

Willoughby Municipal Court



Court Rules

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

TABLE OF CONTENTS

Page

ADOPTION OF LOCAL COURT RULES	5
FORWARD	6
<i>SECTION 1 GENERAL RULES</i>	<i>7</i>
RULE 1.1 COURT HOURS	7
RULE 1.2 DECORUM AND CONDUCT	7
RULE 1.3 PUBLIC USE OF COURTROOMS	7
RULE 1.4 OMISSION OF PERSONAL IDENTIFIERS	7
RULE 1.5 COURT SECURITY	8
RULE 1.6 APPEARANCE AND WITHDRAWAL OF COUNSEL	8
RULE 1.7 COURT APPOINTED COUNSEL	8
RULE 1.8 MAGISTRATES	9
RULE 1.9 ASSIGNMENT OF CASES TO JUDGES	9
RULE 1.10 PRIORITY OF SCHEDULING	10
RULE 1.11 COURT COSTS	10
RULE 1.12 MOTIONS	11
RULE 1.13 JURY DEMAND	11
RULE 1.14 CONTINUANCE FOR TRIAL OR HEARING	11
RULE 1.15 RECUSAL OF JUDGE	11
RULE 1.16.1 FAX FILING	12
RULE 1.16.2 EFILING	14
RULE 1.17 SERVICE OF PROCESS	14
RULE 1.18 COURT RECORD RECORDING AND TRANSCRIPTS	15
RULE 1.19 PUBLIC RECORD REQUESTS	15
RULE 1.20 JURY MANAGEMENT PLAN	16
RULE 1.21 COURT RECORDS MANAGEMENT AND RETENTION	16
RULE 1.22 FRIVOLOUS ACTIONS AND VEXATIOUS LITIGATORS	16
<i>SECTION 2 CRIMINAL / TRAFFIC CASE MANAGEMENT</i>	<i>17</i>
RULE 2.1 DIVERSION PROGRAMS	17
RULE 2.2 ARRAIGNMENT	18
RULE 2.3 WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND THE ORC	19

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

RULE 2.4	BAIL BOND SCHEDULE	19
RULE 2.5	USE OF ELECTRONICALLY PRODUCED TICKET (eTICKETING)	19
SECTION 3	CIVIL / SMALL CLAIMS MANAGEMENT	20
RULE 3.1	CIVIL CASE MANAGEMENT	20
RULE 3.2	JOINDER AND SEPARATION OF CASES	20
RULE 3.3	PLEADINGS AND MOTIONS	20
	MOTIONS FOR SUMMARY JUDGMENT	21
	MOTIONS OTHER THAN FOR SUMMARY JUDGMENT	21
RULE 3.4	PRE-TRIAL CONFERENCES	21
RULE 3.5	JOURNAL ENTRIES	21
RULE 3.6	DEFAULT JUDGMENTS	21
RULE 3.7	FORCIBLE ENTRY AND DETAINER	21
RULE 3.8	CHANGE OF VENUE CERTIFICATION OR PROCEEDINGS	22
RULE 3.9	TRANSFER OF JUDGMENT	23
RULE 3.10	SMALL CLAIMS	23
RULE 3.11	TRUSTEESHIP	24
RULE 3.12	CIVIL PETITION RE: APPEAL OF DOG DESIGNATION AS DANGEROUS	24
APPENDIX A – JURY MANAGEMENT PLAN		26
RULE 1.20.1	SCOPE	26
RULE 1.20.2	JURY POOL	26
RULE 1.20.3	RANDOM DRAW	26
RULE 1.20.4	MANAGEMENT STANDARDS PRIOR TO THE ISSUANCE OF JURY SUMMONS FOR TRIAL DATE CERTAIN	27
RULE 1.20.5	NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE	28
RULE 1.20.6	QUALIFICATION	29
RULE 1.20.7	EXEMPTION	29
RULE 1.20.8	DEFERRAL	29
RULE 1.20.9	DEPARTURES FROM RANDOM SELECTION AND DOCUMENTATION THEREOF	29
RULE 1.20.10	TERM OF JURY SERVICE	30
RULE 1.20.11	JUROR SAFETY AND PRIVACY	30
RULE 1.20.12	JURY ORIENTATION	30
RULE 1.20.13	RECORD SHALL BE MADE	30

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE 1.20.14	JURY PANEL–OATH OR AFFIRMATION BY PROSPECTIVE JURORS	30
RULE 1.20.15	INTRODUCTION TO CASE	31
RULE 1.20.16	EXAMINATION OF PROSPECTIVE JURY PANEL (VOIR DIRE)	31
RULE 1.20.17	NUMBER OF JURORS	32
RULE 1.20.18	CHALLENGE FOR CAUSE	32
RULE 1.20.19	NUMBER OF PEREMPTORY CHALLENGES	32
RULE 1.20.20	OATH OR AFFIRMATION OF THE JURY	32
RULE 1.20.21	PRELIMINARY INSTRUCTIONS	33
RULE 1.20.22	OPENING STATEMENT	33
RULE 1.20.23	PRESENTATION OF EVIDENCE	34
RULE 1.20.24	PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES	34
RULE 1.20.25	JURY VIEW	34
RULE 1.20.26	FINAL INSTRUCTIONS	34
RULE 1.20.27	FINAL ARGUMENTS	34
RULE 1.20.28	ASSISTING JURORS AT AN IMPASSE	35
RULE 1.20.29	SEPARATION DURING DELIBERATION	35
RULE 1.20.30	JUDGE TO READ THE VERDICT	35
RULE 1.20.31	MONITORING THE JURY SYSTEM	35
ATTACHMENT A – Jury Questionnaire Letter Text		36
ATTACHMENT B – Jury Summons Text		37
ATTACHMENT C – Jury Service Exemption, Excuse, or Deferral Request Text		38
ATTACHMENT D – List of Prospective Jurors		39
ATTACHMENT E – Jury Exit Questionnaire		40

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ADOPTION OF LOCAL COURT RULES

RULES OF PRACTICE AND PROCEDURES

**IN THE WILLOUGHBY MUNICIPAL COURT
LAKE COUNTY, OHIO**

STATE OF OHIO)	JUDGE MARISA L. CORNACHIO
)	ADMINISTRATIVE / PRESIDING JUDGE
)	SS:
)	ADMINISTRATIVE ORDER
)	ADOPTION OF WILLOUGHBY MUNICIPAL COURT
COUNTY OF LAKE)	LOCAL COURT RULES

It is ordered that the following Rules be, and are adopted for the governance of the practice and procedures in the Willoughby Municipal Court effective February 1, 2018 until otherwise provided, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Ohio and have been adopted to provide for the efficient and expeditious management of business before this Court. These Rules are to be known as the Willoughby Municipal Court Rules of Practice and Procedures and may be cited as *WMC R. No.* ____.

The Clerk of Court is ordered forthwith to post this Order and the Forward to the Rules (attached hereto). The Clerk of Court is ordered to maintain a copy of these Rules on the Court's website.

IT IS SO ORDERED.

Date: February 1, 2018

Marisa L. Cornachio

Judge Marisa L. Cornachio
Administrative / Presiding Judge

Attachment

Journal:	<u> C-18 </u>
Page:	<u> 033 </u>
Entered:	<u> 02/01/18 </u>

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

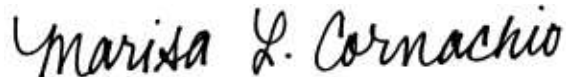
FORWARD

Willoughby Municipal court

These are the Willoughby Municipal Court's Local Rules. They are effective as of February 1, 2018. Copies of this booklet are available on the Court's website:

www.willoughbycourt.com.

These Rules have been promulgated in accordance with Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio. These Rules should be followed when filing documents, practicing, appearing, or litigating in the Willoughby Municipal Court in addition to and in conjunction with the Ohio Rules of Civil Procedure and the Ohio Rules of Criminal Procedure as applicable.



Judge Marisa L. Cornachio
Administrative / Presiding Judge

Date: February 1, 2018

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

GENERAL RULES

RULE 1.1 COURT HOURS

The Clerk of Court's office shall be generally open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Sessions of the court shall generally be daily Monday through Friday, 8:00 a.m. to 4:30 p.m. The court shall be in session at such time as the judges shall prescribe to meet special situations. These hours may be extended or diminished by Court Order. The Court is closed for all legal holidays.

RULE 1.2 DECORUM AND CONDUCT

- A. On opening of any court session, all persons in the courtroom shall stand. All persons in the courtroom shall conduct themselves with decorum and in such manner so as not to interfere with or obstruct judicial activities or proceedings. All persons appearing before the court shall appear in appropriate dress.
- B. Litigants and/or spectators are not permitted to smoke, eat or drink in the courtroom, nor shall they bring food or drink into the court building or courtroom.
- C. No person shall loiter, or conduct him or herself in an unseemly or disorderly manner, in the courtroom or in any halls, stairways, entryways or parking lots adjacent thereto, or otherwise interfere with or obstruct judicial activities or proceedings.
- D. All cell phones, pagers and other sound making devices are to be silenced while in the courtroom.
- E. The court expects that counsel shall call this rule to the attention of clients and witnesses.

RULE 1.3 PUBLIC USE OF COURTROOMS

- A. Questions of the admission of persons to a courtroom shall be the province of the judge or magistrate to whom that courtroom is assigned, within the guidelines of public access to all court proceedings, consistent with the order and dignity of the court.
- B. Public statements by counsel, court personnel, and witnesses shall be regulated by the judge or magistrate to whom the case is assigned within the guidelines of public access to court proceedings and the right of the parties to be free of improper publicity within areas protected by fundamental rights.
- C. No recording shall be made of any court proceeding without approval of the judge or magistrate conducting the proceeding. All such recording must conform to the guidelines set forth in Ohio Rules of Superintendence for Ohio Courts.

Requests for permission to broadcast, record, photograph or televise in the courtroom shall be in writing to the judge to whom the case is assigned as far in advance as reasonably practical, but no later than one-half (1/2) hour prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the trial judge. The written order of the judge in these matters, pursuant to Sup.R. 12, shall be made part of the record of proceedings.

RULE 1.4 OMISSION OF PERSONAL IDENTIFIERS PRIOR TO SUBMISSION OR FILING

- A. When submitting a case document to court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document**

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

B. When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to Rule 1.4(A), the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

C. The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to Rule 1.4(A) shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

RULE 1.5 COURT SECURITY

All visitors of the Willoughby Municipal Court shall follow the directives of Willoughby Municipal Court Security Personnel in the event of an emergency situation or security incident.

RULE 1.6 APPEARANCE AND WITHDRAWAL OF COUNSEL

- A. **APPEARANCE**: Attorneys practicing before this court (except for pro se litigants) shall designate their capacity as trial counsel on all pleadings, motions, petitions, etc. filed in this court. All such documents shall bear, in addition to the signature of trial counsel, counsel's name, email address, office address and zip code, office telephone number, as well as the number of counsel's Ohio Supreme Court Certificate of Registration, as provided by Ohio Gov. Bar R. VI, § 4. A law firm shall not be designated as trial counsel. Upon the entry of appearance of counsel, all journal entries, court documents, court orders and trial assignments shall be served upon the designated counsel at the email address that the attorney provides Willoughby Municipal Court.
- B. **PRO HAC VICE**: An attorney who is not admitted to practice law in the State of Ohio may not appear on behalf of another individual or entity in court without the permission of the judge or magistrate. The motion for permission shall be in writing and shall attach a copy of the Certificate of Pro Hac Vice Registration obtained from the Ohio Supreme Court. It shall certify that the attorney is admitted to practice law in the highest court of another state or in the District of Columbia and that the attorney is not a resident of this state. The request must be cosigned by an attorney admitted to the practice of law in this state and registered under the Rule VI of the Rules for the Government of the Bar of Ohio. If the judge or magistrate grants the applicant's motion for permission to appear pro hac vice, the applicant must file a Notice of Permission to Appear Pro Hac Vice and a copy of the order granting permission with the Office of Attorney Services at the Ohio Supreme Court within 30 days.
- C. **WITHDRAWAL**: Once an appearance is made, an attorney may withdraw from a case only with leave of court. Withdrawal shall be permitted only by written motion filed with the court. The motion shall include (1) the specific reasons for requesting withdrawal, (2) the name and address of a substitute attorney, if any, and (3) proof of notification to the opposing attorney and to the client. Said motion shall be filed at least seven (7) days prior to the next scheduled hearing.

RULE 1.7 COURT APPOINTED COUNSEL

No attorney shall be appointed to represent an indigent person unless his/her name appears on the Court Appointed Counsel List.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

- A. APPLICATION: The attorney must submit a written application to the Administrative Judge. Said application must include the attorney's name, email address, business address, Ohio Attorney Registration Number, and whether the attorney is in good standing with the Ohio Supreme Court. The application shall also include any special areas of expertise, such as language fluency or mental health law specialization. Upon ascertaining that the attorney is in good standing with the Ohio Supreme Court, the attorney's name shall be placed on the Court Appointment List. Said list will be reviewed by the judges on a quarterly basis.
- B. FELONY LIST: Those attorneys on the current court approved Court Appointment List for representing defendants in felony cases in Lake County Common Pleas Court pursuant to Common Pleas Court Local Rule ____ are eligible and may apply to be placed on this court's Felony Court Appointment List.
- C. REMOVAL: The court may decline to accept any application for inclusion on any list, or may remove the name of any attorney from the list.

RULE 1.8 MAGISTRATES

The judges shall appoint magistrates who may hear cases by reference, and in accordance with Traffic Rule 14, Criminal Rule 19, Civil Rule 53, and Rules of Superintendence Rule 19. The Willoughby Court full time magistrate is a salaried employee whose hours and compensation are set by the judge of the court.

Magistrates shall file their reports and recommendations with the Clerk within fifteen (15) days after conclusion of the trial or hearing before them, except in rare and unusual cases in which the complexity of the facts or of the law requires additional time for consideration by the magistrate, in which case the magistrate shall file an interim report setting forth the reasons for the delay. In cases where such report is filed with the Clerk, the magistrate shall file the completed reports and recommendations not later than thirty (30) days after conclusion of the trial or hearing, unless the court, by Order, approves an extension of time.

RULE 1.9 ASSIGNMENT OF CASES TO JUDGE(S)

- A. Civil cases shall be assigned to the judge when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned when a plea of not guilty is entered.
1. Particular Session: The arraignment session shall be the only designated particular session. The following subject categories shall be disposed of by the judge assigned to the arraignment session:
- a. Civil cases in which a Motion for Default Judgment is filed, and where there has not been an answer or other responsive pleading or motion filed;
 - b. Initial appearance in criminal and traffic cases;
 - c. Criminal and traffic cases in which a plea of guilty or no contest is entered at arraignment;
 - d. Preliminary hearings in criminal cases;
 - e. Small Claims cases;
 - f. Forcible Entry and Detainer cases in which the right to trial by jury is either waived or not demanded;

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

g. The judge/magistrate may also rule on motions before the court at the arraignment session.

2. Assignment of re-filed cases: In any instance where a previously filed and dismissed case is re-filed, that case shall be reassigned to the judge.

B. All cases heard before a visiting judge remain on the docket of the individual judge who was last assigned until final disposition unless otherwise ordered by the administrative judge.

RULE 1.10 PRIORITY OF SCHEDULING

A. Actions shall be scheduled for trial in their numerical order so far as possible, except that the following matters shall have priority for trial:

1. Cases on trial which have gone over from the preceding day.
2. Cases which the court may advance for trial.
3. Cases involving the liberty of a person.
4. Cases for wages.
5. Cases for replevin.
6. Cases for attachment.

B. Pursuant to Sup. R. 36(C)(2) of the Rules of Superintendence for Ohio Courts, the following types of cases shall immediately be assigned to the judge upon the filing of the required motions:

1. Cases involving attachment or garnishment before judgment.
2. Cases involving immediate seizure in a replevin action.

C. Priority of normal assignment shall be as follows (subject to ORC § 2945.71):

1. Criminal/traffic jury trials;
2. Criminal/traffic bench trials;
3. ALS appeals, BMV Administrative Appeals, and/or Alternative Motions for Limited Driving Privileges;
4. Civil jury trials;
5. Civil bench trials;
6. Pre-trials – criminal/traffic and civil;
7. Motions (with request for oral hearing).

RULE 1.11 COURT COSTS

The schedules of court costs for criminal/traffic cases as well as for civil/small claims cases are set by administrative order. The schedules are available at the Clerk of Court's office and are posted on the Court's website at www.willoughbycourt.com.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

RULE 1.12 MOTIONS

All motions shall be in writing and timely filed and served on all appropriate parties in accordance with Ohio Rules and Statutes. At the discretion of the court or as required by law, motions may be set for oral hearing.

RULE 1.13 JURY DEMAND

- A. Any party desiring a jury trial in a civil case must demand the same in accordance with Rule 38 of the Ohio Rules of Civil Procedure. Any party desiring a jury trial in a criminal/traffic case shall demand the same in accordance with Criminal Rule 23. The jury demand must be in writing either by separate instrument or by prominent endorsement in the caption of a pleading. The jury demand must be filed in compliance with the time frame set forth in the applicable Rule.
- B. The party demanding the jury in a civil case shall pay the Jury Demand Civil Cost at the time the demand is made and the Jury Deposit Civil Cost no later than noon on the date prior to the trial. The cost requirement may be waived upon the presentation of evidence, which establishes the indigency of the party demanding the jury, and upon approval of the judge. There is no prepayment of jury costs in criminal/traffic cases.
- C. Each party shall file, seven (7) full days in advance of trial, a complete set of instructions suitable for charging the jury in the captioned matter. Parties shall file a trial brief seven (7) full days in advance of trial.
- D. Failure to comply with these requirements may result in a jury waiver or other appropriate sanctions.

RULE 1.14 CONTINUANCE FOR TRIAL OR HEARING

No case assigned for trial or hearing may be continued except on written motion and for good cause shown. Such motion shall be filed with the court not less than seven (7) business days prior to the date of the trial or hearing in civil cases and two (2) business days prior to the date of trial or hearing in criminal/traffic cases. In the case of unforeseen emergency, this time requirement may be waived. The moving party is required to first discuss the continuance with all opposing counsel, or opposing parties if there is no counsel, indicate whether the other party is opposed to or in agreement to the continuance, and state the reason for the continuance. If counsel is alleging a conflicting trial date as the reason for continuance, the conflicting trial notice must be attached to the notice. Counsel must also set forth at least two (2) other alternative dates for trial, agreeable to the court and all parties in the case.

RULE 1.15 RECUSAL OF JUDGE

- A. Should the judge recuse himself or herself from hearing any individually assigned case, said judge shall cause a Journal Entry to be made setting forth the recusal and the reasons therefore. The case shall thereafter be referred to another court or to a visiting judge.
- B. ILLNESS, ETC.: In the event of the protracted illness of a judge, or the unduly prolonged time for trial of a case(s) assigned to a judge, the administrative judge may order reassignment of case(s) assigned to such judge to a visiting judge,
- C. GENERAL: A judge appointed or elected to succeed another shall have the cases assigned to his or her predecessor. When there is a transfer of a case, the case file and the other records shall be changed to reflect the reassignment to the transferee judge.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

RULE 1.16.1 FAX FILING

A. **APPLICABILITY** - These rules apply to all proceedings in the Willoughby Municipal Court.

ORIGINAL FILINGS

1. **The Court shall accept fax filings, filings by mail or filings personally presented at court by an attorney.**
2. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document (original record) with the Clerk of Court but must, however, maintain in his/her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
3. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

C. **DEFINITIONS** – As used in these rules, unless the context requires otherwise:

1. A “**facsimile transmission**” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
2. A “**facsimile machine**” means a machine that can send and receive a facsimile transmission.
3. “**Fax**” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

FAX COVER PAGE

1. The person filing a document by fax shall also include a cover page containing all of the following information:
 - a. name of the court
 - b. name, title, telephone number, fax number, and e-mail address of person filing the fax document;
 - c. title of the case;
 - d. case number;
 - e. title of the document being filed (e.g., Defendant Johns’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss);
 - f. name of the judge to whom the case is assigned, if any;
 - g. date of fax transmission;
 - h. indication of the number of pages included in the transmission, including the cover page;
 - i. if applicable, a statement explaining how costs are being submitted
2. If a document is sent by fax to the clerk without the cover page information listed above, the clerk may do either of the following:

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

- a. enter the document in the case docket and file the document;
- b. deposit the document in a file of failed faxed documents with a notation of the reason for the failure (omission of cover page). The document shall **not** be considered filed with the clerk.

E. FAILED FAX SUBMISSION - The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

F. SIGNATURE

1. A party who wishes to file a signed source document by fax shall either:
 - a. Fax a copy of the signed source document; or
 - b. Fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.
2. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.
3. Any document signed electronically or by stamp of the signature of the judge shall be considered an original signature and have full force and effect of the signature of the judge

G. EXHIBITS

1. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile or email document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Willoughby’s Notice of Filing Exhibit ‘G’ to Plaintiff Willoughby’s Response to Defendant’s Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

H. TIME OF FILING

1. Subject to the provisions of these rules, all documents sent by fax and accepted by the clerk shall be considered filed with the clerk of court as of the date and time the clerk time-stamps the document received as opposed to the date and time of the fax transmission. The office of the clerk of court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business. Therefore, a fax filing received after the court closes on a given business day will be deemed filed with the clerk of court as of the opening of the next

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

business day. On a fax filing, at least one page of any document received by the clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time the filing was received, provided the document is deemed accepted by the clerk.

2. If received after 4:30 PM, that filing would be considered filed as of the following day the court is open for business.
3. Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the clerk of court.
4. The clerk of court may, but need not, acknowledge receipt of a facsimile transmission.
5. The risks of transmitting a document by fax to the clerk of court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the clerk of court through whatever technological means are available.

I. FEES AND COSTS

1. No document filed by facsimile that requires a filing fee at the time of filing shall be accepted by the clerk for filing until court cost and fees have been paid by a credit or debit card (VISA, Discover, or MasterCard). The forms necessary for the authorization of payment by credit card shall be available at the Clerk's Office during normal business hours and are accessible online at www.willoughbycourt.com. Documents tendered to the clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.
2. A one dollar (\$1.00) per page facsimile fee shall be assessed for facsimile filings.

J. LENGTH OF DOCUMENT – Facsimile or email (when available-check with court)) filings shall not exceed 10 pages in length.

K. SERVICE COPIES - The filer may transmit service copies by facsimile or email to the opposing party and the certificate of service should reflect the mode of service.

RULE 1.16.2 EFILING

THIS SECTION IS INTENTIONALLY LEFT BLANK AND RESERVED FOR FUTURE USE

RULE 1.17 SERVICE OF PROCESS

The Clerk of the Willoughby Municipal Court shall accept service of process methods as outlined in Civil Rule 4.1 which methods shall include “virtual” service of process.

The Clerk may choose to utilize service by eCertified mail. This advanced postal technology does not modify Civil Rule 4.1(A)(1)(a) *Service by United States certified or express mail*, but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the court's website to show to whom the mail was delivered, the date of delivery, and address where delivered, all in accordance with the now-existing Civil Rules.

The Clerk may also choose to utilize service of process methods as outlined in Civil Rule 4.1(A)(1)(b) *Service by commercial carrier service* using the specific service that the Clerk deems most effective for the purpose. Advanced technology may also allow the provision for advanced electronic and website technology in the use of a commercial carrier service and receipt of

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

confirmation utilizing the court's website to show to whom the mail was delivered, the date of delivery, and address where delivered, all in accordance with the now-existing Civil Rules.

All service of process of complaints or other documents served with virtual services of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through this Clerk's Office.

RULE 1.18 COURT RECORD RECORDING AND TRANSCRIPTS

A. **RECORD OF PROCEEDING**: All traffic and criminal proceedings shall be recorded as required by the Ohio Rules of Criminal and Civil Procedure. Civil trials, hearings and other proceedings are also recorded.

A party in any case may have a court reporter present to record the proceedings. No fees for court reporters will be taxed as cost or otherwise paid by anyone other than the party providing the court reporter unless that party makes a timely motion prior to trial or hearing for the appointment of an official court reporter and requests in advance that such fees be taxed as costs. See Civil Rule 54(D) and ORC §1901.33. The responsibility of arranging for the attendance of a court reporter shall rest with the attorney and/or party desiring the same.

B. **TRANSCRIPT OF PROCEEDING**: All requests for transcripts of any court proceeding shall be in writing and directed to the judge or magistrate who heard the case. If movant or movant's counsel wants a particular reporting firm appointed to transcribe a recording, a motion seeking such appointment must be made. The court will then contact the appointed reporter with a specific date and time to come to court to transcribe the recording or obtain the record of the proceeding for transcription. If a reporting firm is not specified by movant or movant's counsel, or is not acceptable to the court, then the court will issue an entry appointing a court reporter and the transcription is then obtained from the official court reporter at movant's costs. The official court reporter must pay a court cost for the CD recording.

All transcripts shall be completed within a reasonable time which shall be thirty (30) days, and the request should allow for that thirty (30) day preparation time.

All transcriptions must be filed with the court immediately upon completion.

C. **COPY OF RECORD OF PROCEEDINGS**: All requests for copies of a CD recording shall follow the Ohio Supreme Court's Rules of Superintendence, Rule 11(D) that states: "*(D) Inspection of electronically recorded transcripts of proceedings. A party may request a copy of an electronically recorded transcript of proceedings, or a portion of the transcript. The court may permit a party to view or hear the transcript of proceedings on file with the court.*"

RULE 1.19 PUBLIC RECORD REQUESTS

Court records are presumed open to public access. Public record requests will be fulfilled in full compliance with the Ohio Rules of Superintendence, the Ohio Revised Code and any other applicable rules or statutes. Any public record request that seeks information in electronic format will be delivered in PDF format, if possible, or by any means the court may choose or is capable of providing. This insures the integrity and authenticity of the data received from the Willoughby Municipal Court.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

RULE 1.20 JURY MANAGEMENT PLAN

See **APPENDIX A, JURY MANAGEMENT PLAN**, on Page 26

RULE 1.21 COURT RECORDS MANAGEMENT AND RETENTION

Pursuant to the Ohio Rules of Court, Rules of Superintendence for the Courts of Ohio, Rule 26 (C) and (D), all Willoughby Municipal Court case records filed after January 1, 2006, will be retained in electronic media format, as much as practicable, including text and digital images, as an alternative to a paper record.

Paper media may be destroyed after it is imaged and saved to the electronic case record in accordance with division (D) of Rule 26.

Audio records of courtroom proceedings shall be kept for a period of five (5) years.

RULE 1.22 FRIVOLOUS ACTIONS AND VEXATIOUS LITIGATORS

- A. If the Court, *sua sponte* or on motion by a party, determines that an action is frivolous or is filed for delay, harassment or any other improper purpose, it may impose, on the person who signed the complaint or action, a represented party or both, appropriate sanctions. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or any other sanction the court deems just. An action shall be considered frivolous if it is not reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification or reversal of existing law.
- B. If a party habitually, persistently and without reasonable cause engages in frivolous conduct under section (A) of this rule, the court may, *sua sponte* or on the motion by a party, find the party to be a vexatious litigator. If the court determines that a party is a vexatious litigator under this rule, the court may impose filing restrictions on the party. The restrictions may include prohibiting the party from instituting legal proceedings in the court without first obtaining leave or any other restriction the court considers just.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

CRIMINAL / TRAFFIC CASE MANAGEMENT

RULE 2.1 DIVERSION PROGRAMS

- A. **THE DIVERSION PROGRAM:** The Diversion Program (DP) is for certain non-violent misdemeanor offenses, committed by first-time offenders. Upon successful completion of the program, charges are dismissed and the records in the case are sealed from public inspection. The defendant shall pay the court costs associated with the dismissal. If the defendant fails to successfully complete the diversion program, the defendant shall be found guilty of all charges and the court shall proceed to sentencing. A hearing shall be scheduled at which the court determines whether the defendant has successfully completed the program.

At pretrial/trial, if the prosecutor determines that the defendant is a candidate for the program, the prosecutor may make a motion that the defendant be admitted to the program. The defendant enters the DP by entering a Guilty plea. The defendant shall sign a program agreement. The court will hold its findings in abeyance.

No one may enter the DP without the consent of the judge/magistrate. The factors that the court will consider are whether the defendant was cooperative with the law enforcement officer(s) making the arrest, whether the incident is a non-violent offense, whether there is evidence of remorse on the part of the defendant, the defendant's prior criminal/traffic record, whether there are any criminal cases or alcohol related traffic offenses pending against the defendant at the present time and any other factor that the court deems relevant. The court may also decline to admit a defendant into the program if, at the court appearance, it is found the defendant has an active arrest warrant.

While enrolled in the program, all participants must remain law abiding and have no further criminal offenses or alcohol related traffic offenses. Individuals may be ordered to abstain from alcohol/drugs of abuse, be subject to random alcohol/drug screening, obtain a G.E.D. or high school diploma if applicable, obtain employment, complete community work service and/or comply with any additional appropriate terms. In cases where victim restitution is applicable, the court shall order the defendant to pay restitution. There is a diversion fee for the program. Participants may be ordered to complete an educational instruction program at their own expense.

- B. **THE DRIVING UNDER SUSPENSION DIVERSION PROGRAM:** The Driving Under Suspension Diversion Program (LDP) is designed to assist drivers who are under suspension to restore their valid driving privileges. The Diversion Program Coordinator shall review the DUS cases presented before the court. The LEADS Printout shall be reviewed to determine the eligibility of the defendant. Program eligibility shall be determined using criteria established by the court. **A defendant may not participate in the LDP if the charge is driving under an OVI/ALS suspension or if there was an accident.**

A DUS checklist form shall be completed by the Diversion Program Coordinator. The checklist shall identify the specific problems the defendant has with the Bureau of Motor Vehicles (BMV) and the specific tasks and financial costs necessary to restore driving privileges. In addition, all other pending or unpaid traffic matters will be identified on this form.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

Defendant's ability to participate may be determined at arraignment or following a prosecutor's pre-trial conference with the defendant/defense counsel.

1. If eligible, defendants will be asked if they wish to participate in the program.
2. The defendant shall enter a Guilty plea to the DUS Charge and any accompanying charges.
3. Defendants shall sign a program agreement.
4. The court shall hold its findings in abeyance.
5. A Journal Entry shall reflect assignment to the program.
6. The case shall be continued on the court's docket for a reasonable period of time.
7. The checklist shall be reviewed and the defendant advised on the tasks and financial costs necessary to obtain valid driving status, including, but not limited to, obtaining auto insurance.
8. Upon defendant's return to court on the LDP hearing date, the court will issue a finding on the original plea based on whether defendant has a valid driver's license and insurance. If the defendant has a valid license and insurance, the DUS will be amended to a failure to display charge and all accompanying traffic charges will be dismissed at the defendant's cost. Insurance issues may be resolved pursuant to ORC §4509.101(D).
9. Participants of the LDP will be required to pay a diversion fee, a mandatory fine relative to the licensing offense, plus all court costs associated with their case(s).
10. Any program violation will result in termination of the referral, the court entering a finding of guilty on the original pleas and proceeding to sentencing.

RULE NO. 2.2 ARRAIGNMENT

The Clerk of Willoughby Municipal Court shall require the filing of a written complaint or uniform traffic ticket before placing an individual's name on the traffic / criminal docket.

- A. Plea by Personal Appearance: The defendant, either on his own behalf or by and through counsel, may enter one of the following pleas at arraignment:
1. Guilty,
 2. Not guilty
 3. No contest, or
 4. Not guilty by reason of insanity (except in traffic cases where a not guilty plea by reason of insanity is not applicable).
- B. Not Guilty Plea by letter: A defendant may enter a plea of not guilty by letter prior to defendant's scheduled arraignment provided that the letter is sent by retained or court appointed counsel. The letter shall include counsel's name, email address, office address and zip code, office telephone number, and counsel's Ohio Supreme Court Certificate of Registration Number. The letter shall demand or waive the defendant's right to a speedy trial, demand or waive the defendant's right to a jury trial if the offense is one that provides a right to a jury trial and indicate if the defendant is willing to have his case heard by a magistrate. If right to a speedy trial is not addressed, the court will presume that a right to speedy trial is not waived and schedule accordingly. If right to a jury trial is not addressed, that right is waived pursuant to Ohio Rule of Criminal Procedure 23.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

- C. Request for continuance: Defendant may request a reasonable continuance of initial arraignment by filing a written motion or defendant may appear in court at arraignment to request a continuance.

RULE NO. 2.3 WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND OHIO REVISED CODE

Pursuant to the requirements of Criminal Rule 4.1(E), and Traffic Rule 13, the court has established a waiver schedule by administrative order. The schedule is available at the counter in the Clerk's Office and on the court's website at www.willoughbycourt.com.

RULE NO. 2.4 BAIL BOND SCHEDULE

- A. BOND SCHEDULE: In lieu of bond set by a judge or magistrate, the clerk and/or arresting police authority are authorized to release a person charged with a misdemeanor criminal / traffic offense based on the Bail Bond Schedule established by administrative order. The schedule is available at the counter in the Clerk's Office and on the court's website at www.willoughbycourt.com.
- B. FELONY CASES: Bond in felony cases shall be set by the judge. The judge may refer the setting of the bond in felony cases to a magistrate.

In all issues regarding the setting of bond, the court considers risk assessment factors to include, but which are not limited to the nature of the offense, prior criminal history, previous convictions, previous failures to appear and any and all other considerations the court may assess in determining whether bond will be required to ensure the appearance of the defendant and to limit pre-trial detention of those who may be at low risk of re-offending or not appearing for court hearing.

RULE 2.5 USE OF ELECTRONICALLY PRODUCED TICKET (eTICKETING)

The use and filing of a ticket that is produced by a computer or other electronic means is hereby authorized in the Willoughby Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

CIVIL / SMALL CLAIMS MANAGEMENT

RULE NO. 3.1 CIVIL CASE MANAGEMENT

- A. Costs: No action, proceeding, motion or other document shall be accepted for filing by the clerk of court unless there first shall be deposited the sum of not less than the amount specified in the civil costs section as security costs, unless otherwise ordered by the court or otherwise exempted by law. The schedule of court costs in the civil division is set by administrative order. The schedule is available at the clerk of court's office or at the court's web site. Those persons unable to post the required security for costs may be excused from the same upon filing of an appropriate affidavit, when approved by the judge assigned to the case.
- B. Summons: The 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 court shall notify counsel immediately. If counsel/pro se litigant fails to obtain service of the summons and complaint within 6 months from the date the case has been filed and the party on whose behalf such service was required cannot show good cause why such service was not made, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion.
- C. Assignment of cases: If an answer or motion, other than one for default judgment, is filed, the clerk of court shall immediately forward the file to the judicial staff for random lot assignment.

RULE NO. 3.2 JOINDER AND SEPARATION OF CASES

- A. Motions for joinder, consolidation and separation of civil cases shall be addressed to the administrative judge. The clerk of court shall be provided with a sufficient number of copies of any motion filed in accordance with this rule to include a copy in each file affected by the motion. Failure to comply with this provision will result in such partial filing being stricken.
- B. If joinder or consolidation is permitted, all cases so joined will be assigned or transferred to the judge holding the case with the lowest case number.
- C. If separation is permitted, the originally assigned judge shall retain the case bearing the lowest case number.

RULE NO. 3.3 PLEADINGS AND MOTIONS

- A. Upon assignment of a civil case to an individual judge, pleadings, motions and other pertinent documents shall be filed with the clerk of court.
- B. All motions must be in writing, on 8 1/2 x 11 paper, with no backing, and served on opposing counsel / pro se litigant. All motions must be accompanied by a written memorandum containing argument and citations.
- C. Motions and responses must be filed within the time guidelines set forth in the Ohio Rules of Civil Procedure.
- D. Motions shall be ruled on without a hearing unless otherwise requested in writing, and at the court's discretion.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

Motions for Summary Judgment

Unless otherwise ordered by the court, Motions for Summary Judgment shall be decided on the briefs and other attachments without oral arguments. The adverse party shall file a brief in opposition within fourteen (14) days after service of the motion.

Motions other than for Summary Judgment

Each party opposing a motion other than Motion for Summary Judgment shall serve and file a brief in opposition within seven (7) days of service of said Motion, unless a longer time period is provided in the Ohio Rules of Civil Procedure.

RULE NO. 3.4 PRE-TRIAL CONFERENCES

- A. The judge/magistrate may schedule a pre-trial conference the purpose of which is to narrow and clarify issues, agree to stipulations, set a case management schedule, and attempt to reach settlement.
- B. Attorneys and/or pro se litigants are required to appear at scheduled pre-trial conferences and failure to appear may result in sanctions. Counsel attending a pre-trial conference must have complete authority to stipulate to items of evidence and admissions, and must have full settlement authority or have the client present at the pre-trial.

RULE NO. 3.5 JOURNAL ENTRIES

All motions submitted to the court shall be accompanied by journal entries,

RULE NO. 3.6 DEFAULT JUDGMENTS

In all cases in which default judgment is available to a party by reason of failure of defendant to answer or appear, the motion for default judgment must be filed within 90 days from the time that plaintiff has notice of such default. Failure to file a motion for default shall result in dismissal of the complaint for want of prosecution. Proof of damages must be submitted to the court by affidavit or testimony. For cases based on an account, the account statement must be submitted, along with proof by affidavit or testimony that no subsequent payments have been made on the account. It is the responsibility of counsel to prepare a proposed journal entry.

RULE NO. 3.7 FORCIBLE ENTRY AND DETAINER

- A. COMPLAINT - A complaint in Forcible Entry and Detainer shall be filed and shall contain a reason for the eviction, a copy of the notice under R.C.1923.04, and a copy of the written instrument upon which the claim is founded. When the plaintiff is a corporation, the complaint must be signed and prosecuted by an attorney. Noncompliance with this rule may result in dismissal of the complaint.
- B. TRIAL - There shall be no "Answer Day" or "Call Day" as the term is used in other civil cases, and the trial date shall be set forth in the summons. Defendant shall be served at least seven (7) days prior to the date set for trial. Motions shall be heard at the trial, unless the assigned judge or magistrate directs otherwise.
- C. CONTINUANCE - A continuance may be granted as provided in R.C. 1923.08.
- D. ENFORCEMENT OF FIRST CAUSE JUDGMENT – WRITS AND MOVE-OUTS

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

1. If judgment is for plaintiff on the first cause (possession), unless otherwise ordered by the court, the plaintiff may immediately purchase a Writ of Restitution and schedule a move-out with the bailiff.
2. Writs must be timely purchased. Timely purchase is determined according to the following:
 - a. Within thirty (30) days of the date of the judgment, unless the judgment orders otherwise.
 - b. Where the judgment is more than thirty (30) days old, but less than sixty (60) days old, plaintiff must file a Motion for Leave to Purchase a Writ and serve a copy of the motion on the defendant(s). The court may schedule a hearing on the motion or decide the motion on the filings of the parties. Upon the granting of the motion, plaintiff may purchase a writ and schedule a move-out.
3. Writs must be executed upon (the scheduled move-out must occur) within fifteen (15) business days of issuance by the clerk's office. If a move-out is stayed or canceled, and more than fifteen (15) business days pass between the date the writ issued and the new move-out date, the plaintiff must purchase a new writ.

E. SCHEDULING THE MOVE-OUT - In order to arrange for the physical removal of the defendant and their belongings, the following must occur:

1. Plaintiff must purchase a writ of restitution from the clerk;
2. Plaintiff must call the judge's bailiff to schedule the move-out within five (5) days of the purchase of the Writ.
3. Upon presentation of the receipt, the bailiff shall schedule a move-out date and inform the plaintiff of the scheduled date.

F. MOVE-OUTS

1. Every move-out scheduled by the court pursuant to a Writ of Restitution shall be supervised by the bailiff. The actual physical move-out of defendant's belongings shall be conducted by the movers hired by the plaintiff.
2. On the scheduled date and hour, the bailiff shall meet the plaintiff, or his/her agent, at the premises. The bailiff shall enter the premises and remove all inhabitants not lawfully entitled to possession. The movers shall then conduct the actual physical move-out and secure any items as required under the law.
3. The court recommends that plaintiffs inspect the premises prior to scheduling the move-out date. On the scheduled move-out date, if the volume or nature of the contents of the premises is such that removal of the contents would create a health or safety hazard, the move-out may be canceled. Thereafter, a new move-out date may be set in conjunction with a special waste collection as scheduled by the plaintiff. Although the costs of special waste collections are initially borne by plaintiff, plaintiff may plead such costs as damages.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

RULE NO. 3.8 CHANGE OF VENUE CERTIFICATION OR PROCEEDINGS

- A. **COURT AS TRANSFEROR**: The clerk shall not transfer any case pursuant to venue change in application of Civil Rule 3(C) until all costs are paid, and, in addition, a check made payable to the transferee court in the sum sufficient to secure its costs is deposited with the clerk to accompany the file upon transfer. It shall be the responsibility of the plaintiff's attorney to ascertain the filing cost in the transferee court. Failure to comply with this rule within fourteen (14) days from the date of entry as to change of venue may form the basis for dismissal of the action.
- B. **COURT AS TRANSFEREE**: The clerk shall not file and docket any case transferred to this court pursuant to venue change in application of Civil Rule 3(C) until a sum sufficient to secure costs has been deposited. Failure to comply with this rule within fourteen (14) days from receipt of the file from the transferor court may form the basis for returning the file to the transferor court.
- C. **CERTIFICATION TO COMMON PLEAS COURT**: It shall be the responsibility of any party filing a counterclaim, crossclaim or third-party complaint exceeding the monetary jurisdiction of the court to also file a motion to certify the case to the Court of Common Pleas. The motion shall be accompanied by a check or money order made payable to the Court of Common Pleas, in a sum of not less than the amount specified as security costs for that court. Failure to comply within thirty (30) days of the filing of such counterclaim, crossclaim or third-party complaint shall be grounds for dismissal under Civil Rule 41(B).

RULE NO. 3.9 TRANSFER OF JUDGMENT

Pursuant to provisions of R.C.2329.02, the clerk of court shall accept for filing, a Certificate of Judgment or a Transcript of the Proceedings of the original court which shall be docketed and numbered as if originally filed in this court and the clerk shall notify the original court by mail that such transfer has been made.

RULE NO. 3.10 SMALL CLAIMS

- A. **COMPLAINT** - A small claims action is commenced by filing a small claims complaint pursuant to R.C. 1925.04. The clerk of court shall accept claims for filing and shall not provide legal advice. A defendant is not required to file an answer or a statement of defense. A timely counterclaim or crossclaim may be filed. All pleadings will be construed to accomplish substantial justice. Should the defendant fail to appear for the hearing, a judgment may be entered.
- B. **CONTINUANCES** - No case scheduled for trial, hearing or mediation may be continued except on written motion and for good cause shown. Such motion shall be filed with the court not less than seven (7) calendar days prior to the hearing, trial or mediation. In the case of unforeseen emergency, this time requirement may be waived.
- C. **MOTIONS TO TRANSFER TO THE CIVIL DOCKET** - Unless good cause is shown, a motion to transfer to the regular docket shall accompany all timely, written counterclaims and crossclaims in excess of \$6,000.00 (or the jurisdictional limit) and shall be transferred to the regular docket. After transfer, the defending party shall have 28 days from judicial assignment, to move or plead. A motion to transfer (without a counterclaim or crossclaim in excess of \$6,000.00) must be filed seven days before trial and may be transferred to the regular docket. A jury demand shall not be allowed in a case filed in the Small Claims Division unless accompanied by a

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

proper and timely motion to transfer to the regular docket. The movant must comply with Local Rule 29 regarding jury demands and all required fees and deposits must have been paid.

RULE NO. 3.11 TRUSTEESHIP

In order to enter into a trusteeship pursuant to R.C. 2329.70, an applicant must be qualified by having received a demand for garnishment of personal earnings.

At the time of application, the applicant shall submit to the court a legal fifteen (15) day notice received from a creditor listed in his application within thirty (30) days prior to filing of trusteeship application.

At the time of application, the debtor shall disclose to the clerk his or her pay day, and whether it is weekly, bi-weekly, semi-monthly or monthly. At the time of filing, the debtor must pay the filing fee. At every pay day after the trusteeship is established, the debtor shall appear and show his or her pay stub to a deputy clerk, as trustee, and make payment in accordance with R.C. 2329.70 in an amount equal to 17.5% of the debtors gross earnings less deductions allowed by law. Failure to make regular payments as set forth above will be cause for termination of the trusteeship.

The Court shall cause notice to be forwarded to each creditor by certified mail with request to verify the account with election to participate or not to participate in the trusteeship. Failure to elect within ten (10) days after receipt of notice shall cause trustee to declare creditor a participant in the trusteeship under R.C. 2329.71. The election to participate shall constitute a waiver of all interest, penalties, and late charges as may be provided in the security agreement, or any other indebtedness.

If the debtor desires to make payments to creditors out of exempt pay, such payments may be made as follows:

1. Paying direct to any secured creditor (holder of mortgage on any property) such amounts as desired, provided payment of the amount required has been made to the Clerk, as trustee, but only if such creditor is not listed as a creditor in the schedule, or such creditor has refused to participate in the trusteeship, or an agreement has been filed with and approved by the court.
2. Making payment of such amount to the Clerk for distribution to the creditors. In no event shall the debtor make any payment directly to a listed creditor who is participating in proceeds of the trusteeship without approval of the court.

Any payment made in violation of this rule shall be grounds for termination of the trusteeship and the Clerk, on final distribution, shall omit the amount of such preferred creditor in calculating the distribution.

The Clerk, as Trustee, shall deduct two percent (2%) of amount collected as a poundage fee which shall be forwarded to the City of Willoughby monthly.

In the event a debtor fails to make any scheduled payment within ten (10) days after the payment is due, the Clerk shall forward a letter by ordinary mail to the debtor at the address listed by the debtor, requiring the debtor to appear at a date not less than five (5) days nor more than ten (10) days from the date of the letter to show cause why the trusteeship shall not be terminated. If the debtor appears, hearing may be had before a Judge or Magistrate at debtor's request. If the debtor fails to appear, the Clerk shall forthwith prepare an entry terminating the trusteeship for cause.

The Clerk shall not be required to make distribution to creditors more often than once every ninety (90) days except that she shall disburse all funds including a the two percent (2%) fee to the City of Willoughby, at the end of the month in which the termination of any trusteeship occurs.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE NO. 3.12 CIVIL PETITION IN RE: APEAL OF DOG DESIGNATION AS NUISANCE DOG, DANGEROUS DOG OR VICIOUS DOG

The filing of a civil petition to contest the designation of a dog as nuisance, dangerous, or a vicious dog shall require a filing fee of \$115.00 (which shall include \$10 CIF; \$10 General Special Projects Fee; and Legal Aid Society funding per the Ohio Revised Code). The petition shall be categorized as CVH. The court shall consider these matters upon the filing of a written petition by the dog's owner requesting a hearing. Notice of hearing shall then be provided to the owner, the designating agency, and the prosecuting attorney for the city or village where the dog's owner resides. The petition shall be filed in the municipal court that has territorial jurisdiction over the residence of the dog's owner, keeper or harbinger.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

APPENDIX A

JURY MANAGEMENT PLAN

RULE 1.20.1 SCOPE

This Local Rule of Practice for Jury Management shall govern petit jury assembly, selection and management in the Willoughby Municipal Court. It addresses the mandates of Rule 5(B)(2) of the Rules of Superintendence for the Courts of Ohio, requiring each Court to adopt a Jury Management Plan. The Plan addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio in 1993, and Title XXIII of the Ohio Revised Code, amended, effective May 18, 2005. The Rule also takes into consideration the Report and Recommendations of the Supreme Court Ohio Task Force on Jury Service (February 2004), and resulting amendments to the Ohio Rules of Criminal and Civil Procedure, effective July 1, 2005. Its purpose is to implement an efficient and comprehensive system of jury use and management for the Willoughby Municipal Court.

RULE 1.20.2 JURY POOL

The Willoughby Municipal Court Judge, in conjunction with the Willoughby Municipal Clerk of Court, shall administer the jury assembly process. These officials may appoint clerical personnel to aid in the administration of the jury system. Any person appointed to administer the jury assembly process is a jury administrator. (Ohio Jury Management Standard 10). Jury service is an obligation of all qualified citizens of the Cities of Wickliffe, Willowick, Willoughby, Eastlake, Willoughby Hills, Kirtland, and villages of Kirtland Hills, Lakeline, Waite Hill and Timberlake, Ohio, hereinafter referred to as the "Court's Jurisdiction.". The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a recognizable group in the jurisdiction. (Ohio Jury Management Standard 1). Therefore, the jury administrator shall annually compile the jury pool or jury source list of registered voters in the court's jurisdiction utilizing as its source the Lake County Board of Elections randomly sorted list of the names of all voters in the court's jurisdiction registered to vote in the preceding election year. (Ohio Jury Management Standard 2).

RULE 1.20.3 RANDOM DRAW

The jury administrator shall randomly draw names from the jury pool or jury source list as needed to establish jury panels for jury selection. Prospective jurors shall not be drawn from bystanders or any source except the jury pool. The jury administrator, by use of automated data processing software located at the Lake County Common Pleas Court, shall intermix and randomly select the names of a sufficient number of prospective jurors for the ensuing year. The software system shall be utilized to randomly assign, from the source list, sufficient prospective jurors to specific panels, and for assignment during voir dire in a random selection process, while efficiently requesting the services of a minimally sufficient number of jurors needed to accommodate trial activity with a minimum of inconvenience to jurors. (Ohio Jury Management Standards 3 and 13).

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

**RULE 1.20.4 MANAGEMENT STANDARDS PRIOR TO THE ISSUANCE OF JURY
SUMMONS FOR TRIAL DATE CERTAIN**

Prospective jurors shall be summoned only upon notice to the jury administrator from the assigned Judge or the judge's designee. Such action shall be prompted by the filing of a written jury demand, if required by the Ohio Rules of Civil and Criminal Procedure, in cases that have not been resolved at pre-trial or other appropriate hearing.

In civil cases, a jury demand fee in an amount indicated in the court's most recent Administrative Journal Entry/Schedule of Court Costs, shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, the *jury demand fee*, in the amount set by said Administrative Entry shall accompany said pleading. One (1) business day prior to the trial date, the *jury deposit fee* must be receipted by the Clerk's Office by noon. This *jury deposit fee* (as listed in the court's most recent Schedule of Court Courts), shall be used to pay the prospective jurors who have been called in response to the jury demand. The *jury deposit fee* will not completely cover the juror expense. The remainder of the juror expense will be added to the court costs of the case at hand. In the event either *deposit fee* or the *demand fee* is not made, this shall be deemed a waiver of the right to a trial by jury in the civil case. (WMC Local Rule 1.13(B)) A person determined to be indigent may petition the court for a waiver of the jury deposit requirement. No deposit shall be required of a party in a criminal / traffic case.

Every effort shall be made to resolve cases prior to summoning a jury. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial. The assigned judge or his or her designee shall contact counsel, or the parties, whichever is appropriate, at least two weeks prior to the scheduled trial date. If it appears that trial is inevitable, a jury panel shall be summoned upon court order, at least six weeks in advance of the trial, unless the time limitations in criminal cases pursuant to R.C. 2945.71 are invoked, requiring summons to issue at least seven (7) days prior to the scheduled jury trial. Prospective jurors are instructed to call the court within certain time constraints. Those costs associated with the summoning of a jury as set by the court's most recent Administrative Journal Entry/Schedule of Costs, shall be assessed to the party requesting the jury trial.

In cases where multiple civil trials are set for the same date, jury costs shall be assessed to the last case settled on the date of the jury trial, as substantial efforts have been made by the court to have all issues resolved prior to trial. If a civil case is settled on the date of the jury trial all lawful costs shall be assessed against the party who requested the jury, unless otherwise agreed by consent entry. If a jury has been sworn at the trial of a civil case, the fees of the jurors shall be paid to the public treasury from which the jurors were paid.

In cases where multiple criminal/traffic trials are set for the same date, the individual jury service payment shall be assessed at the discretion of the judge per agreement of the parties. Ultimately, said costs will be assessed based on the motion of the prosecution. If the agreement is the defendant is to pay costs, all court costs shall be assessed to the defendant unless otherwise agreed. If the agreement is that the State or the City pay costs, the cost of summoning the jury, as well as other court costs, including the cost of paying juror fees will be assessed to the State or City based on the complaint in the file unless amended, unless otherwise agreed by the parties. R.C.2947.23(A)(2)(b) effective May 18, 2005 provides that if a jury has not been sworn at the trial of a criminal case, and the defendant fails to appear without good cause, the costs incurred for that

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

morning's jurors for that particular trial may be included in the costs of prosecution. If the costs incurred in summoning jurors are assessed against the defendant, those costs shall be paid to the public treasury from which jurors were paid.

RULE 1.20.5 NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE

The jury administrator, on an ongoing as needed basis, shall mail to each person whose name is drawn a juror questionnaire or jury qualification form. The form shall indicate that a jury summons may issue in the ensuing year for service as a prospective juror (Attachment A).

Upon notice of a staff member of the Judge conducting the upcoming jury trial, the jury administrator shall send summons upon Court Order at least six weeks in advance of the scheduled trial date. A judge may order prospective jurors to appear upon less notice when, in the course of jury selection, it becomes apparent that additional prospective jurors are required in order to complete jury selection, or where there is not a waiver of speedy trial in a criminal case.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of thirty persons per trial shall be summoned for service unless the court determines that a lesser or greater number is necessary for a particular trial.

Persons summoned for jury service shall receive compensation in the amount designated in the most recent Administrative Journal Entry/Schedule regarding same. Such fees shall be promptly paid from the City Treasury, as appropriate.

Any juror wishing to waive his or her fee for service shall be permitted to do so in writing in the clerk's office. All waived fees shall be returned to the City Treasury, as appropriate.

The summons shall include the following information: the date of service, directions to the court, parking, public transportation, per diem compensation set by the most current Administrative Journal Entry setting such rate, and any other applicable instructions. It shall further explain how and when the recipient must respond, the consequences of a failure to respond, and how the recipient may check reporting status by phone. (Ohio Jury Management Standard 1 and 11) (Attachment B).

The Summons shall indicate that the term of service for any prospective panel shall be one day or the completion of one trial, whichever is longer. (Ohio Jury Management Standard 5)

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors,
3. To remove prospective jurors for cause if challenged peremptorily, or
4. To provide all prospective jurors an opportunity to be called for jury service and to be assigned to a panel.

All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned (see Attachment B). All prospective jurors will have previously been requested to complete the basic jury questionnaire

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

form that will have been sent by the jury administrator prior to the Summons being issued (see Attachment A).

The Summons shall also indicate that written forms for seeking disqualification, exception or deferral are available from the court at the clerk's office or on the court's website at www.willoughbycourt.com. (Attachment C). Written records shall be kept pursuant to Rule 8 regarding Documentation. (Ohio Jury Management Standard 6).

RULE 1.20.6 QUALIFICATION

The court shall determine if the prospective jurors are qualified to serve, or if disabled but otherwise qualified, could serve with reasonable accommodation. In order to qualify as a juror, a person shall state under oath or affirmation that he or she is:

1. A citizen of the United States,
2. At least eighteen (18) years of age,
3. A resident of the summoning territorial jurisdiction of the Willoughby Municipal Court,
4. Able to read, speak and understand the English language,
5. Not suffering from a physical or mental disability that prevents him or her from rendering satisfactory jury service,
6. Not under a guardianship appointment because of mental incapacity, or
7. Not a person who has had rights to vote revoked by reason of a felony conviction and whose rights to vote have not been restored. (Ohio Jury Management Standards 4 and 6).

RULE 1.20.7 EXEMPTION

Only those exemptions expressly provided by statute, narrowly construed are permitted. A person who is over seventy-five (75) years of age is exempt if the juror requests to be excused. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Such individuals must be excused by the judge presiding over the case for which they have been summoned or by the judge's designee, the jury administrator. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excusal, exemption or deferral must be made on the appropriate form described in Rule 4, and attached as an Appendix to this Rule. (Attachment C). Once a prospective juror has submitted his or her request for exemption or deferral, the prospective juror must report for service unless otherwise notified by the court. (Ohio Jury Management Standard 6).

RULE 1.20.8 DEFERRAL

The judge or judge's designee may authorize deferral of jury service for up to six (6) months upon a showing of hardship, extreme inconvenience, or necessity (Ohio Jury Management Standard 6). All those deferred will remain in the jury source list or pool for the next year.

RULE 1.20.9 DEPARTURES FROM RANDOM SELECTION AND DOCUMENTATION THEREOF

Departures from random selection shall be permitted only as follows:

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

1. To exclude persons ineligible for service,
2. To excuse or defer prospective jurors, or
3. To remove prospective jurors for cause or if challenged peremptorily.

The facts supporting juror disqualification, exceptions, and deferrals shall be recorded under oath or affirmation. No disqualification, exemption or deferral shall be authorized unless the facts support it. These records shall be kept for a minimum of two (2) years. (Ohio Jury Management Standard 6).

RULE 1.20.10 TERM OF JURY SERVICE

A person who appears for service as a petit juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service by reporting to the courthouse and being recorded as present for jury service and not deferred, but is not selected and sworn as a juror, completes the person's service in Willoughby Municipal Court when jury selection is completed.

A person who: (1) serves as a juror; or (2) serves until jury selection is completed but is not chosen to serve as a juror, may not be selected for another jury panel until all nonexempt persons in the jury pool for that month have been called for jury duty.

RULE 1.20.11 JUROR SAFETY AND PRIVACY

Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The court shall maintain confidentiality to the extent consistent with constitutional and statutory rights of the parties, and with Ohio's Public Records laws. (Ohio Jury Management Standard 7 D).

RULE 1.20.12 JURY ORIENTATION

The court shall provide prospective jurors with orientation prior to the selection process so that they may understand their role in the legal system. Jury orientation shall include a standard presentation recommended by the Ohio Rules of Superintendence for the Courts of Ohio, Appendix B. Jury Management Standards, Standard 16.

RULE 1.20.13 RECORD SHALL BE MADE

Jury selection shall be recorded, including all sidebar conferences. The parties may waive this process in civil matters, but only if the waiver is on the record. (Ohio Jury Management Standard 7)

RULE 1.20.14 JURY PANEL – OATH OR AFFIRMATION BY PROSPECTIVE JURORS

The jury panel consists of those prospective jurors who answered their Summons by reporting for jury service. The judge or judge's bailiff shall administer the following to the prospective jurors of the jury panel:

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

“Do you swear or affirm that you will honestly answer any question asked of you during jury selection?”

RULE 1.20.15 INTRODUCTION TO CASE

After welcoming the jury panel, the judge shall introduce the panel to the case. The judge’s introduction to the case shall include at least the following:

1. Introduction of the participants;
2. The nature of the case;
3. The applicable standard of proof;
4. The applicable burden(s) of proof;
5. The presumption of innocence in a criminal case;
6. The appropriate means by which jurors may address their private concerns to the judge;
7. The appropriate standard of juror conduct;
8. The anticipated course of proceedings during trial; and
9. The rules regarding challenges.

To facilitate the jury panel’s understanding of the general nature of the case, with consultation of the parties, the judge may give jurors a brief introduction to the case. The brief introduction may include a general description of the legal claims and defenses of the parties. Ohio Civil Rule 47(a) and Ohio Criminal Rule 24(A), effective July 1, 2005.

RULE 1.20.16 EXAMINATION OF PROSPECTIVE JURY PANEL (VOIR DIRE)

Examination of prospective jurors shall be governed by Ohio Rule of Civil Procedure 47(B) and Ohio Rule of Criminal Procedure 24(B).

Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror’s fairness and impartiality.

To reduce the time required for voir dire, basic background information regarding panel members shall be made available to counsel in writing for each party on the day on which jury selection is to begin (See Exhibit C).

The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

The judge shall ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process (Ohio Jury Management Standard 7).

In the event there exists a potential for sensitive or potentially invasive questions, the court or the parties may request a hearing preceding voir dire to consider their questions.

An examination of a prospective juror may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE 1.20.17 NUMBER OF JURORS

In all *criminal* cases in the Willoughby Municipal Court, the jury shall consist of eight (8) persons. The court shall determine the number of alternate jurors to be seated. The verdict shall be unanimous.

In all *civil* cases in the Willoughby Municipal Court, the jury shall consist of eight (8) persons, unless the parties agree to a lesser number of jurors before the jury is selected. The court shall determine the number of alternate jurors to be seated. The verdict shall conform to existing Ohio law.

RULE 1.20.18 CHALLENGE FOR CAUSE

In both civil and criminal cases, the parties shall make all challenges for cause before the jury is sworn to try the case, or upon a showing of good cause for the delay, before the jury retires to deliberate.

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 shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge (Ohio Jury Management Standard 8).

RULE 1.20.19 NUMBER OF PEREMPTORY CHALLENGES

Peremptory challenges shall be exercised alternatively as presently established by R.C. 2945.23, ORCP 47, and OH Crim R. 24. All challenges shall be made in open court. Peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure, and as governed by Procedure 41(C) challenges to prospective jurors, effective 7/1/2005, and OH Crim R. (D) peremptory challenges, effective 7/1/2005.

RULE 1.20.20 OATH OR AFFIRMATION OF THE JURY

After the jury has been selected, but before commencement of the trial, the judge, bailiff, or any other qualified person chosen by the judge, shall administer the following oath or affirmation to the jury, including alternate juror(s):

A. OATH:

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR THAT YOU WILL TRUTHFULLY ANSWER THE QUESTIONS ASKED OF YOU BY THE ATTORNEY FOR THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT, AND BY THIS COURT IN REGARDS TO YOUR QUALIFICATIONS TO ACT AS A JUROR IN THIS CASE ENTITLED STATE OF OHIO, CITY OF _____ VS. _____ AND THIS YOU SO DO, AS YOU SHALL ANSWER TO GOD.”

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

B. AFFIRMATION

“YOU AND EACH OF YOU DO SOLEMNLY SWEAR OR AFFIRM THAT YOU WILL DILIGENTLY INQUIRE INTO AND CAREFULLY DELIBERATE ALL MATTERS BETWEEN THE STATE OF OHIO, CITY OF _____ AND THE DEFENDANT. DO YOU SWEAR AND AFFIRM YOU WILL DO THIS TO THE BEST OF YOUR SKILL AND UNDERSTANDING, WITHOUT BIAS OR PREJUDICE, SO HELP YOU GOD?”

RULE 1.20.21 PRELIMINARY INSTRUCTIONS

The court shall instruct the jury before opening statements by reading the appropriate instructions that shall include at least the following:

1. The issues for trial,
2. The credibility of witnesses and the manner of weighing the testimony to be received,
3. That each juror may take notes during the trial and paper shall be provided, but note taking shall not interfere with the attention to the testimony; Ohio Civil Rule of Procedure 47 (E) and Ohio Criminal Rule of Procedure 24,
4. The personal knowledge procedure under Rule 25,
5. The order in which the case will proceed,
6. That jurors may seek to ask questions of the witnesses by submission of questions in writing. (Ohio Rule of Civil. Pro. 47 (F)), and
7. That jurors are not permitted to discuss the evidence among themselves in the jury room during recesses from trial. The court shall admonish jurors not to discuss the case with anyone other than fellow jurors in their jury deliberation when all has been presented to them, after the instructions.

RULE 1.20.22 OPENING STATEMENT

1. In ***criminal*** cases, the prosecution shall state briefly the evidence that supports its case. The defense may then state briefly the evidence in support of the defense, but has the choice to decline to make an opening statement.
2. In ***civil*** cases, the party with the burden of going forward may briefly state the evidence that supports its case. The adverse party may then briefly state the evidence in support of its case.

RULE 1.20.23 PRESENTATION OF EVIDENCE.

WILLOUGHBY MUNICIPAL COURT RULES OF PRACTICE AND PROCEDURES

Unless the court otherwise directs, the party with the burden of going forward shall present evidence first, followed by the presentation of evidence by the adverse party.

RULE 1.20.24 PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES.

If the court receives information that a juror has personal knowledge about the case, the court shall examine the juror under oath, concerning that knowledge, in the presence of the parties and outside the presence of the other jurors.

If the court finds that the juror has personal knowledge of a material fact, the juror shall be excused, and the court shall replace that juror with an alternate. If there is no alternate juror, then the court shall discharge the jury without prejudice, unless the parties agree to submit the cause to the remaining jurors.

RULE 1.20.25 JURY VIEW

When the court determines it is proper, the court may order the jury to view:

1. The real or personal property which is the subject of the case; or
2. The place in which a material fact occurred.

The place shall be shown to the jury by a person appointed by the court for that purpose. While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial. Counsel for the parties shall have the right to accompany the jury but shall not speak to the jury.

RULE 1.20.26 FINAL INSTRUCTIONS

The court shall read the appropriate final instructions. The court shall reduce its final instructions to writing or make an audio, electronic or other recording of those instructions, provide at least one written copy or recording of those instructions to the jury for use during deliberations, and preserve those instructions for the record. Ohio Rule of Criminal Procedure 30(A) and Ohio Rule of Civil Procedure 51(A) effective July 1, 2005.

RULE 1.20.27 FINAL ARGUMENTS

When the evidence is concluded, the parties may, by agreement in open court, submit the case without argument to the jury.

If the parties argue the case to the jury, the party with the burden of going forward shall open and close the argument. If the party with the burden of going forward declines to open the argument, the adverse party may then argue its case. In criminal cases, if the defense declines to argue its case after the prosecution has made its closing argument, then that shall be the only argument allowed in the case.

In criminal cases, the party with the burden of going forward is the prosecution. In civil cases, the party with the burden of going forward is the plaintiff.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

RULE 1.20.28 ASSISTING JURORS AT AN IMPASSE.

If the jury advises the court that it has reached an impasse in its deliberations, the court may, but only in the presence of counsel, and in a criminal case, the parties, inquire of the jurors to determine whether and how the court and counsel can assist them in their deliberative process. After receiving the jurors' response, if any, the court, after consultation with counsel, may direct that further proceedings occur as appropriate.

RULE 1.20.29 SEPARATION DURING DELIBERATION

The court in its discretion may permit the jury in civil and criminal cases to separate during deliberations. However, before the jurors are permitted to separate, the court shall instruct them that while they are separated they shall:

1. Not discuss the case among themselves or with anyone else;
2. Not talk to the attorneys, parties or witnesses;
3. Not express any opinion about the case; and
4. Not listen to or read any outside or media accounts of the trial.

RULE 1.20.30 JUDGE TO READ THE VERDICT

When the jury has agreed upon its verdict, the jurors shall sign the appropriate verdict form in ink. When the jurors return to the courtroom, the judge shall read the verdict. Upon the request of either party, the court may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.

RULE 1.20.31 MONITORING THE JURY SYSTEM.

The court shall collect and analyze information regarding the performance of this Jury Management

Plan to evaluate the composition of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and overall juror satisfaction.

To achieve these goals, the court shall adopt and utilize a juror exit survey, (see Attachment D) along with maintaining regular data on all jury pools as maintained by the jury administrator.

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT A

JURY QUESTIONNAIRE LETTER TEXT

Your name was selected as a prospective juror for Willoughby Municipal Court in a manner prescribed by law. In order to assist in determining whether you meet the legal requirements for service as a juror, the court orders that you answer the questions below, as well as the answers in the enclosed questionnaire. Please complete this form in INK and RETURN IT WITHIN 10 DAYS. If the court requires your service as a prospective juror for a specific trial, the court will send you a *Jury Summons* specifying the date and time your service is required.

Under penalty as prescribed by law, failure to comply could result in Contempt of Court proceedings against you.

This is NOT a summons to appear. If you are chosen to serve, you will be notified LATER by mail.

ALL QUESTIONS MUST BE ANSWERED

PLEASE PRINT

LAST NAME FIRST NAME MID. INITIAL AGE DATE OF BIRTH

NUMBER & STREET CITY STATE ZIP CODE HOME PHONE

OCCUPATION BUSINESS PHONE

NAME & PLACE OF EMPLOYMENT

I SOLEMNLY AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE

DATE

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT B

JURY SUMMONS TEXT

I am commanded to summon you to appear at the Willoughby Municipal Court, 4000 Erie Street, Willoughby, Ohio, on _____ at **8:00 AM** for the purpose of serving as a Juror.

For directions to the court, please visit our website, www.willoughbycourt.com. Public parking is located behind the court. For information regarding public transportation and wheelchair accessible transportation to the court, see the Lake County Transit Authority's website, www.laketran.com or call Laketrans at 1-888-525-3872.

Numerous restaurants are located nearby.

The per diem compensation is \$15.00 per day.

When you arrive, proceed to the first floor lobby. It is suggested that you bring reading material. Required attire is business casual.

Under penalty as prescribed by law, failure to comply could result in Contempt of Court proceedings against you.

YOUR JURY DUTY IS NORMALLY COMPLETED IN ONE DAY.

NOTE:

**TO CONFIRM YOUR APPEARANCE AS A JUROR,
PLEASE CALL**

(440) 953-4131

**BETWEEN THE HOURS OF 5:00 PM AND 8:30 AM THE NIGHT
BEFORE YOU ARE TO APPEAR. LISTEN TO THE RECORDED
MESSAGE ADVISING YOU IF YOUR APPEARANCE IS NECESSARY**

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT C

JURY SERVICE EXEMPTION, EXCUSE, OR DEFERRAL REQUEST TEXT

Jury service is an important and valuable civic duty. Jury service in Willoughby Municipal Court is usually completed in one day. If you are unable to serve as summoned, you may request that you be exempted, excused or deferred. If excused or deferred, you may be summoned again at a future date.

Instructions: Complete this form and return it to the Willoughby Municipal Court Clerk of Court within five (5) DAYS OF RECEIPT (Court Fax Number: (440) 953-4149). If you do not hear from this court, YOU MUST APPEAR AS SCHEDULED. If you have a question, please call (440) 953-4163. **Please print.**

Please Circle

- Yes No I am a citizen of the United States of America
Yes No I am at least eighteen (18) years of age
Yes No I am a resident of Willoughby, Wickliffe, Willowick, Eastlake, Lakeline, Timberlake, Kirtland, Kirtland Hills, Waite Hill, Willoughby Hills

If no, list current residence: _____

Claim of Exemption from Jury Service

- Yes No I have completed a term of jury service in the 24 months preceding my current selection for jury service and wish to be exempted from jury service.
Yes No I am over the age of 75 and wish to be exempted from jury service.
Yes No I qualify for a statutory exemption and wish to be exempted from jury service.
Please list the exemption: _____

Request for Deferral of Jury Service

I request deferral of my jury service for a period of _____ months (not more than one (1) year) due to undue hardship, extreme inconvenience or public necessity because: _____

I hereby affirm under the penalties for perjury that the foregoing information is true and correct.

Juror No. _____ Signature _____ Date _____

Name: _____

Address: _____

Telephone: _____ Date of Jury Duty: _____

FOR COURT USE ONLY (will be returned to prospective juror)

Comes Now the Court, having reviewed the request for Exemption or Deferral of Jury Service, does now GRANT or DENY (circle one) the request for Exemption or Deferral for a period of _____ months.

Judge or Judge's Designee: _____

Date: _____

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT D

LIST OF PROSPECTIVE JURORS

Computerized list of summoned petit jury jurors provides the following information:

1. Service Number
2. Full Name
3. Address
4. Date of Jury Trial

Two lists are generated. One lists the prospective jurors alphabetically, the second lists them by their Service Number (random lot number 1-35).

**WILLOUGHBY MUNICIPAL COURT
RULES OF PRACTICE AND PROCEDURES**

ATTACHMENT E

JURY EXIT QUESTIONNAIRE

Your answer to the following questions will improve jury service. All responses are voluntary and confidential.

1. Approximately how many hours did you spend at the Willoughby Municipal Court? _____

2. Of these hours in the court, how many were spent in the jury room? _____

3. Have you ever served on jury duty before? _____

4. Did a judge speak with you, other than during the initial orientation or the trial? Yes No
If so, when? _____

5. How would you rate the following factors? (Please answer all)

	Good	Average	Poor
a. Initial Orientation	[]	[]	[]
b. Treatment by Court personnel	[]	[]	[]
c. Physical comforts	[]	[]	[]
d. Personal safety	[]	[]	[]
e. Parking facilities	[]	[]	[]
f. Eating facilities	[]	[]	[]
g. Scheduling of your time	[]	[]	[]

6. Did you lose income as a result of jury service? Yes No

7. Are you paid by your employer during jury service? Yes No

8. After having served, what is your impression of jury service? (Answer one)

- a. The same as before – favorable []
- b. The same as before – unfavorable []
- c. More favorable than before []
- d. Less favorable than before []

9. In what ways do you think jury service can be improved? _____

The following information will help evaluate the results and responses to this questionnaire:

10. Age: (please circle one) 18-20 21-24 25-34 35-44 45-54 55-64 65 – over

11. Gender: [] Female [] Male

12. Occupation: _____