

- Vandalia Municipal Court -

CASE MANAGEMENT

Rule 46.00

CASE MANAGEMENT IN 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 disposition of civil cases.
- B. **SCHEDULING:** The scheduling of events of a case begins when a civil case is filed. Thereafter, the case is managed in four (4) clerical steps and four (4) judicial steps.
- C. **CLERICAL STEPS:**
1. Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk of Courts shall notify counsel immediately. If counsel fails to obtain service of summons within five (5) months after the date the cause of action was filed, then the Clerk of Courts shall notify counsel that the case will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.
 2. After any responsive pleading is filed, the Clerk of Courts shall immediately forward said pleading and file to the Judge or Magistrate so that the matter may be set for pretrial or hearing once the issues are joined. All subsequent pleadings or filings shall be immediately sent to the Judge or Magistrate for review.
 3. If no action has been taken on a file for a five (5) month period and the case is not set for trial, then the Clerk of Courts shall notify the party that the matter will be dismissed for want of prosecution in not less than thirty (30) days unless good cause is shown to the contrary.
 4. When a file has been marked "Case Settled, Entry to follow" and the Entry has not been received within thirty (30) days, then the Clerk of Courts shall notify the party that the case will be dismissed unless the entry is received within ten (10) days after such notification; however, when a case is settled within the forty (40) days immediately preceding the scheduled trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this rule is subject to court approval.

D. **JUDICIAL STEPS:**

1. **PRE-TRIALS.** After the issues are joined, the Court will set a pretrial conference which shall be held in person unless otherwise specified by the Court.

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, or their attorney of record.

Notice of the pretrial conference shall be given by mail or telephone by the assignment commissioner not less than fourteen (14) days prior to the conference. Any Motion for continuance of the conference shall be addressed to the Judge or Magistrate to whom the case has been referred. Failure to attend a scheduled pretrial conference, without just cause being shown, may be punishable for contempt of Court.

Counsel attending the pretrial conference shall be prepared, and have authority, to stipulate items of evidence, and authority to settle the case, in accordance with the best interest of their respective clients.

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 an Entry which shall become part of the record, designating all stipulations, admissions and other matters which have come before it in the pretrial or, at the Court's discretion, may direct the parties to file same. The Court shall determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. This does not preclude a request by either party, at a later time, to file trial briefs.

The Judge or Magistrate shall have the authority: to dismiss an action for want of prosecution on motion of Defendant upon failure of counsel or a Plaintiff, if unrepresented, to appear as ordered at any pretrial conference; to order the Plaintiff to proceed with the case upon failure of the defendant to appear in person or by counsel at any pretrial conference as required; to make such other orders as the Court may deem appropriate under all the circumstances.

If a case cannot be settled at pretrial, it will be set for trial.

2. MOTIONS: All Motions must be in writing and accompanied by a written memorandum containing citations of law and the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days after the Motion is filed. All motions will be deemed submitted at the end of said fourteen (14) day period unless time is extended by the Court.

There will be no oral hearings granted on motions unless mandated by law, or unless a party requests an oral hearing in writing and the Court deems it necessary.

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

MOTIONS MADE FOR CONTINUANCE DUE TO SCHEDULING CONFLICTS WITH ANOTHER COURT OF RECORD MUST HAVE ATTACHED A COPY FROM SAID COURT OF THE SCHEDULING NOTICE WHICH SET THE MATTER IN CONFLICT. 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 Judge or Magistrate may require the trial attorney to provide a substitute trial attorney.

4. JUDGMENT ENTRIES: Counsel for the party in whose favor an order or judgment is rendered shall prepare an appropriate Entry and submit it to the Court within fifteen (15) days of the decision.

Entries of settlement may be filed at any time; however, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this step is subject to court approval.

Rule 47.00 CASE MANAGEMENT IN SPECIAL PROCEEDINGS

- A. PURPOSE: The purpose of this rule is to establish, pursuant to M.C. Sup. R. 18, 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, rent escrow, replevin, citations in contempt, garnishment hearings, debtor's exams and license suspension hearings.

- B. SCHEDULING: The scheduling of events in cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.
- C. CLERICAL STEPS:
1. In all new cases, if counsel fails to obtain service of summons within five (5) months, the Clerk of Courts shall notify counsel that the case will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.
 2. After any responsive pleading is filed (if applicable), the Clerk of Courts shall immediately forward said pleading and file to the Judge or Magistrate so that the matter may be set for hearing.
 3. If no action has been taken on a file for a five month period and the case is not set for trial, the Clerk shall notify the party or his attorney of record that the matter will be dismissed in not less than thirty (30) days unless good cause is shown to the contrary.
 4. When a file has been marked "Case settled, Entry to follow," and the Entry has not been received within thirty (30) days , the Clerk shall notify the party or his Attorney of record that the case will be dismissed unless the Entry is received within ten (10) days after such notification; however, when a case is settled within the forty (40) days immediately preceding the scheduled trial date, the avoidance of trial by settlement shall be allowed only upon submission of an Agreed Judgment Entry before commencement of the trial, or by placing the agreement on the record on the scheduled date for trial. Variance to this step is subject to court approval.

Rule 48.00

CASE MANAGEMENT IN CRIMINAL CASES

- A. PURPOSE: 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 are to be applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.
- B. SCHEDULING: Scheduling begins after arraignment. Thereafter, the case is managed in four (4) judicial steps.
- C. JUDICIAL STEPS:
1. PRE-TRIALS: After arraignment, all first, second, third and fourth degree misdemeanors shall be set, at the Court's discretion, for pretrial by the assignment commissioner within thirty (30) days. All minor misdemeanors shall be set for trial, unless a pretrial is requested in writing.

The pretrial shall be conducted in accordance with Criminal Rule 17.1. Failure of an attorney to appear for pretrial without just cause being shown, may be punishable for contempt of court.

If the parties cannot resolve the case, the case shall be set for trial to the Court unless, in accordance with Crime. R. 23, a jury trial is demanded.
 2. MOTIONS: All Motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel and citations of law. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. Oral hearings will be scheduled only on request of one of the parties or at the instruction of the court. Motions untimely filed shall be summarily overruled.

3. TRIALS: Cases not resolved at pretrial will be set for trial to the Court. If a written jury demand is timely filed, the case will be moved to the jury trial schedule. All attorneys shall notify the Court by 1:00 p.m. on or before the day preceding their jury trial of any change in plea. The last jury case cancelled will be charged jury fees.
4. SENTENCING: Sentencing hearings shall be set within thirty (30) days of conviction if no pre-sentence report is requested. After the court receives the probation report, the Court will set the matter for sentencing within forty-five (45) days.

Rule 49.00
JURY MANAGEMENT

- A. OPPORTUNITY FOR SERVICE: The selection of jurors should not be denied or limited on 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.
- B. JURY SOURCE LIST: The method for the selection of jurors is outlined by the laws of the State. Actual jurors are drawn under those laws by a jury commission under the supervision of the Court.

Choice of individuals is by lot or chance. This means that some may never be called upon to exercise the privilege of serving, while others may be called several times.

- C. EXEMPTION, EXCUSE AND DEFERRAL: Reasons for Exemption, excuse and deferral include:
 1. Statutory exemptions
 2. Ability to receive and evaluate information is so impaired that they are unable to perform jury duty.
 3. Service would be a continuing hardship to them or to members of the public.
 4. Request for excuse or deferrals should be written or recorded. O.R.C. 2313.15.
 5. Other exemptions may include: Firefighters and Military Personnel.
- D. ELIGIBILITY FOR JURY SERVICE: All persons in jurisdiction should be eligible for jury service except those:
 1. Less than 18 years of age
 2. Not a U.S. Citizen
 3. Not a resident of jurisdiction
 4. Not able to communicate in English
 5. Have been convicted of felony and not had their civil rights restored.

E. VOIR DIRE

1. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

2. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.
3. The Trial Judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
4. 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.
5. 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.

F. 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.

G. PEREMPTORY CHALLENGES:

1. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
2. 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.
3. In criminal cases, the number of peremptory challenges should not exceed three (3) for each side and one (1) additional peremptory challenge for the empanelling of one (1) alternate juror.
4. In criminal and civil proceedings each side should be allowed one (1) peremptory challenge if an alternate juror is impaneled.

H. ADMINISTRATION OF THE JURY SYSTEM:

1. All procedures concerning jury selection will be governed by Ohio Rules of Court and responsibility for administering the jury system will be vested in a single administrator.
2. The notice summoning a person to jury service will explain how and when the recipient must respond and the consequences for failure to respond.
3. The Court will evaluate its jury performance on a regular basis.
4. The Court will employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
5. The Court will determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust the number of individuals summoned for jury panels.

I. JURY FACILITIES:

1. The Court will provide an adequate and suitable environment for jurors with the entrance and registration area clearly identified and pleasant waiting facilities furnished with suitable amenities.

2. The jury deliberation room will include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured and the facilities arranged to minimize contact between jurors, parties, counsel and the public.

J. JURY COMPENSATION:

1. Persons called for jury service will receive a reasonable fee for their service and expenses: \$10.00 if excused; \$15.00 if seated, plus meals. The fee will be paid promptly through the Auditor's Office from Montgomery County, Ohio.
2. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

K. JUROR ORIENTATION AND INSTRUCTIONS

1. Each prospective juror will receive an orientation program through written material and verbal information provided by the Court. The program is designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors.
2. The Court will provide orientation and instructions to persons called for jury service:
 - a. Upon initial contact prior to service;
 - b. Upon first appearance at the court; and
 - c. Upon reporting to a courtroom for voir dire.
3. The Trial Judge will:
 - a. Give preliminary instructions to all prospective jurors.
 - b. 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 principles.
 - c. 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;
 - d. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
 - e. Recognize utilization of written instructions if preferable.
 - f. Before dismissing jurors at the conclusion of a case:
 - i. Release the jurors from their duty of confidentiality;
 - ii. Explain their rights regarding inquiries from counsel or the press;

- iii. Either advise them that they are discharged from service or specify where they must report; and
 - iv. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
4. 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.

L. JURY SIZE, UNANIMITY OF VERDICT AND DELIBERATIONS.

- 1. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.
- 2. Jury deliberations will take place under conditions and pursuant to procedure that are designed to ensure impartiality and to enhance rational decision-making.
- 3. The Judge will instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard K3.
- 4. The deliberation room should conform to the recommendations set forth in Standard I2.
- 5. A jury should 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 interest of justice.
- 6. Training will be provided to personnel who escort and assist jurors during deliberation.