

**INDEX TO MARION MUNICIPAL COURT RULES AS OF January 1, 2016**

**GENERAL RULES**

Rule 1.01	Adoption, Scope and Construction of Rules .....	(1/95)	1
Rule 1.03	Hours of Court .....	(1/98)	2
Rule 1.05	Pleadings, Files and Papers .....	(1/98)	2
Rule 1.07	Custody of Files.....	(1/98)	2
Rule 1.09	Computation of Time.....	(1/95)	3
Rule 1.11	Attorneys Entry of Appearance and Withdrawal of Counsel .....	(1/95)	3
Rule 1.13	Media Coverage of Court Proceedings.....	(1/95)	3
Rule 1.15	Videotaped Testimony and Evidence .....	(1/99)	5
Rule 1.17	Certificate of Service .....	(1/99)	5
Rule 1.19	Jury Standards .....	(1/99)	5
Rule 1.21	Disposition of Old Case Files .....	(1/99)	6
Rule 1.23	Local Court Security Advisory Committee .....	(1/99)	6

**CIVIL RULES OF PRACTICE AND PROCEDURE**

Rule 2.01	Filing of Judgment Entries.....	(1/95)	7
Rule 2.03	Rule Days Not Fixed by Law .....	(1/95)	7
Rule 2.05	Notice of Application for Default Judgment.....	(1/95)	7
Rule 2.07	Withdrawal of Counsel in Civil Case .....	(1/95)	7
Rule 2.09	Submission of Motions .....	(1/95)	8
Rule 2.11	Temporary Restraining Orders.....	(1/95)	8
Rule 2.13	Case Management and Pretrial Procedures.....	(1/95)	9
	Part I: Case Management Conference .....	(1/95)	9
	Part II: Final Pretrial Conference.....	(1/95)	10
Rule 2.15	Assignment of Civil Cases for Trial .....	(1/95)	10
Rule 2.17	Dismissal of Cases.....	(1/95)	11
Rule 2.19	Discovery.....	(1/95)	12
Rule 2.21	Civil Court Costs.....	(12/12)	13
Rule 2.23	Court Magistrates .....	(1/96)	16
Rule 2.25	Cognovit Judgments .....	(1/96)	16
Rule 2.27	Small Claims Cases - Special Provisions .....	(1/96)	17
Rule 2.29	Forcible Entry and Detainer Cases .....	(1/00)	17
Rule 2.31	Garnishments .....	(2/01)	18
Rule 2.33	Execution Sales.....	(1/95)	18
Rule 2.35	Judgment Debtor Examinations.....	(2/01)	19
Rule 2.37	Cancellations and Releases.....	(2/01)	19
Rule 2.39	Requirements to Use O.R.C. 2703.20 .....	(2/01)	19

**CRIMINAL AND TRAFFIC RULES OF PRACTICE AND PROCEDURE**

Rule 3.01	Criminal Complaints by Private Individuals .....	(1/98)	20
Rule 3.03	Entry of Appearance by Counsel .....	(1/98)	20
Rule 3.05	Inactive Criminal and Traffic Cases .....	(1/98)	20
Rule 3.07	Forfeiture of Driver's License for Failure to Appear .....	(1/95)	21
Rule 3.09	Search Warrants .....	(1/95)	21
Rule 3.11	Bail.....	(1/95)	21

Rule 3.13	Court Appointed Counsel.....	(9/05)	22
Rule 3.15	Pretrials and Scheduling .....	(1/98)	23
Rule 3.17	Continuance of Criminal or Traffic Case.....	(1/98)	23
Rule 3.19	Dismissals .....	(1/98)	24
Rule 3.21	Criminal and Traffic Case Court Costs .....	(12/12)	25
Rule 3.23	Withdrawn .....	(1/98)	26
Rule 3.25	Search Warrants .....	(1/98)	26
Rule 3.27	Use of Electronically Produced Ticket.....	(10/14)	27
Rule 3.29	Use of Electronic Statistical Reporting .....	(1/16)	27

**INDEX TO MARION MUNICIPAL COURT RULES AS OF January 1, 2016 CONT'D**

**MEDIATION**

Rule 4.01	Definitions.....	(1/07)	28
Rule 4.03	Purpose .....	(1/07)	28
Rule 4.05	Case Selection .....	(1/07)	28
Rule 4.07	Procedures .....	(1/07)	29
Rule 4.09	Fees and Costs .....	(1/07)	30
Rule 4.11	Sanctions.....	(1/07)	30

**SPECIAL DOCKETS AND PROGRAMS**

Rule 5.01	Traffic Safety Program .....	(2/12)	31
Rule 5.02	Veterans Treatment Court. ....	(10/14)	32
Rule 5.03	Mental Health Court.....	(10/14)	33
Rule 5.05	Medication Assisted Recovery Court . . . . .	(10/14)	34

## **GENERAL RULES**

### **RULE 1.01**

#### **ADOPTION, SCOPE AND CONSTRUCTION OF RULES**

(a). The Marion Municipal Court adopts the following Rules for the conduct, government, and management of business, operations, proceedings and other functions and services of Court. The Court may amend and supplement the Rules from time to time.

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

(c). The Rules shall be applied, construed and enforced so as to avoid inconsistency with other Rules of Court and statutes governing proceedings, functions and services of this Court. In their application and administration, they shall be construed and employed so as to provide fairness and simplicity in procedure, to avoid technical and unjustifiable delay, and to secure just, expeditious and inexpensive determination of all actions and proceedings.

(d). These Rules shall apply to all parties, counsel of record and subject matter of all actions, civil, criminal, or traffic filed on and after the effective date hereof, and also shall apply to all parties, counsel of record and subject matter of all actions pending before the Court on the date hereof, except to the extent that in the opinion of the Court their application in a particular action pending when the Rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(e). These Rules shall take effect on the 18th day of February, 1991, and after such Rules are filed with the Supreme Court of Ohio in accordance with Civil Rule 83 and Criminal Rule 57.

(f). All former Rules of this Court are repealed as of the effective date hereof.

(g). Amendments and additions hereto may be made from time to time, but such amendments shall not be effective until filed with the Supreme Court of Ohio in accordance with Civil Rule 83 and Criminal Rule 57.

### **RULE 1.03**

#### **HOURS OF COURT**

The hours for holding the regular sessions of the Court shall be from 9:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:30 p.m. unless varied by the Judge. Unless counsel are otherwise advised, cases will be set for trial at the regular session hours.

### **RULE 1.05**

#### **PLEADINGS, FILES AND PAPERS**

(a). All pleadings and motions shall be legibly typewritten or printed on paper of letter size (8-1/2" by 11"). The caption in every Complaint shall state the name and address, if known, of each party. Subsequent pleadings and motions shall state the number of the case, the name of the first party Plaintiff and the first party Defendant on each side. Every pleading, motion, brief or other papers filed in a cause shall be identified by title and shall bear the name and attorney registration number (written, typewritten or printed) of the individual attorney, the firm, if any, office address and telephone number of counsel filing the same, or, if there is not counsel, then of the party filing the same.

(b). Pleadings and motions may be amended as provided in Civil Rule 15, but no pleading or motion shall be amended by interlineation or obliteration except upon leave of Court first obtained. Upon the filing of an amended pleading or motion, the original or any prior amendment thereof shall not be withdrawn from the files except upon leave of Court.

(c). Filings by facsimile transmission shall be permitted for all papers allowed to be filed pursuant to Rule 5(A) of the Ohio Rules of Civil Procedure, except for original Complaints or pleadings asserting new or additional claims for damages. If a filing is found to have been transmitted without authority, the filing will be stricken pursuant to Rule 5(E) of the Ohio Rules of Civil Procedure. Filings received after 4:30 p.m. will be file-stamped as received the next following Court day. Filing fees as provided in Rule 2.21 are to be received within three Court days of the date of transmission.

(d). In civil cases, the attorney who is to try the case shall be designated as trial attorney on all pleadings.

### **RULE 1.07**

#### **CUSTODY OF FILES**

The Clerk of this Court shall be responsible for all records belonging to her office and all papers filed therein. In no instance shall the original papers in any case or any part of said papers be removed from the Clerk's custody, except for the use of the Court.

## **RULE 1.09**

### **COMPUTATION OF TIME**

In addition to the provisions of Rule 6(E) of the Ohio Rules of Civil Procedure, and Rules 4 and 5(E) of the Ohio Rules of Criminal Procedure, whenever a party has a right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him or her and the notice or paper is served upon him or her by the Courthouse mailbox system maintained at the Marion County Courthouse, three days shall be added to the prescribed period.

This subdivision does not apply to responses to service of summons under Rule 4 and Rule 4.6 of the Ohio Rules of Civil Procedure, or responses to service of summons under Rules 4 and 9 of the Ohio Rules of Criminal Procedure.

## **RULE 1.11**

### **ATTORNEYS ENTRY OF APPEARANCE AND WITHDRAWAL OF COUNSEL**

(a). All entries of appearance of counsel in any action shall be in writing. In civil cases, entry of appearance by counsel may be effected by signature of counsel on a pleading, motion or letter to the Court. In criminal cases, entry of appearance by counsel shall be on a form provided by the Court, by letter to the Court, or by a notice filed with the Court signed by counsel. Until an entry of appearance properly made and signed by counsel has been filed, counsel shall not be entitled to appear at any proceeding in the action, except for Court-appointed counsel in criminal cases.

(b). It is contemplated that counsel who has entered an appearance in the case shall remain in the case until it is concluded. However, upon written motion for leave to withdraw from the action and for good cause shown, the Court may permit counsel to withdraw. Rule 2.07 states the procedure to be used for withdrawal of counsel in civil cases. Rule 3.03(c) states the procedure to be used for withdrawal of counsel in criminal and traffic cases.

## **RULE 1.13**

### **MEDIA COVERAGE OF COURT PROCEEDINGS**

(a). Requests for permission to broadcast, televise, photograph, or otherwise record proceedings in the Courtroom shall be made in writing to the Judge. Such applications 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 may waive the advance notice provision for good cause shown. Applications shall contain all of the information found in Appendix B, attached to these Rules. All applications shall become part of the record of the proceedings.

(b). Pursuant to Canon 3(A) of the code of Judicial Conduct, and Rule 9 of the Rules of Superintendence for Municipal and County Courts, the Judge shall grant the request and record that permission in writing. In the event that a question arises as to whether the requested coverage is consistent with Canon 3(A)(7)(ii), interested representatives of the media shall select one of their number to represent them and shall be granted an opportunity to be heard.

(c). All media representatives interested in recording Courtroom proceedings shall do so through the pooling of their respective resources. Local media representatives shall select a Pool Coordinator who shall take responsibility for (A) placing and operating stationary cameras inside the Courtroom, (B) placing and operating all audio equipment, and (C) making the technical arrangements necessary for feeding the output from this equipment to all participating stations at a location outside the Courtroom. Where possible, the Pool Coordinator shall consult with the Court in advance about possible camera and/or microphone locations inside the Courtroom.

(d). Unless otherwise directed by the Judge, no more than one video camera shall be used in the Courtroom. Each camera shall have one operator. No artificial lighting other than that normally used in the Courtroom shall be used without expressed permission of the Judge.

Media representatives shall be afforded a clear view of proceedings in the Courtroom but shall not be permitted to move about in the Courtroom during the Court proceedings except for reasonable ingress to and egress from the Courtroom. No interviews shall be conducted inside the Courtroom during such proceedings.

(e). If the Courtroom has an existing audio system that is technically satisfactory for broadcast purposes, the media pool shall utilize this system. If no such system is available, the pool shall place microphones and wiring as unobtrusively as possible after initial consultation with the Judge. Only one audio system is permitted in each Courtroom. Where time does not permit set-up of an audio system, the pool may utilize a recording device with built-in microphone provided the Judge gives permission for this equipment.

(f). There shall be no audio pick-up of conferences conducted in a Court facility between attorneys and client or co-counsel, or of conferences conducted at the bench between counsel and the Judge. The filming, video-taping, recording or taking photographs of victims or witnesses who object thereto shall not be permitted. The filming, video-taping, recording or taking photographs of jurors shall not be permitted in any circumstance. Proper Courtroom decorum shall be maintained by all in the Courtroom.

**RULE 1.15**

**VIDEOTAPED TESTIMONY AND EVIDENCE**

(a). If a videotaped deposition does not fully comply with the requirements of Rule 13 of the Rules of Superintendence for the Courts of Ohio, a written transcript of the deposition shall be filed when the video tape is filed.

(b). It shall be the responsibility of the party submitting video taped testimony and evidence to notify the Court of intended use one week prior to trial; ensure the necessary equipment will be available; and provide other equipment, and a projectionist if necessary.

**RULE 1.17**

**CERTIFICATE OF SERVICE**

Every pleading, motion, brief, memorandum or argument in writing filed with the Court shall be served upon all opposing counsel or upon all parties not represented by counsel, and proof of such service in writing shall be shown on or attached to such pleading, motion, brief, memorandum or argument in writing. No such paper delivered to the Court without such certificate of service shall be considered by the Court except trial briefs where it has been agreed by counsel that they shall not be exchanged.

**RULE 1.19**

**JURY STANDARDS**

(a). The names of potential jurors shall be drawn from a jury source list by the Jury Commissioners of Marion County, as provided in Chapter 2313 of the Ohio Revised Code.

(b). Potential jurors drawn from the jury source list by the Jury Commissioners shall be available to be called for duty as jurors over a four month period.

(c). When a juror has performed duties after being sworn as a juror or alternate juror in a trial, said juror shall be removed from the prospective juror list for the remainder of the four month period of jury availability.

(d). Prospective jurors who wish to be excused from jury duty must make such request in writing, or make such a request in person in open Court, unless exigent circumstances exist which make these methods of request impractical.

(e). Prospective jurors who are summoned for service in a jury trial may be excused from jury service only if 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 the Judge, or the prospective jurors 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 by the authorized official of this Court. Prospective jurors may also be excused from jury duty if such exemption is permitted by the Ohio Revised Code.

(f). The Court shall prepare a notice summoning a prospective juror to jury service, containing a questionnaire which is to be filled out by the prospective juror and returned to this Court. The summons and questionnaire shall be contained in the same document. The jury questionnaires shall be forwarded from the Court to counsel scheduled for jury trial at the time the voir dire list is sent from the Court to counsel.



**RULE 1.21**

**DISPOSITION OF OLD CASE FILES**

Pursuant to Section 1901.41 of the Ohio Revised Code and Rules 26 and 26.05 of the Rules of Superintendence for the Courts of Ohio, this Court, from time to time, may Order the destruction or other disposition of case files of this Court which have been finally disposed of for a period of 15 years or more prior to the date of the Order providing for the destruction or other disposition of said case files.

**RULE 1.23**

**LOCAL COURT SECURITY ADVISORY COMMITTEE**

Pursuant to the Rules of Superintendence for the Courts of Ohio, Rule 9, the Court establishes as follows:

The Court has appointed a Local Security Advisory Committee, consisting of one representative of each of the following groups: judge, law enforcement responsible for court security, Marion City Council, and other bar and community groups as deemed appropriate by the Court.

The Court shall implement a local Security Policy and Procedure Plan which plan shall address the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

The Local Court Security Advisory Committee shall adopt a Security Operations Manual, which manual shall establish written directives for the purpose of ensuring security within the Court while maintaining accessibility to the community.

# **CIVIL RULES OF PRACTICE AND PROCEDURE**

## **RULE 2.01**

### **FILING OF JUDGMENT ENTRIES**

The filing of a judgment entry by the Court with the Clerk for journalization constitutes entry of the judgment.

## **RULE 2.03**

### **RULE DAYS NOT FIXED BY LAW**

In all cases where the time for the filing of a pleading or amended pleadings is not fixed by law or another Rule, the pleading or amended pleading shall be filed on or before the fourteenth day after the date of the entry requiring or granting leave for the filing of such pleading or amended pleading unless otherwise specified in the entry and approved by the Court. The opposition party shall move or plead to the pleading or amended pleadings so filed on or before the fourteenth day after such pleading or amended pleading is filed.

## **RULE 2.05**

### **NOTICE OF APPLICATION FOR DEFAULT JUDGMENT**

Judgment by Default shall be taken in accordance with Civil Rule 55. A person shall have "appeared in the action" as those words are used in Civil Rule 55(A) when he has filed in Court any answer, motion or other paper on behalf of the party whom he represents or by filing written notice of his appearance in the action and serving a copy thereof on all parties of record. Writing a letter to the Court does not constitute an appearance, unless it is an Entry of Appearance letter by counsel pursuant to local Rule 1.11. No notice of any application or motion for judgment by default shall be required of any party to be made on any party not having previously appeared in the action. Signing the docket of the Clerk of this Court shall not constitute an appearance for the purpose of this Rule.

## **RULE 2.07**

### **WITHDRAWAL OF COUNSEL IN CIVIL CASES**

In addition to the requirements relating to withdrawal of counsel set forth in Local Rule 1.11(b), in civil cases, application for leave to withdraw as attorney of record shall be made by written motion filed with the Clerk of this Court, with copies served upon all other attorneys of record, or parties, if unrepresented, in the cause in accordance with Civil Rule 5 and these Rules. Said motion shall be heard normally within ten (10) days of filing by the Court. Written notice of such application shall be given to the client of such attorney of record seeking to withdraw, by certified mail, return receipt requested, stating the time when such application will

7.

be made.

If such application is granted and the client does not appear at such hearing, the attorney of record, if permitted to withdraw, shall notify such client by certified mail, return receipt requested, to secure a new attorney of record within such time as may be designated by the Court. A copy of such notice, together with the order authorizing withdrawal and the certified mail, return receipt requested, shall be filed and docketed in the cause.

## **RULE 2.09**

### **SUBMISSION OF MOTIONS**

(a). Motions, in general, shall be submitted and determined upon the motion papers. Oral arguments of motions may be permitted on application and proper showing.

(b). The moving party shall serve and file with the motion a brief written statement of reasons in support of the motion and authorities relied upon. If the motion requires consideration of facts not appearing of record, the movant shall serve and file copies of all affidavits, depositions, photographs or documentary evidence which the movant desires to submit in support of the motion.

(c). Each party opposing the motion, shall serve and file within fourteen (14) days thereafter, a brief written statement of reason in opposition to the motion and the authorities which are relied upon. If the motion requires the consideration of facts not appearing of record, the respondent shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence which the respondent desires to submit in opposition to the motion.

(d). Reply or additional briefs upon motions and submissions may be filed with leave of the Court only upon a showing of good cause.

## **RULE 2.11**

### **TEMPORARY RESTRAINING ORDERS**

Motions for temporary restraining orders, temporary injunctions, or for similar urgent equitable relief shall be submitted to the Court at a time to be fixed by the Clerk of this Court with the concurrence of the Judge. Notice of the time and place of such hearing shall be served upon the adverse party or his counsel and no such matter shall be heard ex parte unless from affidavits filed with the motion the Court determines that extraordinary undue hardship would result to the moving party by any delay in proceedings. Even when the order is issued ex parte as provided herein, a hearing on the continuance of such order shall be scheduled and held after notice provided herein. Evidence upon any such hearing shall be in the form of affidavits or depositions which must be filed in advance of the hearing or submission. No oral testimony shall be permitted upon any such motion unless the Court for good cause otherwise directs.

## **RULE 2.13**

### **CASE MANAGEMENT AND PRETRIAL PROCEDURE**

For the purpose of insuring the readiness of cases for pretrial and trial, the following procedures shall be in effect.

Within ninety (90) days after suit is filed, the case shall be set by the Court for a case management conference to establish case management procedures to prepare the case for an effective final pretrial, if necessary, and trial. At that time, the Court will take appropriate action on the service, leaves to plead, time limitations for discovery, scheduling a date for a pretrial hearing, if necessary, and any other steps warranted under the circumstances.

A case management conference shall be conducted in all civil cases prior to being scheduled for trial, except in actions for forcible entry and detainer, including land contract forfeitures, and small claims actions.

#### **PART I: CASE MANAGEMENT CONFERENCE**

(a). The case management conference shall be conducted in person. All counsel attending must have full authority to enter into a binding case management order. Parties represented by counsel shall not be required to be present.

(b). Notice of the case management conference shall be given to all counsel of record and unrepresented parties who have entered an appearance, by mail and/or telephone from the Court not less than fourteen (14) days prior to the conference.

(c). The following decisions shall be made at the case management conference and all counsel and unrepresented parties attending must have full authority to enter into a binding case management order:

(1). Anticipated factual and legal issues in dispute.

(2). A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.

(3). A definite date for the filing of all motions, which date shall not be later than seven (7) days before the final pretrial conference, if any, or twenty-eight (28) days before the scheduled trial date, if no final pretrial conference is scheduled.

(4). The date for the final pretrial conference, if any, shall be set by the Court. If there is no final pretrial conference, the date for trial will be set by the Court.

(d). At the conclusion of the case management conference, a case management order may be prepared.

## **PART II: FINAL PRETRIAL CONFERENCE**

(a). The purpose of this conference is to effect an amicable settlement, if possible, to narrow factual and legal issues by stipulation or motions, and to set a date certain for trial.

(b). All plaintiffs must be present or, with permission of the Court, be available by telephone with full settlement authority. Each Defendant or a representative of each Defendant must be present or, with permission of the Court, be available with full settlement authority. If the real party in interest is an insurance company, common carrier, corporation, or other artificial legal entity, then the chosen representative must have full authority to negotiate the claim to the full extent of Plaintiff's demand. Plaintiff's demand must be submitted to counsel for Defendant at least fourteen (14) days prior to the final pretrial conference.

(c). Counsel attending the conference must have complete authority to stipulate on items of evidence and admissions.

(d). If the Court concludes that the prospect of settlement does not warrant further Court supervised negotiations, then the Court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to facts and controversy and, in general, to shorten the time and expense of trial. The Court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions and other matters which come before it. The Court shall determine at that time whether trial briefs should be submitted and fix a date when they are to be filed.

(e). Each party shall be prepared to discuss the following issues: (1) The factual and legal issues in dispute; (2) stipulations; (3) special legal problems anticipated; (4) estimated length of trial; (5) pretrial motions contemplated.

(f). A trial date shall be set by the Court after the final pretrial.

### **RULE 2.15**

## **ASSIGNMENT OF CIVIL CASES FOR TRIAL**

(a). Trials of criminal cases are to take precedence.

(b). Written notice of the pretrial and trial assignments will be mailed by mail to all counsel of record or parties, if not represented.

(c). The commitments of attorneys in any state Court of record, the U.S. District Courts or U.S. Bankruptcy Court shall be honored by this Court when considering the setting of trial dates.

(d). Attorneys with larger than average caseloads may, upon notification by the Court, be required to submit detailed calendar information on any regular basis and to comply with other orders that may promote the orderly and timely disposition of his or her caseload.

(e). When a jury has been demanded in a civil case and when pretrial has been held, the required \$200.00 security deposit shall be made within two (2) weeks after the pretrial. If no pretrial is held, the security deposit is due within two (2) weeks of the case management conference. Absent such deposit at such time the jury will not be called, and the jury demand will be deemed waived.

(f). Motions for continuance must be in writing and shall contain the reasons for the request for continuance. A copy of such motion shall be served forthwith on all counsel of record. Any continuance shall be granted by the Court in conformity with the requirements of Rule 16 of the Rules of Superintendence for Municipal and County Courts.

(g). When a case which has been assigned for trial is settled, counsel for the parties seeking affirmative relief shall immediately notify the Court and prepare a judgment entry.

(h). If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the Court may enter an order dismissing the claim for relief for want of prosecution. If a Defendant, either in person or by counsel, fails to appear for trial, and the party seeking affirmative relief does appear, the Court may order such party to proceed with the case and decide and determine all matters ex parte.

(i). If a party or counsel appears for trial but shows good cause as to why he is not ready for trial, the Court shall make such order or orders as it deems proper. If a party or counsel appears for trial but indicates that he is not ready for trial without showing good cause for his unreadiness, the Court, if such party is one seeking affirmative relief, may enter an order dismissing the claim for want of prosecution, or if a party defending the claim, order the party seeking relief to proceed with the case, determining all matters ex parte.

**RULE 2.17**

**DISMISSAL OF CASES**

(a). The Court shall quarterly review all civil cases pending on the Court's civil docket, except cases awaiting trial assignment. Cases which have been on the docket for six (6) months without any proceedings taken, shall, after notice, be dismissed for want of prosecution unless good cause be shown to the contrary.

(b). The Court may make such orders as may facilitate the prompt and just disposition of any action.



**RULE 2.19**

**DISCOVERY**

- (a). The Court may order discovery to be completed at a fixed time prior to the trial date.
- (b). Counsel shall freely exchange discoverable information and documents upon formal request.
- (c). Withdrawn effective 1/1/95.

**RULE 2.21**

**COSTS**  
**CIVIL COURT COSTS**

**Effective January 1, 2014**

<b>COMPLAINT - REGULAR CASES, EVICTIONS OR REPLEVINS .....</b>	<b>\$100.00</b>
Filing Complaint, Issuance of Summons for either personal, residence or certified mail service - up to 3 Defendants	
Additional cost per Defendant thereafter.....	5.00
<b>ALIAS SUMMONS .....</b>	<b>20.00</b>
Personal, Residence or Certified Mail Service - up to 3 Defendants	
Additional cost per Defendant thereafter.....	5.00
<b>THIRD PARTY COMPLAINT, ANSWER &amp; COUNTERCLAIM, ANSWER &amp; CROSSCLAIM .....</b>	<b>30.00</b>
Filing Complaint, Issuance of Summons for either personal, residence or certified mail service	
<b>AMENDED COMPLAINT .....</b>	<b>50.00</b>
If an Amended Summons needs to be issued for either personal, residence or certified mail service - up to 3 Defendants	
<b>SMALL CLAIMS .....</b>	<b>55.00</b>
Filing Complaint, Issuance of Summons for either personal, residence or certified mail service - up to 3 Defendants	
Additional cost per Defendant thereafter.....	5.00
<b>SMALL CLAIM ANSWER &amp; COUNTER CLAIM .....</b>	<b>10.00</b>
<b>MOTION TO TRANSFER SMALL CLAIMS TO CIVIL DOCKET .....</b>	<b>20.00</b>
(\$5.00 FOR MOTION, \$15.00 DIFFERENCE IN LEGAL AID)	
<b>SMALL CLAIMS TRIAL .....</b>	<b>20.00</b>
<b>TRANSFER OF SMALL CLAIMS TO CIVIL DOCKET .....</b>	<b>20.00</b>

<b>CERTIFIED COPY OF JUDGMENT OR OTHER COURT DOCUMENTS .....</b>	<b>5.00</b>
<b>AUTHENTICATED JUDGMENT .....</b>	<b>10.00</b>
<b>CERTIFY JUDGMENT TO BMV .....</b>	<b>5.00</b>
<b>JUDGMENT DEBTOR'S EXAM.....</b>	<b>40.00</b>
<b>CONTEMPT - SHOW CAUSE - BENCH WARRANT .....</b>	<b>30.00</b>
<b>OBJECTION TO MAGISTRATES DECISION .....</b>	<b>2.00</b>
<b>JURY DEMAND DEPOSIT .....</b>	<b>20.00</b>
<b>COURT REPORTER .....</b>	<b>20.00</b>
<b>CALLING JURY .....</b>	<b>20.00</b>
<b>SWEARING JURORS @ \$1.00 EACH .....</b>	<b>8.00</b>
<b>NOTIFYING 30 JURORS .....</b>	<b>60.00</b>
<b>9 JURORS @ \$15.00 PLUS MILEAGE .....</b>	<b>135.00</b>
<b>VERDICT OF JURORS .....</b>	<b>2.00</b>
<b>JURY TRIAL DEPOSIT (SEE LOCAL RULE 2.15(E)).....</b>	<b>200.00</b>
<b>WRIT OF RESTITUTION .....</b>	<b>50.00</b>
<b>TRIAL .....</b>	<b>20.00</b>
<b>REVIVOR OF JUDGMENT .....</b>	<b>40.00</b>
<b>COGNOVIT NOTE .....</b>	<b>90.00</b>
Plus Separate Check to Attorney for Answer..... (Includes all Notices)	5.00
<b>CERTIFICATE OF JUDGMENT - TRANSFER OR LIEN .....</b>	<b>20.00</b>
<b>FILING CERTIFICATE OF JUDGMENT TRANSFERRED FROM FOREIGN COUNTY TO MARION COUNTY .....</b>	<b>10.00</b>
<b>GARNISHMENT - WAGE .....</b>	<b>60.00</b>

<b>RECEIPT OF GARNISHMENT PAYMENT FROM GARNISHEE .....</b>	<b>5.00</b>
<b>GARNISHMENT - THIRD PARTY (NON-WAGE GARNISHMENT).....</b> <b>(PLUS \$1.00 SEPARATE CHECK TO GARNISHEE)</b>	<b>60.00</b>
<b>PRETRIAL, HEARING ON MOTION, CASE MANAGEMENT HEARING .....</b>	<b>10.00</b>
<b>MOTION (No additional cost for Entry).....</b>	<b>20.00</b>
<b>NOTICE OF HEARING, TRIAL, ETC.....</b>	<b>2.00</b>
<b>SUBPOENA (ISSUANCE FEE) .....</b>	<b>10.00</b>

**PLUS SEPARATE CHECK FOR WITNESS FEE:**  
 Witness Fees: \$20.00 for Full Day (plus mileage)  
 10.00 for Half Day (plus mileage)

<b>BAILIFF SERVICE OF 15-DAY DEMAND NOTICE .....</b>	<b>5.00</b>
<b>SERVICE BY PUBLICATION .....</b>	<b>5.00</b>
<b>SECRETARY OF STATE SERVICE .....</b>	<b>25.00</b>

Either Individual or Corporation

**PLUS \$5.00 SEPARATE CHECK BY PLAINTIFF  
 FOR FEE REQUIRED ON CORPORATION PAYABLE  
 TO SECRETARY OF STATE**

<b>VACATE JUDGMENT .....</b>	<b>20.00</b>
<b>GUARDIAN AD LITEM .....</b>	<b>20.00</b>
<b>APPEAL .....</b>	<b>50.00</b>

**PLUS SEPARATE CHECK PAYABLE TO  
 COMMON PLEAS COURT FOR \$150.00**

<b>EXECUTION (PLUS DEPOSIT REQUIRED IN LOCAL RULE 2.33) .....</b>	<b>40.00</b>
<b>SALE BILLS .....</b>	<b>15.00</b>

Includes issuance of sale bills,  
 and posting of bills in 4 places

**APPRAISER FEES (EACH)** ..... 10.00

Includes administering oath

**CERTIFIED MAIL FEE** ..... 10.00

**MILEAGE**

\$0.60 first mile plus \$0.30 per mile

Big Island (10 miles) .....	3.60
Caledonia (20 miles).....	6.60
Claridon (15 miles).....	5.10
Green Camp (10 miles) .....	3.60
Kirkpatrick (20 miles) .....	6.60
LaRue (28 miles) .....	9.00
Martel (30 miles) .....	9.60
Meeker (24 miles) .....	7.80
Morrall (24 miles).....	7.80
New Bloomington (20 miles).....	6.60
Owens Station (10 miles) .....	3.60
Prospect (20 miles).....	6.60
Waldo (20 miles).....	6.60

**POVERTY AFFIDAVIT:** A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings

## **RULE 2.23**

### **COURT MAGISTRATES**

- 53.
- (a). Magistrates shall be appointed and cases referred in accordance with Civil Rule 53.
  - (b). Magistrates shall hear proceedings in the small claims division of this Court.
  - (c). The magistrate shall issue his proposed decision after a trial or hearing in accordance with Rule 53.
  - (d). Objections and memoranda in support of such objections to the magistrate's proposed decision may be filed by any party within fourteen (14) days in accordance with Civil Rule 53(E)(3)(a).
  - (e). Adjudication upon the merits by a magistrate in any case in which a proposed decision is required under Civil Rule 53(E), shall not be delivered to the Court for approval until fourteen (14) days has elapsed from the filing of the proposed decision, and it shall not become effective until signed by the Court as provided by Civil Rule 53(E)(4)(a).

## **RULE 2.25**

### **COGNOVIT JUDGMENTS**

- (a). No judgment on a cognovit note shall be allowed unless there is submitted with the complaint, answer and entry, the original note upon which such action is founded. At the time of granting judgment the Clerk shall endorse on said note the fact that it has been reduced to judgment.
- (b). On all complaints for cognovit judgment, a true copy of the original note with all its endorsements shall be attached and marked as an exhibit.
- (c). Withdrawn effective 1/1/93.
- (d). Withdrawn effective 1/1/93.
- (e). Interest shall be computed to the day of the rendition of the judgment and included in the amount of the judgment.
- (f). Immediately upon the entering of any judgment the attorney who represents the judgment creditor shall furnish a copy of the judgment entry to the Clerk of this Court. The Clerk shall notify the Defendant or Defendants by mailing a copy of the judgment entry by registered or certified mail at the address set forth in the complaint.

**RULE 2.27**

**SMALL CLAIMS CASES - SPECIAL PROVISIONS**

(a). All small claims cases will be set for trial before the small claims magistrate, except for those cases in which the magistrate has a conflict of interest, or cases in which the Defendant fails to appear for trial, which cases will be referred directly to the Judge of this Court.

(b). Withdrawn effective 1/1/93.

(1/96)

**RULE 2.29**

**FORCIBLE ENTRY AND DETAINER CASES**

(a). In Forcible Entry and Detainer actions, the summons shall advise the Defendant-tenant that such an action has been brought against him and shall state the time and place of trial, as required by Ohio Revised Code Section 1923.06. The summons shall be served seven (7) days before the date set for trial, if service is accomplished by ordinary mail service, certificate of mailing in conjunction with personal service, residence service, or service by posting on the premises; and summons shall be served thirty (30) days before the day set for trial, if service is accomplished by ordinary mail, certificate of mailing in conjunction with certified mail service, return receipt requested.

(b). In cases where the complaint joins an action for Forcible Entry and Detainer with an action for rent (or other damage), only the action for Forcible Entry and Detainer shall be assigned for trial on the date set forth in the summons, if the service of summons is accomplished by ordinary mail service, certificate of mailing in conjunction with personal service, residence service, or service by posting on the premises. The claims for rent, other damage, or any other claims shall be delayed for at least twenty-eight (28) days from the date service is complete, pursuant to Ohio Revised Code Section 1923.06 (G)(2). If the service of summons is accomplished by ordinary mail, certificate of mailing in conjunction with certified mail service, return receipt requested, all claims will be assigned for trial on the date set forth in the summons, pursuant to Ohio Revised Code Section 1923.081.

17. (1/00)

**RULE 2.31**

**GARNISHMENTS**

(a). Service on the garnishee of the Order of Garnishment of Property, other than Personal Earnings, and the Notice to the Garnishee to Appear and Answer, as described in Ohio Revised Code Section 2716.13(B), shall be by personal service unless otherwise requested by the Plaintiff.

(b). Service on the Defendant of the Notice to the Defendant and Hearing Request form, as described in Ohio Revised Code Section 2716.13(C), shall be by regular or ordinary mail, at Defendant's last known address, pursuant to Ohio Revised Code Section 2716.13(D) and/or Rule 5 of the Ohio Rules of Civil Procedure, unless otherwise requested by the Plaintiff.

Regular mail service shall be evidenced by certificate of mailing issued by the U.S. Postal Service.

(c). Any party initiating an action for a Third-Party (Non-Wage) Garnishment shall, upon filing of an Affidavit for Garnishment, provide a separate check or money order payable directly to the Garnishee. Should any check or money order so tendered fail to clear the drawer in the regular course of business, the drawer may be held in contempt of Court and at the direction of the Court, the Garnishment may be disallowed.

(d). Garnishments of property other than wages may be terminated and released by the individual who initiated the garnishment proceeding. Said release shall be effected by the filing with this Court of a stipulation of release signed by the same individual who commenced said garnishment. Said release shall be accompanied by separate proposed "Order of Release" and Two Dollars as Court costs.

(e). Withdrawn effective 2/1/01.

(2/01)

**RULE 2.33**

**EXECUTION OF SALES**

(a). In every execution issued by this Court upon goods or chattels, the Judgment Creditor or the attorney for the Judgment Creditor shall procure and file with the Clerk a form with all the information found in Appendix C attached to these Rules, as well as a bond to cover the costs and fees required by this Court in levying upon and selling the goods and chattels. The bond shall be in the form of a cash deposit or by bond with surety approved by the Court.



**LIGHT CATEGORY - \$150 ADVANCED DEPOSIT**

Automobiles  
Motorcycles  
Utility Trailers up to 18 feet in length  
Boat Trailers up to 18 feet in length  
Motorcycle Trailers up to 18 feet in length  
Camper Trailers up to 26 feet in length  
Travel Trailers up to 18 feet in length  
Motor Homes (self-propelled) up to 26 feet in length  
Garden/Mowing Tractors  
Garden/Mowing Type Equipment not of commercial use  
Boats up to 18 feet in length  
Farm Type Tractors under 99 horsepower  
Portable Construction Equipment  
Portable Shop Equipment  
Portable Farm Equipment

**HEAVY CATEGORY - \$400 ADVANCED DEPOSIT**

Large Trucks rated over 3/4 ton  
Buses  
Semi-Tractors (Trucks)  
Mobile Homes other than Travel Trailers  
Utility Trailers over 18 feet  
Motorcycle Trailers over 18 feet  
Camper Trailers over 26 feet  
Motor Homes (self-propelled) over 26 feet  
Semi-Trailers (low boy, flatbed, closed box type,  
stake body)  
Boats over 18 feet  
Farm Type Tractors over 99 horsepower  
Large Construction Equipment  
Road and Grading Equipment  
Earth Moving Equipment  
Large Farm Equipment  
All other equipment not covered by this category and  
vehicles that are not self-propelled upon the  
highways of the county or cannot be driven upon  
the highways.

(b). Any goods and chattels in a retail or wholesale business operation, household goods, manufacturing plant or storage facility which must be moved and stored by a professional mover acting under authority of the Bailiff of this Court after the Bailiff has seized such goods and chattels shall require an advanced deposit of \$150 plus the estimate of moving and 20 days storage provided by the mover from the description given the Bailiff by the Plaintiff or his attorney 18.

in the action. Deposit is to be deposited with the Clerk of Courts prior to seizing any goods and chattels

(c). If goods and chattels in a retail or wholesale business operation, household goods, manufacturing plant or storage facility are to be secured upon the site of the business, plant or storage facility, an order of the Court shall be obtained requiring the padlocking and securing of the premises wherein the goods and chattels are found and a bond with sufficient surety shall be given to secure the Bailiff for such action, posting of guards, if necessary, and for loss which may occur through theft when no guard is posted, fire, natural calamity or similar causes in an amount not less than \$2,000.

**RULE 2.35**  
**JUDGMENT DEBTOR EXAMINATIONS**

(a). In accordance with the Revised Code Chapter 2333, a Motion for Order of Appearance of Judgment Debtor shall be filed as all other Motions with the Clerk of this Court (except that no Memorandum in Support thereof shall be required), and the Court shall issue an order for his appearance for examination of a judgment debtor, and notice shall be sent to the judgment debtor of the time and date of the judgment debtor examination. If the judgment debtor appears on that date he shall be examined at that time; if the judgment debtor fails to appear, a citation for contempt shall be issued; if the judgment debtor has been served with such citation and fails to appear, a body attachment shall be issued for the judgment debtor, with a suitable bond fixed by the Court.

(b). Judgment debtor proceedings shall not be filed in any cause more than once every six months unless the party filing the same, or his attorney, files an affidavit setting forth that he has good and sufficient reason to believe that the status of the judgment debtor has changed since the previous order was filed.

**RULE 2.37**  
**CANCELLATIONS AND RELEASES**

(a). Releases and assignments of judgments or certificate of judgment shall be in writing and signed by a person authorized to execute the instrument.

**RULE 2.39**  
**REQUIREMENTS TO USE O.R.C. 2703.20**

In cases where a party to a civil action, pursuant to Ohio Revised Code Section 2703.20, seeks to serve the Secretary of State of Ohio with service of process for the reason that the opposing party in the lawsuit is concealing his or her whereabouts, the party, or counsel for said party, shall file an Affidavit with this Court stating the efforts made in attempting to locate the address of the opposing party, including a statement that the affiant has checked the records of this Court to find a more current address of the opposing party. The record check shall cover civil, traffic and criminal case filings in this Court for the time period beginning with the date of six months after the date of incident sued upon through the date the Affidavit is executed. The Affidavit shall also state all attempts to serve the opposing party with process have been unsuccessful.

## **CRIMINAL AND TRAFFIC RULES OF PRACTICE AND PROCEDURE**

### **RULE 3.01**

#### **CRIMINAL COMPLAINTS BY PRIVATE INDIVIDUALS**

The Court will issue warrants or summonses upon criminal complaints signed by private individuals, as contrasted with law enforcement personnel, only if such complaints have been reviewed and approved by any one of the following agencies: The Law Director's Office for the City of Marion, the Marion County Prosecutor's Office, the Ohio State Highway Patrol, the Marion City Police Department, or the Marion County Sheriff's Office.

### **RULE 3.03**

#### **ENTRY OF APPEARANCE OF COUNSEL**

(a). The attorney who is to try the case, upon being retained or appointed, shall immediately notify the Court that he or she is the trial attorney by filing a written statement with the Clerk of the Court.

(b). Upon arraignment of a Defendant, an entry shall be filed with the Clerk reflecting the arraignment and the details thereof including the name of the Defendant's counsel.

(c). An attorney who appears or enters his appearance for a Defendant shall not be permitted to withdraw except in open Court in the presence of the Defendant, or upon prior written notification to the Defendant of the time of hearing of said request to withdraw. Withdrawal of counsel will not be allowed less than 20 days before the date assigned for trial.

### **RULE 3.05**

#### **INACTIVE CRIMINAL AND TRAFFIC CASES**

(a). Criminal and traffic cases in which further proceedings are not presently possible shall be placed in a suspended file by the Clerk and considered closed for statistical purposes either upon Motion of the Prosecutor or the Court's own Motion and shall not be subject to dismissal for want of prosecution. A case shall be removed from such list when the Defendant is available and proceedings resumed or when such case is dismissed.

(b). Cases to which this rule is applicable shall include those in which the Defendant is not competent to stand trial or is confined in a penal institution in another state, or has not been served or cannot be found. No case in which the Defendant has absconded shall be placed on such suspended list until any bail has been forfeited and judgment entered thereon.

**RULE 3.07**

**FORFEITURE OF DRIVER'S LICENSE FOR FAILURE TO APPEAR**

Pursuant to Ohio Revised Code Sections 2935.27 and 4507.168, and Ohio Traffic Rule 8(C), any person who has a current valid Ohio driver's or commercial driver's license who fails to appear in Court at the required time and place stated on his traffic ticket, or fails to pay the fine imposed by this Court within the time allowed by the Court to pay the fine, will have his Ohio driver's or commercial driver's license immediately forfeited, through operation of this Rule.

**RULE 3.09**

**SEARCH WARRANTS**

If property is seized under a search warrant issued by this Court, it shall be held by the officers or arresting authorities who seized the property for safekeeping unless the Court directs otherwise. This Rule shall be applicable only during the time that this Court has jurisdiction of the underlying criminal case.

**RULE 3.11**

**BAIL**

(a). Posting of bond shall be mandatory for all purposes regardless of county of residence in circumstances where a person is charged with violations of Driving while Under the Influence of Alcohol, accompanied by a concurrent charge of Driving while Under Suspension, or where an individual is cited for a violation of Driving while Under the Influence of Alcohol, and there is probable cause to believe that the individual has two or more convictions of a similar nature within the immediate prior five years.

(b). Notice of bail forfeiture shall be sent by the Clerk to the Defendant and to the surety in such form as may be approved by the Court. The Defendant and surety shall on or before the date set forth show good cause why judgment should not be entered against them. After judgment is entered against the Defendant and surety, no surety shall be released nor shall any penalty be released or remitted, except upon the filing of a written verified application filed with the Clerk in the case in question, setting forth in detail the reasons why a release or reduction should be granted. The Clerk shall bring the application to the attention of the Court, which will consider the matter without oral hearing, unless the Court otherwise directs.

**RULE 3.13**  
**COURT APPOINTED COUNSEL**

(a). When it appears to the Court that an accused in a criminal case is indigent, the Court shall utilize a list of attorneys available for appointment in criminal cases for the selection of an attorney to represent the Defendant. If the Defendant requests a specific attorney on the list, the Court shall endeavor to fulfill that request, if acceptable to the attorney involved, and if the request is otherwise proper. A \$25.00 indigent application fee will be assessed to the Defendant unless waived by the Court.

(b). The list of attorneys available for appointment in criminal cases shall be maintained by the Clerk of this Court.

(c). Any eligible attorney whose name does not appear on the list may have his name added upon request to the Court.

(d). When an attorney appointed by the Court to represent an indigent Defendant receives information clearly establishing that the Defendant has perpetrated a fraud upon the Court by misrepresenting to the Court that he lacks sufficient income or other means to employ his own counsel, when he in fact is able to employ his own counsel, the attorney shall promptly call upon the Defendant to rectify the fraud, and if the Defendant refuses or is unable to do so, the attorney shall reveal the fraud to the Court. If the Court cancels the appointment, the Defendant shall be advised by the Court that he is free to employ counsel of his choice.

(e). In order to assist Marion County in obtaining reimbursement from the State Public Defender's Office, all attorney fee applications for assigned counsel in criminal cases shall be filed with the Court within thirty (30) days from the date that the case is finally disposed by the Court. Any application for attorney fees for assigned counsel received after thirty (30) days from the date that the case is finally disposed of in this Court, shall not be paid.

(f). The Court shall review the list of attorneys available for appointment in criminal cases at least once a year to assure the equitable distribution of appointments among persons on said list.

(g). Attorneys on the list of attorneys available for appointment in criminal cases shall be compensated pursuant to the Resolution of the Marion County Commissioners relating to the compensation of attorneys for indigent defendants that was in effect on the date the attorney is appointed.

**RULE 3.15**  
**PRETRIALS AND SCHEDULES**

(a). If at arraignment a Defendant enters a not guilty plea to a jailable traffic or criminal charge, the Clerk shall set a date and time for an initial pretrial conference

(b). At the initial pretrial conference, the Defendant and counsel for Defendant must be present at Court, unless previously excused by the Court. The date for trial, and/or for hearing of any preliminary motions, will be fixed prior to the Defendant and counsel leaving said initial pretrial, if the Defendant has not waived his right to a trial within the time limits specified under Sections 2945.71 through 2945.73 of the Ohio Revised Code. If a time waiver has been entered by the Defendant, scheduling of the dates of trial and/or for hearing of any preliminary motions may be made by the Clerk and mailed to the Prosecutor, the Defendant, and counsel for Defendant at a later time.

(c). Motions and other written requests in criminal or traffic cases shall be filed thirty-five (35) days after arraignment or seven (7) days before trial, whichever is earlier, unless otherwise allowed by the Court. Motions not filed in such time may be subject to being overruled pursuant to Rule 12(G) of the Ohio Rules of Criminal Procedure, or may be heard and decided at trial at the discretion of the Court. An assignment for trial will not be continued because of the filing of such motion.

**RULE 3.17**

**CONTINUANCE OF CRIMINAL OR TRAFFIC CASE**

(a.) No continuance of any conference, hearing or trial shall be granted to the Prosecutor or to the defense unless request is made in writing and/or in open Court. Requests in writing shall contain the information found in Appendix A, attached to these Rules. Continuances shall be granted in conformity with Rule 41 of the Rules of Superintendence for the Courts of Ohio.

(b). Absent exigent circumstances, Motions for Continuance must be filed with the Court at least 30 days prior to the date of conference, hearing or trial, or within 10 days of the mailing date from the Court of the conference, hearing or trial, whichever is later.

**RULE 3.19**

**DISMISSALS**

Where under the provisions of Rule 48 of the Ohio Rules of Criminal Procedure and Ohio Revised Code Section 2941.33, the Prosecutor desires to dismiss a criminal case, he shall file a written application therefore, and if the charge which he wishes to dismiss is a first or second degree misdemeanor, or in any other case in which the Court directs, he shall state in his written application the reasons he wishes to dismiss the Complaint.



**RULE 3.21**  
**CRIMINAL AND TRAFFIC CASE COURT COSTS**

(a). When any traffic or criminal case has been completed, the following state costs and court costs shall be paid to the Clerk of this Court:

**STATE COSTS:**

State Victims Reparations Fund .....	\$9.00
Indigent Defense Support Fund	
Felony .....	30.00
Criminal Misdemeanor & Traffic Moving .....	20.00
Traffic Non-Moving.....	10.00

**COURT COSTS:**

Traffic .....	31.00
Criminal .....	31.00
Criminal with certified mail .....	41.00
Court Assistance Fund	
Criminal & Non-Moving Violations .....	20.00
Moving Violations .....	10.00
Court Computer Fund .....	8.00
License Suspension Appeal or Request for	
Driving Privileges .....	30.00
Amend Driving Privileges .....	1.00
Appeal to the Court of Appeals.....	50.00
(Plus \$150.00 to Common Pleas for Court of Appeals)	
Bench Warrant.....	30.00
Warrant on Complaint.....	10.00
Cancellation of Operator's License w/BMV/NRVC .....	20.00
Commitment.....	3.00
Turnkey .....	2.00
Change of Commitment Fee .....	50.00
Post Judgment Motions .....	10.00
Motion filed .....	10.00
Hearing on Motion(Show Cause, Evidentiary Hrgs) .....	10.00
Pretrial/Plea.....	10.00
Trial to Court/Magistrate .....	20.00
Notice of Hearing .....	1.00
Subpoena (filing, issuance & service).....	10.00
Witness Fee – full day plus mileage .....	20.00
Witness Fee – half day plus mileage.....	10.00

Expungement Filing .....	50.00
Expungement Processing Fee.....	50.00
Certified Copy .....	5.00
Probation Supervision Fee	
Basic .....	25.00
Supervised .....	150.00
Disposition Hearing .....	6.00
25.                   (12/12)	

**JURY TRIAL:**

Eight (8) Jurors plus alternate @ \$15.00 each.....	\$15.00
Calling Jurors .....	20.00
Swearing Jurors @ \$1.00 each .....	8.00
Notifying Thirty (30) Jurors.....	60.00
Court Reporter .....	20.00

(b). In any traffic or criminal case where a jury trial is demanded, the Defendant pleads to the original charge or a reduced or refiled charge, or is found guilty of the original charge or a reduced or refiled charge, notice cards have been sent out to prospective jurors, and the jury trial is not actually held, the Defendant will pay a \$200.00 jury cancellation fee.

(c.) Upon determination that a Defendant is indigent, the Court shall inform the Defendant that he or she shall be assessed a \$25.00 Affidavit of Indigency Application Fee unless waived or reduced by the Court. If assessed, the fee is to be paid to the Clerk of the Courts within seven (7) days of submitting the Affidavit of Indigency to the Court.

**RULE 3.23**

Withdrawn Effective 1/1/95

**RULE 3.25**  
**SEARCH WARRANTS**

The Clerk of Courts shall make search warrants available for inspection by the public in accordance with Ohio's Public Record Law, Ohio Revised Code Section 149.43. Search warrant documents which are not required to be made available to the public shall be kept by the Clerk in non-public files and shall not be available for public inspection.

The following guidelines shall be observed by the Clerk to assist him or her in determining which records are public records:

1. Search warrant documents are not public records before any suspect identified in the search warrant documents is charged with a crime.
2. Generally, after the suspect has been charged with a crime, the records relating to the search warrant are a matter of public record. However, some information contained in the records relating to the search warrant may need to be redacted if said records might reveal the identity of an additional suspect who has not been charged; where the records might identify an information source or witness to whom confidentiality has been reasonably promised; or where the release of information in the warrant could endanger the life or physical safety of an individual.
3. Where no charges are ever filed and the person who is the target of the investigation has been cleared as a suspect, then the search warrant records will generally become a matter of public record, subject to the restrictions set forth in Paragraph 2 above.

## **RULE 3.27**

### **USE OF ELECTRONICALLY PRODUCED TICKET**

- (a) **Authorization.** The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in The Marion County Municipal Court. The electronically produced ticket shall conform in all substantive respects to the "Ohio Uniform Traffic Ticket" set forth in the Ohio Traffic Rules' Appendix of Forms. If an electronically produced ticket is issued at the scene of an alleged offence, the issuing officer shall serve the defendant with the defendant's paper copy of the ticket as required by Rule 3 (E) of the Ohio Traffic Rules.
- (b) **Form of Affidavit.** In every case in which an electronically produced ticket is used and filed, the ticket shall use forms that are substantially similar to Form 3.27-A (Court Record) and Form 3.27-B (Abstract)
- (c) **Applicability.** The purpose and scope of this rule is limited to the use and filing of an e-ticket.

## **Rule 3.29**

### **USE OF ELECTRONIC STATISTICAL REPORTING**

- (a) Pursuant to Superintendence Rule 37(B), the Court is required to submit Administrative and Individual Judge Statistical reports to the Supreme Court of Ohio online using electronic submission. Submissions will be done through the Supreme Court's eStats web portal.
- (b) Each Court's Administrative Judge is provided a secure Court ID and Password by the Supreme Court to use to submit each report. The Clerk of Court will maintain this ID and Password and will use this information to log in and complete these reports each month.

## **MEDIATION**

### **RULE 4.01**

#### **DEFINITIONS**

(a). "Mediation" means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.

(b). "Mediator" means an individual who conducts the mediation or dispute resolution.

(c). "Marion Citizen's Settlement Program" is the dispute resolution program at Marion Municipal Court.

(d). "Check Resolution" is a service of the Marion Citizen's Settlement Program whereby businesses and/or individuals who receive bad checks can request a hearing to attempt to resolve the bad check complaint.

### **RULE 4.03**

#### **PURPOSE**

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of Marion Municipal Court cases and/or disputes between individuals.

### **RULE 4.05**

#### **CASE SELECTION**

(a). Referral. Disputes of a criminal nature are referred to the Marion Citizen's Settlement Program by private attorneys, prosecutors, police officers, court clerks, and the Court. Any private individual may also contact the program directly. In civil matters, the complaining party may file with the Citizen's Settlement Program prior to taking court action. The Court, on its own motion, or the motion of any of the parties, may refer disputed issues to mediation in whole or in part to the Citizen's Settlement Program.

(b). Eligibility. The Marion Citizen's Settlement Program will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate. The Marion Citizen's Settlement Program shall not be used as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant, modify or terminate a protection order; in determining the terms and conditions of a protection order; and in determining the penalty for violation of a protection order.

(c). Mediator Selection and Assignment. The following methods may be used to determine the mediator for the case: the court mediator may facilitate the mediation; the court randomly assigns a mediator to the case from the court's roster of approved mediators; specific appointments may be made by the court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.

## **RULE 4.07**

### **PROCEDURES**

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Marion Citizens Settlement Program, mediation will be scheduled.

(a) Pre-screening. A mediator may meet with the parties individually prior to bringing the parties together for any reason including but not limited to further screening.

(b) Referral to outside resources. The efforts of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of the information is charged with the duty to evaluate those resources independently.

(c) Participation, Duties of Attorneys/Parties. Parties to informal cases may voluntarily attend mediation sessions. Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases. A judge, magistrate and/or mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate. If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate. If the opposing parties to any cases are related by blood, adoption, or marriage; or have resided in a common residence; or have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 both prior to, and, in the mediator's discretion, during the mediation session(s). All parties named are allowed to participate in the mediation, and if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

(d). Confidentiality/Privilege. All mediation communications related to or made during the mediation process are subject to and governed by the “Uniform Mediation Act” (UMA R. C. 2710.10 to 2710.10, R.C., the Rules of Evidence and any other pertinent judicial rule(s).

(e). Mediator Conflicts of Interest. The mediator shall disclose any conflicts that may affect the mediator’s impartiality as soon as they become known to the mediator.

(f). Termination. If the mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties that the mediation is terminated.

(g). Stay of Proceedings. All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process unless ordered by the Court.

(h). Continuances. Check resolution matters will not be continued from original hearing date. Regarding all other mediations, continuances shall be granted only for good cause shown and after a mutually acceptable future date has been determined. No continuance of a case referred from the Marion Municipal Court, Civil Division, will be granted if the mediation cannot be scheduled prior to the final pretrial.

(i). Mediation Case Summary. Attorneys may, at their option, or must if required on a specific case by the Judge and/or Magistrate, submit a “Mediation Case Summary” to the mediator which shall contain the following: Summary of material facts; summary of legal issues; status of discovery; list special damages and summarize injuries or damages; settlement attempts to date, including demands and offers.

(j). Mediation Memorandum of Understanding. The assigned mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum memorializing the agreement reached by the parties. The “Mediation Memorandum” may be signed by the parties and counsel [if the “Mediation Memorandum” is signed it will not be privileged pursuant to R.C. 2710.05(A)(1)]. The written “Mediation Memorandum of Understanding” may become an order of the Court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the Court will be regarded unless made in open Court.

(k). Mediator Report. At the conclusion of the mediation and in compliance with R.C. 2710.06 the Court shall be informed by the mediator of the status of the mediation including all of the following: Whether the mediation occurred or was terminated; whether a settlement was reached on some, all or none of the issues; attendance of the parties; and future mediation session(s), including the date and time.



**RULE 4.09**

**FEES AND COSTS**

(a). Check resolution fees: \$3.00 per case. Businesses – case equals a resolution session, not per check.

(b). All other mediations: all costs shall be determined by the court, if applicable. The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the court shall determine the apportionment of the mediation costs to the parties. The court may waive costs for the parties who are unable to pay. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party.

**RULE 4.11**

**SANCTIONS**

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

## **SPECIAL DOCKETS AND PROGRAMS**

### **RULE 5.01**

#### **TRAFFIC SAFETY PROGRAM**

Defendants charged with waivable traffic offenses (that is, persons charged with offenses for which a fine may be paid in lieu of a personal appearance at the court) may participate in the Court Traffic Safety Program (TSP) if they have not previously participated in TSP, or if at least two years have passed since they participated in TSP.

A defendant in a traffic case who is eligible to participate in the court's traffic safety program may file the necessary paperwork to participate in that program up to three days after the arraignment date listed on the traffic ticket. The defendant's application to participate in the program must be accompanied by the appropriate fine and cost payment, and the defendant must enter a guilty or no-contest plea to the traffic charge or charges by signing the appropriate form. Also, if the traffic ticket was issued, the defendant must provide proof of insurance to the clerk of the court.

Once the clerk has received the completed application and the waiver payment, proceedings in the case will be stayed for 60 days while the defendant completes TSP. If during that 60 day period the defendant has successfully completed TSP, then the case will be dismissed and no conviction will be reported to the Ohio Bureau of Motor Vehicles (BMV). (The original version of the certificate – rather than a photocopy – must be presented to the clerk). If the defendant fails to file such a certificate during that 60 day period, the court will report the defendant's conviction on the traffic charge or charges to the BMV. In either case, the defendant's waiver payment will not be refunded.

**Rule 5.02**  
**MARION COUNTY MUNICIPAL VETERANS' TREATMENT COURT**

**Establishment of Marion County Veterans' Treatment Court Docket.** The Court established a veteran offender specialized docket known as the Marion County Veterans' Treatment Court Docket effective October 1, 2011, which is now governed under Superintendence Rule 36.20 for Specialized Dockets. It is the goal of the Marion County Veterans' Treatment Court to reduce recidivism among individuals who have served in our armed forces and find themselves in the criminal justice system; to reduce periods of incarceration for veterans; and to successfully graduate participants from the Marion County Veterans' Treatment Court.

**Placement into the Marion County Veterans' Treatment Court Docket.** In order to have his/her criminal case placed on the Marion County Veterans' Treatment Court docket, a criminal defendant must qualify for admission. To qualify for admission, a criminal defendant must meet the following legal criteria: to have served in the U.S. armed forces; be a resident of Marion County; be charged with a misdemeanor of the third, second, and/or first degree; have a persistent mental illness and/or addiction which would benefit from court monitored treatment; and voluntarily enter the Marion County Veterans' Treatment Court Docket. In some instances, a criminal defendant convicted of a third, fourth or fifth degree felony may qualify for admission. Application for placement in the Marion County Veterans' Treatment Court shall be subject to initial assessment by VJO, defense counsel, prosecutor, and probation officer subject to approval by the Judge, according to the criteria adopted by the Court. Persons charged with sex crimes (excluding public indecency), crimes involving the use of any weapon, crimes involving children as victims, and minor misdemeanors, fourth degree misdemeanors or first and second degree felonies are ineligible for the Marion County Veterans' Treatment Court. Upon initial acceptance into the program, the criminal defendant is referred for diagnostic evaluation to confirm that he/she meets clinical and legal criteria. The VJO, defense counsel, prosecutor, and probation officer, subject to approval by the Judge assigned to the case, will determine if the defendant qualifies for the Marion County Veterans' Treatment Court Docket.

**Case Assignment.**

Upon acceptance into the Marion County Veterans' Treatment Court, the case is transferred to the Marion County Veterans' Treatment Court Docket. The criminal defendant must have entered a guilty or no contest plea and be sentenced in order to be accepted into the Marion County Veterans' Treatment Court. Sentence will be suspended subject to terms of probation that will include the Veterans' treatment plan. The judge and the probation department shall have the primary responsibility for case management. In the event the criminal defendant is unsuccessfully terminated from Marion County Veterans' Court for any reason, the case shall be returned to the regular docket.

**Marion County Veterans' Treatment Court Docket Case Management.** Criminal defendants accepted into Marion County Veterans' Treatment Court will participate in counseling for mental health and for substance abuse. The treatment plan may also include, but is not limited to, obtaining stable housing and reliable transportation, completing high school or obtaining a GED, participating in vocational assessment and entering appropriate training, obtaining and maintaining employment either part or full time), and completing Getting Ahead in a Just Getting By World ("Getting Ahead") *and/or* Thinking for Change. A mentor may be available throughout the participant's time in Marion County Veterans' Treatment Court. The Program Description, Participant Handbook, and Participation Agreement (as amended from time to time) are incorporated by reference.

**Termination from Marion County Veterans' Treatment Court.** Upon successful completion of the Treatment Plan, the criminal defendant is graduated from the Marion County Veterans' Treatment Court and placed on none reporting probation for approximately one (1) year. If the criminal defendant unsuccessfully completes the Marion County Veterans' Treatment Court, a Motion for Probation Violation may be filed. In the event the Court finds the probation terms have been violated, the remaining sentence may be imposed. A criminal defendant may also be neutrally discharged if they are no longer capable of completing the Marion County Veterans' Treatment Court.

### Rule 5.03

#### The Mental Health Docket -WIN Court (Wellness Intervention)

**Establishment of Mental Health Docket.** The Court established a mental health specialized docket known as the Wellness Intervention Court [WIN] Docket effective October 1, 2011, which is now governed under Superintendence Rule 36.20 for Specialized Dockets. It is the goal of the WIN Court to reduce recidivism among individuals with behavioral and/or mental health issues in the criminal justice system; to reduce periods of incarceration for individuals with behavioral and/or mental health issues; and to successfully graduate participants from the WIN Court.

**Placement in the WIN Court Docket.** In order to have his/her criminal case placed on the WIN Court docket, a criminal defendant must make an Application for Admission. To qualify for admission, a criminal defendant must meet the following legal criteria: be a resident of Marion County; be charged with a misdemeanor of the third, second, and/or first degree; have a persistent mental illness and/or addiction which would benefit from court monitored treatment; and voluntarily enter the WIN Court Docket. Application for placement in the WIN Court shall be subject to initial assessment by defense counsel, prosecutor, and probation officer ("Assessment Team") subject to approval by the Judge, according to the criteria adopted by the Court. Persons charged with OVI, sex crimes (excluding public indecency), crimes involving the use of any weapon, crimes involving children as victims, and minor misdemeanors or fourth degree misdemeanors are ineligible for the WIN Court. The WIN Court is not available if felony charges are pending. Upon initial acceptance into the program, the criminal defendant is referred for diagnostic evaluation to confirm that he/she meets clinical and legal criteria. Clinical criteria includes: an "Axis One" diagnosis that is consistent with a severe and persistent mental illness; sufficient stability to understand and comply with program requirements; and the criminal defendant must not pose an unacceptable risk to program staff, family or community. The Assessment Team, subject to approval by the Judge assigned to the case, will determine if the defendant qualifies for the WIN Court Docket.

**Case Assignment.** Upon Application to Admission for WIN Court, the case is transferred to the WIN Court Docket. The criminal defendant must have entered a guilty or no contest plea and be sentenced in order to be accepted into the WIN Court Docket. Sentence will be suspended subject to terms of probation that will include the WIN treatment plan. The judge and the Probation Department shall have the primary responsibility for case management. In the event the criminal defendant is unsuccessfully terminated from WIN Court for any reason, the case shall be returned to the regular docket.

**WIN Court Docket Case Management.** Criminal defendants accepted into WIN Court will participate in counseling for mental health (individual and/or group sessions) and for substance abuse. The treatment plan may also include obtaining stable housing and reliable transportation, completing high school or obtaining a GED, participating in vocational assessment and entering appropriate training, obtaining and maintaining employment (either part or full time), and completing Getting Ahead in a Just Getting By World ("Getting Ahead") and/or Thinking for Change. A mentor may be available throughout the participant's time in WIN Court. The Program Description, Participant Handbook, and Participation Agreement (as amended from time to time) are incorporated by reference.

**Termination from WIN Court.** Upon successful completion of the Treatment Plan, the criminal defendant is graduated from the WIN Court and placed on non-reporting probation for one (1) year. If the criminal defendant unsuccessfully completes the WIN Court, a Motion for Probation Violation may be filed. In the event the Court finds the probation terms have been violated, the remaining sentence will be imposed. A criminal defendant may also be neutrally discharged if they are no longer capable of completing the WIN Court.

## Rule 5.05

### Medication Assisted Recovery Court Docket

**Establishment of Medication Assisted Recovery Court Docket.** The court has established a medication assisted specialized docket known as the Medication Assisted Recovery Court (MARC) Docket effective January 1, 2015, which is now governed under Superintendence rule 36.20 for Specialized Dockets. It is the goal of the MARC docket to reduce recidivism among individuals with substance use and addiction issues in the criminal justice system; to reduce periods of incarceration for individuals with substance use and addiction issues; and to successfully graduate participants from the MARC Docket.

**Placement in the MARC Docket.** In order to have his/her criminal case placed on the MARC docket, a criminal defendant must be admitted in the docket. To qualify for admission, a criminal defendant must meet the following criteria: be a resident of Marion County; be charged with a misdemeanor of the third, second, and /or first degree; have a substance use and/or addiction issue which would benefit from medication assisted treatment, court monitored treatment; and voluntarily enter the MARC docket. Placement in the MARC docket shall be subject to initial assessment by defense counsel, prosecutor, assessment/treatment professional and probation officer ("Assessment Team") subject to approval by the Judge, according to the criteria adopted by the Court. Persons charged with sex crimes (excluding public indecency), crimes involving children as victims, and minor misdemeanors or fourth degree misdemeanors are ineligible for the MARC docket. Upon initial acceptance into the program following the administration of the ORAS, the criminal defendant is referred for diagnostic evaluation to confirm that he/she meets clinical and legal criteria. The Assessment Team, subject to approval by the Judge assigned to the case, will determine if the defendant qualifies for the MARC docket.

**Case Assignment.** Upon acceptance, the case is transferred to the MARC docket. The criminal defendant must have entered a guilty or no contest plea and be sentenced in order to be accepted into the MARC docket. Sentence will be suspended subject to terms of probation that will include the MARC treatment plan. The judge and the probation department shall have the primary responsibility for case management along with the assistance of case managers from the various treatment providers. In the event the criminal defendant is unsuccessfully terminated from the MARC docket for any reason, the case shall be returned to the regular docket.

**MARC Docket Case Management.** Criminal defendants accepted into the MARC docket will participate in counseling for substance use, addiction, recovery and relapse prevention. The treatment plan may also include obtaining stable housing and reliable transportation, completing high school or obtaining a GED, participating in vocational assessment and entering appropriate training, obtaining and maintaining employment (either part or full time), and completing Getting Ahead in a Just Getting By World ("Getting Ahead") and/or Thinking for Change. The program

34.

Description, Participant Handbook, and Participation Agreement (as amended from time to time) are incorporated by reference.

**Termination from MARC Docket.** Upon successful completion, the criminal defendant is graduated from the MARC docket and placed on 6 months non-intensive probation and then for one (1) year non-reporting probation. If the criminal defendant unsuccessfully completed the MARC docket, a Motion for Probation Violation/Show Cause may be filed. In the event the Court finds the probation terms have been violated, the remaining sentence may be imposed. A criminal defendant may also be neutrally discharged if they are no longer capable of completing the MARC docket.