE**

- 1) The Judges of the Canton Municipal Court hereby order that the following Bond Schedule apply to all criminal and traffic cases where the defendant is booked into the Stark County Jail. This Bond Schedule replaces all other schedules and revisions thereafter.
- 2) This Bond Schedule is for bonding *PRIOR* to a Court appearance and where no bond has been fixed by a Judge prior to Court Appearance. After the Defendant has appeared before a Judge, the Bond shall be determined by the Judge and the Judge is not required to fix bond according to this schedule.

<u>FELONIES</u>	<u>AMOUNT</u>	<u>TYPE</u>	
Capital Offenses	None without hearing		
Felony - 1st Degree	\$50,000	Cash or Surety	
Felony - 2nd Degree	\$50,000	Cash or Surety	
Felony - 3rd Degree	\$25,000	Cash or Surety	
Violent Felony - 4 <sup>th</sup> Degree	\$25,000	Cash or Surety	
Non-Violent Felony - 4 <sup>th</sup> Degree			
Until further notice, bonds for 4 <sup>th</sup> and 5 <sup>th</sup> Degree Non-Violent Felonies shall be set pursuant to Paragraph #3 of this Entry			Non- Violent Felony - 5 <sup>th</sup> Degree      Violent Non-
Felony 1 or 2 Drug Offenses	\$100,000	Cash or Surety	
Felony 3 Drug Offenses	\$50,000	Cash or Surety	
Domestic Violence - F3	\$100,000 & No Contact	Cash or Surety	
Domestic Violence - F4	\$50,000 & No Contact	Cash or Surety	
Domestic Violence - F5	\$25,000 & No Contact	Cash or Surety	

**MISDEMEANORS**

Misdemeanor - 1st Degree	\$1,000	Cash, Surety or 10%
Misdemeanor - 2nd Degree	\$ 750	Cash, Surety or 10%
Misdemeanor - 3rd Degree	\$ 500	Cash, Surety or 10%
Misdemeanor - 4th Degree	\$ 250	Cash, Surety or 10%
Minor Misdemeanor	Own Recognizance	
<b>Unclassified Misdemeanor**</b>	<b>Own Recognizance</b>	
Domestic Violence - M1 & M2	\$10,000 & No Contact	Cash, Surety or 10%
Domestic Violence - <b>M3</b> & M4	<b>\$ 5,000</b> & No Contact	Cash, Surety or 10%

**\*\*Except for Third or More Conviction in 6 Years of ORC 4510.14 Driving Under OVI Suspension - Unclassified Misdemeanor which shall require same Bond as Misdemeanor of 1<sup>st</sup> Degree**

**Revised September 21, 2010 to add M3 and modify Bond to \$5,000 from \$2,500**

**PROTECTION ORDER VIOLATIONS**

- A) Individuals charged with violating a Temporary Protection Order issued out of any municipal court shall be required to post \$25,000 cash or surety bond prior to release.
  - B) Individuals charged with violating a Temporary Protection Order or Civil Protection Order issued out of any common pleas court shall be required to post a \$50,000 cash or surety bond prior to release.
- 3) On December 9, 2002, the Stark County Sheriff established a Release Procedure in order to maintain the inmate population at 501 persons. 501 is the maximum number of jail beds permissible based upon the staffing levels at he Stark County Jail and the staffing level requirements mandates by the state and federal guidelines.

Paragraph .02(B)(5) of the policy states:

"all fresh arrests of non-violent felony four and fives confined in the jail, or brought to the jail by an arresting or confining agency, shall be released on a \$2,500.00 unsecured Stark County Pretrial Release bond per Cr.R. 4(D) and Cr.R. 46(D) and are ordered to report to the Stark County Pretrial Release Officer in the appropriate court the next business day."

Prior to release, the Stark County Sheriff shall conduct a CCH record check on each defendant. If the record check reveals any of the following, the bond shall be set at \$25,000 cash or surety:

- a) two or more convictions of felonies of the 1st, 2nd or 3rd degree within the last four years;
- b) four or more convictions of non-violent felonies of the 4th or 5th degree within the last five years;
- c) release from any state penal institution for any conviction within the last twelve months;
- d) one or more convictions for any felony of violence within the last three years;
- e) any out-of-state conviction for a felony of the 1st, 2nd or 3rd degree within the last two years;
- f) any felony conviction for assault on a police officer regardless of date of conviction.

Persons charged with any felony offense, regardless of degree, under Chapter 2907: SEX OFFENSES or Chapter 2950 SEXUAL CLASSIFICATION; and persons charged with any felony offense, regardless of degree, under R.C. §4511.19: OPERATING A VEHICLE UNDER THE INFLUENCE OF ALCOHOL shall not qualify or be released pursuant to this paragraph; persons charged with a felony level violation of R.C. §2921.331 Failure to Comply With an Order or Signal of a Police Officer shall not be released pursuant to this paragraph.

- 4) In light of the Release Procedure established by the Sheriff, the Common Pleas Court, General Division, hereby authorizes the Sheriff of Stark County to set a \$2,500.00 unsecured Pretrial Release bond (costs waived) for all individuals described under paragraph 3 of the entry.
- 5) Individuals so released shall be ordered to appear at The Canton Municipal Court at 8:30 a.m. the next business day following their release. Said individuals shall report to the Stark County Pretrial Release Officer.

**BENCH WARRANTS**

Persons arrested on a Bench Warrant for Failure to Appear shall post a cash bond in the amount equal to the amount stated on the said Bench Warrant as set by the Clerk. **Surety or 10% will not be accepted.**

- 6) For persons on Probation or Parole or whose residence is OUTSIDE OF STARK COUNTY or who have NO KNOWN ADDRESS, the amount of the Bond for any given offense charged shall be **TWICE** the amount above (except as set out in paragraph 3).

IT IS SO ORDERED.

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Honorable Mary A. Falvey,  
Presiding & Administrative Judge

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Honorable Richard J. Kubilus, Judge

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Honorable John A. Poulos, Judge

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Honorable Stephen F. Belden

Date: 21 September 2010