LOCAL COURT RULES

Willoughby Municipal Court **Judge Marisa L. Cornachio**

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WILLOUGHBY
MUNICIPAL COURT
WILLOUGHBY, OHIO
2021 FEB - 1 PM 3:29

IN THE WILLOUGHBY MUNICIPAL COURT
LAKE COUNTY, OHIO

STATE OF OHIO	)	JUDGE MARISA L. CORNACHIO
	)	ADMINISTRATIVE/PRESIDING JUDGE
	)	
	)	ADMINISTRATIVE ORDER
	)	LOCAL RULES OF COURT
COUNTY OF LAKE	)	

Pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio, the Court hereby adopts the Local Rules of Court ("Rules") for the governance of the practice and procedures in the Willoughby Municipal Court. The purpose of these Rules is to facilitate the expeditious disposition of cases that come before the court and shall 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.

Except where otherwise noted herein, these Rules shall be effective as of February 1, 2021, and shall supersede and replace any local rules previously entered by this court. These Rules are to be known as the Willoughby Municipal Court Rules of Practice and Procedures and cited as *WMC R. No. ____.* The Clerk of Court shall post the Rules on the Court's website.

IT IS SO ORDERED.

Marisa L. Cornachio
JUDGE MARISA L. CORNACHIO

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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 Judge shall prescribe to meet special situations. These hours may be extended or diminished by Court Order. The Court will be closed as follows: https://willoughbycourt.net/wp-content/uploads/2020/10/Court-Holidays.pdf.

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.
F. The recording of court employees is prohibited.

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.
D. Mobile phones shall be completely off in the courtroom.
   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
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 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.

A. APPLICATION: The attorney must submit a complete application which can be found at https://willoughbycourt.net/wp-content/uploads/2020/10/Court-Appointed-Counsel-App.pdf. Said list will be reviewed by the Judge on a regular basis.

B. 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

A. The Judge shall appoint magistrates who may hear cases by reference, and in accordance with Traf.R. 14, Crim.R. 19, Civ.R. 53, Sup.R. 19, and WMC R. 1.8.

B. The magistrate(s) of the court are empowered to hear and decide the following types of matters:

- Actions in forcible entry and detainer;
- Pre-seizure and immediate seizure hearing actions in replevin;
- Post judgment motions and collection proceedings;
- Small claims cases;
- License suspension hearings and requests for occupational driving privileges;
- Judgment debtor hearings and third party claims;
- Designated enforcements of sentence;
- Traffic proceedings in which a plea of guilty or no contest is entered or in which the defendant executes a written waiver of the right to trial by judge;
- Default hearings;
- Bond forfeiture hearings;
- Regional income tax hearings;
- Initial appearances and preliminary hearings pursuant to Crim.R. 5;
- Arraignments pursuant to Crim.R. 10;
- Receive pleas in felony and misdemeanor cases; accept and enter not guilty pleas;
- In misdemeanor cases, accept and enter guilty and no contest pleas, determine guilt or innocence, receive statements in explanation and in mitigation of sentence, and recommend a penalty to be imposed. If imprisonment is a possible penalty for the offense charged, the matter may be referred only with the unanimous consent of the parties, in writing or on the record in open court.

- Any pretrial or post-judgment motion misdemeanor case for which imprisonment is not a possible penalty;
- Any pretrial or post-judgment motion misdemeanor case for which imprisonment is a possible penalty as long as there is unanimous consent of the parties in writing or on the record in open court;
- Any other cause properly referred under the Ohio Civil, Criminal, or Traffic Rules of Procedure and/ or the Rules of Superintendence for the Courts of Ohio.

C. 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 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

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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. 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 R.C. 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).

D. All hearing notices and Judgment Entries shall be sent to counsel by email.

1. Counsel, without exception, must have the client present at all stages of the proceedings. Failure of a defendant to appear or stay in contact with their attorney can result in revocation of bail and issuance of a bench warrant.

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 https://willoughbycourt.net/wp-content/uploads/2020/10/COURT-COSTS-WAIVER.pdf.

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. Motions should be filed so as not to necessitate a delay in trial dates. At the discretion of the court or as required by law, motions may be set for oral hearing. All motions shall include a proposed Journal Entry. Every pleading, motion, brief or other paper filed in a case shall bear the name of the individual attorney, if any, who prepared such document, together with identifying information, attorney's name and registration number, mailing address, phone number and email address.

RULE 1.13 JURY DEMAND

A. Any party desiring a jury trial in a civil case must demand the same in accordance with Civ.R. 38. Any party desiring a jury trial in a criminal/traffic case shall demand the same in accordance with Crim. R. 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. 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 or hearing, agreeable to the court and all parties in the case. A proposed Journal Entry shall be submitted with the motion.

RULE 1.15 RECUSAL OF JUDGE

A. Should the Judge recuse 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, reassignment of case(s) to a visiting judge is permissible.
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.

RULE 1.16.1 FAX FILING

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

B. 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.
   It shall be the responsibility of the filing party to confirm that a fax was received by the Court and that it is reflected on the Court's docket.

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.

D. FAX COVER PAGE

1. The person filing a document by fax shall also include a cover page containing all of the following information:
    - name of the court
    - name, title, telephone number, fax number, and e-mail address of person filing the fax document;
    - title of the case;
    - case number;
    - 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);
    - name of the judge;
    - date of fax transmission;
    - indication of the number of pages included in the transmission, including the cover page;
    - 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:

    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:
    - Fax a copy of the signed source document; or
    - 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 to the public 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 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 https://willoughbycourt.net/. 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 – TO BE AMENDED AT A LATER DATE

RULE 1.17 SERVICE OF PROCESS

The Clerk of the Willoughby Municipal Court shall accept service of process methods as outlined in Civ.R. 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 Civ.R. 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 Civ.R. 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 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 Civ. R. 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. Unless otherwise ordered, the audio recording shall be official record of court proceedings.

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 Civ.R. 54(D) and R.C. 1901.33. The responsibility of arranging for the attendance of a court reporter shall rest with the attorney and/or party desiring the same. In the case of an appeal, the expense of transcript preparation may be taxed as costs and assessed against the losing party.

B. TRANSCRIPT OF PROCEEDING: All requests for transcripts of any court proceeding shall be in writing via motion and filed with the Clerk. 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.

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.

In all criminal indigent cases, the court stenographer/reporter shall be paid $4.25 per page for an original transcript and one certified copy of said transcript. Additionally, the court stenographer/reporter shall be paid $25.00 per hour.

C. COPY OF RECORD 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. Copies of transcripts shall be provided at cost and electronic copies shall be provided free of charge. R.C. 149.43(B)(1) and R.C. 2301.24.

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.

RULE 1.20 JURY MANAGEMENT PLAN

See **JURY MANAGEMENT PLAN**

RULE 1.21 COURT RECORDS MANAGEMENT AND RETENTION

Pursuant to the Ohio Rules of Court, Sup.R. 26 (C) and (D), all Willoughby Municipal Court case records filed after January 1, 2018, 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 Sup.R. 26. Audio records of courtroom proceedings shall be kept for a period of one year (1).

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.

CRIMINAL / TRAFFIC CASE MANAGEMENT

RULE 2.1 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. With consent of the Court, 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 and there is a waiver of time. 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 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 jury trial is not addressed, that right is waived pursuant to Crim.R. 23.

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.

D. Persons charged with traffic and/or criminal offenses must be present at all hearings except as set forth in section (B). Failure to appear will result in the issuance of an arrest warrant and/or other appropriate sanctions.

RULE NO. 2.2 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 on the Court's website at https://www.willoughbycourt.com/wp-content/uploads/2021/09/Updated-bond-website-9.16.2021.pdf

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 NO. 2.3 CASE MANAGEMENT

A. Criminal and traffic cases in which the defendant enters a plea of not guilty at the initial appearance shall be set for pretrial.

B. The trial will be set before a judge unless the defendant files a timely jury demand in writing, or is otherwise accorded the right to jury trial by law.

C. A pretrial conference may be set where the court determines the same is necessary and appropriate.

D. Cases that are not disposed of at the conclusion of the pretrial conference will be set for trial unless the court determines a final pretrial conference is necessary and appropriate.

E. Written notice of the date and time of a trial and/or pretrial conference shall be provided in person to the defendant and/or counsel. If not present to receive the same, written notice shall be sent by mail to the defendant, or by e-mail to counsel of record. Written notice of all hearings shall be sent by e-mail to the prosecuting attorney of record.

F. Continuances shall be submitted and ruled upon in accordance with Local Rule 1.14.

G. Both the defendant and counsel of record shall be required to personally attend all hearings. The defendant's failure to appear will result in the issuance of an arrest warrant and/or license forfeiture or warrant block.

H. The Clerk shall provide the Judge with monthly written reports of all cases which are pending with no action and/or within three months of the case time limits provided in Superintendence Rule 39(B). The judge shall determine what further action is necessary to ensure the timely disposition of the cases reported.

I. The prosecutor shall provide notice to the alleged victim, upon request by the victim, of all public proceedings involving the alleged criminal offense and provide to the victim, the opportunity to be present at all public proceedings, involving disposition, plea, sentencing and release.

J. The prosecutor shall on the record indicate the victim requested notice and confirm if notice was provided.

K. The prosecutor shall state in open court on all negotiated criminal cases, the underlying agreement upon which the plea is based. Alleged victims shall be notified by the prosecutor of the plea agreement and the victim shall be allowed to raise objections to the plea agreement.

No provisions contained in this Rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Crim.R.16.

RULE NO. 2.4 JURY TRIAL/BENCH TRIAL

A. Parties shall file a trial brief at least seven (7) days in advance of trial. A brief is not required for a trial on a traffic offense, except on the charge of Operating a Vehicle Under the Influence.

B. Counsel shall present exhibits to the Bailiff for marking at least one (1) day before trial. Plaintiff is to mark its exhibits with numbers and the defendant is to mark its exhibits with letters.

C. Counsel shall submit to the Court, seven (7) full days in advance of trial, proposed instructions for all charges, specifications and affirmative defenses. The Court will provide the jury with written jury instructions using OJI. The Court will use OJI

wherever possible, but counsel may submit instructions outside of OJI for special situations or areas that OJI does not cover. The parties do NOT need to provide instructions for introductory or closing remarks or general topics such as the burden of proof, evidence, credibility, and verdicts, unless a particular instruction outside of OJI is warranted. Instructions must be presented to the Court by e-mail (foxhallj@willoughbycourt.com).

D. The Court shall be notified by telephone immediately when a defendant elects to change his/her plea. If a jury trial is resolved, the jury waiver and plea agreement shall be filed three (3) business days before the trial date. The settlement or plea agreement shall be on the record two days prior to trial. If these timelines are not met and/or the jury trial is cancelled, the party requesting a jury will pay all jury costs. These costs are estimated between $500.00 and $800.00 depending on the number of jurors in attendance.

RULE NO. 2.5 FIRST OFFENDER PROGRAMS (FOP)

A. THE FIRST OFFENDER PROGRAM: The First Offender Program (FOP) is for certain non-violent misdemeanor offenses, committed by first-time offenders. Upon successful completion of the program, charges are dismissed. The defendant shall pay the court costs associated with the dismissal. If the defendant fails to successfully complete the First Offenders 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.

Prior to a request for FOP, defendant's counsel must be familiar with the defendant's record and confirm defendant is eligible for diversion under the statute. 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 FOP 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 FOP 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 fee for the program. Participants may be ordered to complete an educational instruction program at their own expense.

B. THE LICENSE DIVERSION PROGRAM (Traffic): The License Diversion Program (LDP) is designed to assist drivers who are under suspension to restore their valid driving privileges. A Probation Officer 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 Probation Officer. 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.

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

- If eligible, defendants will be asked if they wish to participate in the program.
- The defendant shall enter a Guilty plea to the DUS Charge and any accompanying charges.
- Defendants shall sign a program agreement.
- The Court shall hold its findings in abeyance.
- A Journal Entry shall reflect assignment to the program.
- The case shall be continued on the Court's docket for a reasonable period of time.
- 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.
- 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 R.C. 4509.101(D).
- 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).
- 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. 2.6 WAIVERS FOR VIOLATION OF CODIFIED ORDINANCES AND OHIO REVISED CODE

Pursuant to the requirements of Crim.R. 4.1(E), and Traf.R. 13, the court has established a Violations Bureau and waiver schedule. The schedule is available at https://willoughbycourt.net/wp-content/uploads/2020/10/Waiverable_schedule.pdf.

RULE 2.7 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.

RULE 2.8 WILLOUGHBY VETERANS TREATMENT COURT

The Willoughby Municipal Court offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals in responding to the growing needs of the community specifically veteran issues. The Veterans Treatment Docket shall all be designed and implemented to comply with the Court Standards set forth in Sup. R. 32.02-36.28.

A. Establishment of the Willoughby Veterans Treatment Court: The Willoughby Veterans Treatment Court (WVTC) was established in December 2020 to address problems of veterans who become involved criminally with the legal system in the jurisdiction of Willoughby Municipal Court. Access to a continuum of services shall be provided by the Lake County VA Clinic (LCVAC), Lake County Veterans Service Commission (VSC), U.S. Department of Veterans Affairs Vet Centers (Vet Centers) and close judicial supervision from the court. The goal of the WVTC is to promote public safety by reducing recidivism, increase veteran specific service engagement and improve the quality of life of military veterans. The WVTC targets medium to high risk/high need defendants utilizing the Ohio Risk Assessment System tool. The defendant must also satisfy the legal and clinical eligibility requirements of Section (B) of this rule. Judge Marisa L. Cornachio will preside over the WVTC.

B. Placement in the Willoughby Veterans Treatment Court: To be eligible for participation in the Veterans Treatment Court, a defendant must be a veteran and have substance dependence or mental health disorder that are contributing and mitigating factors in their criminal involvement and for whom court ordered monitored treatment and other services would enhance their ability to lead a law-abiding life.

- Legal and Clinical Eligibility Criteria for inclusion in the Willoughby Veterans Treatment Court pursuant to this rule shall be the following:

1. Verified Eligible Military Service of being a Veteran of the U.S. Military or currently serving in the U.S. Armed Forces.
2. Criminal charge pending in Willoughby Municipal Court or in the Lake County jurisdiction.
3. Clinically assessed as having a diagnosis of Substance Dependence and/ or Mental Health disorder or PTSD, TBI or Sexual Trauma as set forth in the DSM-IV Criteria.

4. Placed on probation for a period of at least one year and/or referred for a Post/Pre-Sentence Investigation;
5. The defendant is eligible for community control on the current charge.
6. Medium to High-Risk offender based on the ORAS or repeat offenders are considered eligible for the Veterans Treatment Docket.
7. The defendant has no other case(s) in which charges are pending that may lead to convictions for a violent felony, sexually oriented felony, or drug trafficking;
8. Eligible for Veterans Services through the Lake County Veterans Administration Medical Clinic, Veterans Service Commission or U.S. Department of Veterans Affairs, Vet Center.
9. The defendant must demonstrate a sincere willingness to participate in the Willoughby Veterans Treatment Court and complete all three phases.

- Legal and Clinical Eligibility Criteria for Exclusion in the Willoughby Veterans Treatment Court pursuant to this rule shall be the following:

1. Defendants has prior sexually oriented convictions;
2. Prior criminal history where there is evidence of the candidate's non-compliance with conditions of probation or a prior Veterans Treatment Court;
3. Defendant has other case(s) in which charges are pending that may lead to convictions for a violent felony, sexually oriented felony, or drug trafficking;
4. A severe mental illness or lacks the developmental capacity to complete the program.

C. Docket Case Management: The WVTC utilizes the LCVAC, VSC and Vet Centers substance abuse and mental health treatment network to ensure the success of participants. Once legal and clinical eligibility is determined and participant is admitted to the program, participants are assessed and immediately placed in the appropriate level of treatment. Participants meet with the VA, VJOS to develop and carry out a goal-oriented "individual service plan". The available levels of care for participants include Intensive Outpatient Program, Outpatient, Sobriety Group, Residential Treatment and Case Management Services. Submission to random, frequent and observed urinalysis testing is required. Participants that are required to complete inpatient residential treatment will be required to complete this at Stella Maris in Cleveland.

D. Termination from the Willoughby Veterans Treatment Court**:** As a result of non-compliance or inappropriate behavior, the WVTC Judge may terminate a participant from the program. Sanctions for termination during any phase of the program may result in the balance of the sentence being ordered into execution. In certain instances, for good cause shown, participants may be terminated from the program without sanction by way of a neutral discharge.

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 assignment.

RULE NO. 3.2 JOINDER AND SEPARATION OF CASES

A. 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 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 and a proposed journal entry/order

C. Motions must be filed within the time guidelines set forth in the Ohio Rules of Civil Procedure unless modified for good cause upon motion.

D. Motions shall be ruled on without a hearing unless otherwise requested in writing, and at the court's discretion.

E. 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 twenty-eight (28) days after service of the motion.

F. 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 fourteen (14) days of service of said Motion. Movant's reply to a response of any written motion shall be served within seven (7) days after service of the response motion.

G. Motions prior to hearing or trial, unless a different period is fixed by rules or order of the Court, shall be served no later than fourteen (14) days prior to the hearing, and a written motion for purposes of a trial shall be served no later than twenty-eight (28) days prior to trial. Responses served provided by Civ.R. 6(C). Movant's reply to a response may be filed only with leave of the Court.

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 proposed 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. For any case, the plaintiff must provide an affidavit stating whether or not the defendant is in military service and showing necessary facts to support the affidavit. If the plaintiff is unable to determine whether or not the defendant is in military service, the affidavit must state that the plaintiff

is unable to determine whether or not the defendant is in military service. 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. If there are multiple causes, the remainder causes will be considered at a later date.

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

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.

2. Writs must be timely filed. Timely filed is determined according to the following:

   - Within thirty (30) days of the date of the hearing in which judgment was rendered, unless the judgment orders otherwise.
   - 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 file 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 file a writ Praecipe for a Writ and the Bailiff will schedule a move-out.

3. Writs must be executed upon (the scheduled move-out must occur) within ten (10) 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 file a new writ. A filing fee is required.

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 file a Praecipe for a Writ of Restitution from the Clerk;
2. The Judge's bailiff will schedule the move-out within ten (10) days of the Writ.
3. 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.

G. MOTION TO SEAL EVICTION RECORD

1. The Court may order the Clerk to seal an eviction record when the interests of justice in sealing the record outweigh the interests of the government and the public in maintaining a public record of the case, including, for example, in the following circumstances:

    a. The court dismissed or entered judgment for the tenant/movant on the claim for possession; or
    b. The landlord dismissed the claim for possession before adjudication of that claim; or
    c. The landlord stipulates, in writing to the Court, to sealing the record, except that sealing of a record solely on the basis of the stipulation by the landlord shall be granted only once on any five-year period; or
    d. The landlord prevailed on the merits on the claim for possession, and *all* of the following occurred:
        - Extenuating circumstances led to the eviction;
        - at least five years have passed since judgment was entered for the landlord;
        - at least five years have passed since the tenant has had an adverse judgment granting an eviction in any jurisdiction.

2. Application to have an eviction record sealed must be made by motion. The following conditions apply:

    a. The party seeking to have the record sealed must file a written motion, even if the landlord agreed to the sealing on a settlement agreement or agreed judgment entry. The motion must be accompanied by an affidavit attesting to all relevant facts.
    b. The moving party must serve that motion upon the opposing party in the case at that party's last known address, and endorse proof of service on the motion.

c. The opposing party may file a response within the time specified by the Ohio Civil Rules.
d. Either party may request an oral hearing on the motion.

3. The Court may consider all relevant factors when examining a Motion to Seal Eviction Record, which may include, but are not limited to:

    a. The disposition of the first cause of action;
    b. Whether the sealing of the record is agreed to or disputed by the opposing party;
    c. If the landlord received judgment on the first cause of action, the grounds upon which the judgment was granted;
    d. Whether the movant has satisfied any money judgment issued in favor of the opposing party in the eviction case; and
    e. Any other information relevant to the determination of whether justice requires the sealing of the record.

4. If the Court grants a Motion to Seal Eviction Record, the Clerk shall forthwith cause the Tenant's name to be redacted from all public records it maintains, including the electronic case index system, to the same extent that it would for a criminal sealing of records (formerly known as expungement). The clerk shall retain the electronic record of the action, in accordance with its record retention policy. The Clerk shall ensure that the record of the case can be retrieved and unsealed, if ordered.

5. Sealing the record of an eviction does not authorize a tenant or former tenant to make a false statement regarding the filing or granting of the eviction.

6. Sealing the record restricts access to the case record; it does not remove the record from the Court's electronic or paper docket. Access to the sealed record shall be limited to the Clerk of Court, the Clerk's designee, the Judge, and the Judge's designee. A party to the original action may file a motion requesting access to the record or case file. The Court may provide access to the record as required by law enforcement officials, or others conducting official government business.

7. A party to the original action may file a motion seeking to unseal the eviction record, setting forth in the motion and attached affidavit or brief good cause why the record should be unsealed. Such good cause may include, for example, that the original movant was not truthful in the motion to seal, or that the sealing was procured through fraud. For good cause, the Court may unseal a record on its own motion, after notice to the parties on the case.

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 Civ.R. 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 Civ.R. 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 Civ.R. 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 proper and timely motion to transfer to the regular docket. The movant must comply with Local Rules 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 payment so to creditors out of exempt pay, such payments may be made as follows:

1. Pay 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 listed creditor who is participating in the 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 with 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 the (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 the two percent (2%) fee to the City of Willoughby, at the end of the month in which the termination of any trusteeship occurs.

RULE NO. 3.12

This section is intentionally left blank and reserved for future use.