

**LOCAL COURT RULES  
OF THE  
MASSILLON MUNICIPAL COURT**

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**RULES OF PRACTICE AND PROCEDURE  
OF THE  
MUNICIPAL COURT OF MASSILLON**

**EFFECTIVE FEBRUARY 10, 2010**

The following rules have been promulgated by the Municipal Court of Massillon pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Rules of Superintendence for the Municipal Courts and to provide for the efficient and expeditious management of business before these Courts.

As used in these rules a reference to “Civil Rules” is a reference to the Ohio Rules of Civil Procedure; a reference to “Criminal Rules” is a reference to the Ohio Rules of Criminal Procedure; a reference to the “Superintendence Rules” is a reference to the Rules of Superintendence for Municipal and County Courts; and a reference to “Traffic Rules” is a reference to the Ohio Rules of Practice and Procedure in Traffic Cases.

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

### **Rule No. 1: Citation of Rules**

These Rules shall be known as the Massillon Municipal Court Rules of Practice and may be cited as MMCR No. \_\_\_\_\_.

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

**Rule No. 2: Hours of Session**

The hours for holding regular sessions of the Courts shall be from 8:45 A.M. to 12:00 Noon and from 1:00 P.M. to 4:30 P.M., Monday through Friday, each week, except on those days designated by law or by entry as legal holidays.

The time for holding Court with regard to specific dockets is set forth in **APPENDIX A**, or as the same may be amended from time to time by the Court.

**Rule No. 3: Official Notice of Court Proceedings**

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

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

**Rule No. 4: Presiding/Administrative Judge**

The Presiding/Administrative Judge shall have the powers set out in Rule 3(B) and Rule 4(B) and carry out the duties set forth in Rule 3(B) and Rule 4(B) of the Superintendence Rules.

**Rule No. 5: Time**

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

**Rule No. 6: Duties of Trial Counsel**

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

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

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

**Rule No. 7: Assignment of Cases (Civil Cases)**

After any responsive pleading is filed, the Clerk shall assign a case by lot to a Judge pursuant to Sup. R. 36(B)(1) and immediately forward the file for such case to be scheduled for Mediation hearing. (**\*See MMCR No. 73 Alternative Dispute Resolution and Mediation.**) “Responsive pleading” shall mean any pleading filed by a party other than the Plaintiff. The assigned Judge shall be responsible for the determination of every issue and proceeding in the case until its termination or re-assignment.

Any re-assignment or transfer of a case shall be effected by a Judgment Entry signed by the Administrative Judge, pursuant to authority granted in Sup. R. 4(B)(1).

**\*\*See Case Flow Management Rule attached hereto in APPENDIX E and incorporated herein by reference.**

### **Rule No. 8: Costs**

No action or proceeding 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 **APPENDIX B** as security for costs unless otherwise excepted by law or by order of the Court.

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

Costs shall be as set forth in **APPENDIX B** as may from time to time be amended by the Court. When a jury trial is held, the non-prevailing party shall be responsible for the jury costs unless the Court provides otherwise. In any case for which a jury is demanded but not used, the jury costs will be assessed unless the demand is withdrawn in writing within twenty-four (24) hours before trial time.

**Rule No. 9: Recording of Proceedings**

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

## **Rule No. 10: Magistrates**

Pursuant to Civ. R. 53 as amended on July 1, 1995, the Court shall appoint one or more Magistrates to hear the actions authorized by Superintendence Rule No. 19 and Civ. R. 53 (c)(1) specifically including, but not limited to the following:

- (A) Small Claims case proceedings under R.C. 1925.
- (B) Forcible Entry and Detainer proceedings under R.C. 1923.
- (C) Traffic misdemeanor arraignments, and disposition of such cases when there is a Guilty or No Contest plea.
- (D) Traffic misdemeanors when Defendant waives trial by a Judge.
- (E) Township limited self-government resolution violation cases under R.C. 504.07.
- (F) Default proceedings under Civil Rule where a hearing is required.
- (G) Any pre-trial or post-judgment motion in any case including civil show cause and garnishments and/or attachment hearings.
- (H) Such other appropriate matters as referred by the Presiding/Administrative Judge, including probable cause hearings on the detainer of Defendants arrested without a warrant.

The general powers of the Magistrate(s) shall be as are further recited in Civ. R. 53.

**Rule No. 10, continued**

PURSUANT TO R.C. 2716.06(C), and Local Court Rule 10, the Clerk is instructed to schedule any garnishment of personal earnings hearings requested by a judgment debtor on Tuesday, Wednesday, Thursday or Friday of the applicable week, at 1:30 P.M. before the Magistrate of this Court.

PURSUANT TO R.C. 2716.06 and Local Rule 10, the Clerk is instructed, whenever possible, to set any garnishment of property hearings before the Magistrate on the aforesaid Tuesday, Wednesday, Thursday or Friday of the applicable week at 1:30 P.M.

NOTE: If the time limitations of R.C. 2716.03 (a) preclude such hearing on the garnishments of property, the hearing shall be set for the applicable Tuesday, Wednesday, Thursday or Friday at 1:30 P.M. before the Judge/Magistrate of this Court who is hearing arraignments on the date.

In addition, any Judge, with the consent of the Presiding/Administrative Judge, may refer other appropriate matters to a Magistrate.

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

**Rule No. 11: Rent Deposits**

All rent deposits made with the Clerk of Court pursuant to Chapters 1923 and 5321 or the Ohio Revised Code shall be in cash, or by certified check or money order. Deposits shall be accompanied by a completed “Application of Tenant to Deposit Rent with the Clerk of the Massillon Municipal Court,” as set forth in **APPENDIX C**, as may be amended from time to time by the Court.

**Rule No. 12: Court Files**

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

**Rule No. 13: Filing of Judgment Entries**

The judgment entry specified in Civil Rule 58 and Criminal Rule 32 shall be entered upon the journal within thirty (30) days of judgment. If such entry is not prepared and presented for journalization by counsel, it shall be prepared by the Court and filed with the Clerk for journalization.

**Rule No. 14: Juries**

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

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

### **Rule No. 15: Pleading Requirements**

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

Pleadings and other documents may be filed electronically by **FAX** (facsimile transmission) to the Massillon Clerk's Office in accordance with Rule 77 herein, "Facsimile Filing."

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

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

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

## **Rule No. 16: Motions**

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

Each motion shall include a memorandum or brief, styled as setting forth the grounds for the motion and the reasons for sustaining the motion. This memorandum or brief shall be separate and apart from any affidavits that may be offered in support of the motion.

Failure to file a memorandum in opposition to a motion within fourteen (14) days of the filing of the motions, after having received notice of hearing on said motion, may be sufficient cause for the Court to sustain the motion.

All motions shall be deemed submitted as written briefs unless an oral hearing is requested or ordered by the Court.

**Rule No. 17: Authentication of Court Records**

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

### **Rule No. 18: Uniformity of Pleadings**

When a question of practice or procedure has been decided differently by any two Judges, the question so diversely decided may be referred by the Presiding/Administrative Judge to a committee of Judges for investigation. The committee, if its report is unanimous, shall report its findings to the Presiding/Administrative Judge and shall prepare a rule or decision of the Court for adoption by the Judges at their next joint meeting. If the report of the committee be not unanimous, the rule or decision adopted by the Presiding/Administrative Judge in joint session shall be followed thereafter by all the Judges until reversed or differently decided by the Court of Appeals or the Supreme Court.

**Rule No. 19: Forms**  
**(RESERVED)**

**Rule No. 20: Marriage Ceremony Procedure**

**(RESERVED)**

**Rule No. 21: Use of Forms**  
**(RESERVED)**

## **PART TWO - CIVIL RULES**

### **Rule No. 22: Effective Date, Repeal, Amendments \*\*\***

These Rules shall take effect on the 1<sup>st</sup> day of January, 1994, and after such Rules are filed with the Supreme Court of Ohio, in accordance with Civil Rule 83, Criminal Rule 57, Traffic Rule 19, and Superintendence Rule 5. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions pending on the effective date hereof; except that in the cause of actions pending on the effective date hereof, these Rules shall not apply to the extent that in the opinion of the Court their application would not be feasible, would work injustice, or would conflict with the Civil Rules, the Criminal Rules, and the Traffic Rules or the Superintendence Rules.

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

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

**Rule No. 23:**  
**(RESERVED)**

**Rule No. 24: Service on Small Claims Cases**

Where there is no service in a Small Claims case, the case file shall remain in the Clerk of Court's Office until service has been completed pursuant to Civil Rule 4.

Where alias service by ordinary mail is requested, the Clerk of Court shall assign a new hearing date at the time of mailing the alias service or ordinary mail service. The new date assigned shall be the same date that would have been assigned if the original complaint were filed the date the alias service is issued by the Clerk of Court.

## **Rule No. 25: Civil Summons**

The civil summons shall notify each defendant of the existing suit, and shall state the time limit for answer or appearance before judgment can be taken. A copy of the complaint shall be attached to the summons. All summons will be issued by certified mail, unless otherwise requested by plaintiff or counsel.

If no service is obtained upon the defendant, a request for service may be filed by counsel by the following means:

1. If certified mail is returned “unclaimed,” a request for service at the same address by ordinary mail may be filed;
2. If certified mail is returned marked “moved,” a request for service at a different address by certified mail or by personal service may be filed; and
3. If certified mail is returned marked “refused,” the Clerk shall send ordinary mail without charge to the plaintiff.

**Rule No. 26: Leave to Plead**

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

**Rule No. 27: Continuance**

No party shall be granted a continuance of a trial or hearing without a written motion from the party or his counsel stating the reason for the continuance. Continuances shall be further governed by Superintendence Rule No. 41.

**Rule No. 28: Pre-trial Conferences**

In any civil action, the Court may, in its discretion, with or without request or motion of a party, assign such a cause for pre-trial conference. Notice of the time and place of such pre-trial conference shall be given by the Judge's Administrative Assistant to all counsel of record.

All pre-trials shall be held and governed by Civil Rule 16 (1 through 10).

**Rule No. 29: Interrogatories and Requests for Admissions**

In submitting interrogatories and requests for admissions, counsel shall file a Notice of Filing of Interrogatories or Notice of Filing of Requests for Admissions with the Court and shall mail the original copy and two other copies to opposing counsel leaving sufficient space, not less than one inch, between each interrogatory or request for admission to permit opposing counsel to type the answer beneath the question. Opposing counsel shall type the answer or objection to each question on the original copy and return the same to opposing counsel at the designated time, not more than twenty-eight (28) days after service.

When interrogatories are filed simultaneously with the original complaint, they shall not be annexed to the pleading and must be under separate cover. Counsel shall provide sufficient copies for each defendant in order that a copy may be served upon the defendant at the time of the service of the summons and the copy of the original complaint. It is the responsibility of counsel for the defendant upon being retained to request the original copy of the interrogatories and follow the procedure outlined in the preceding paragraph.

An objection to an interrogatory will be noted as such below the particular interrogatory, but discussion thereof must be submitted on a separate page with appropriate caption. Objections shall include, immediately preceding the discussion and citation of authority, the interrogatory in full to which the objection is made.

**Rule No. 30: Default Judgments**

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

If an action is for recovery of money only arising out of damages to personal property and the defendant is in default of answer, final judgment shall be entered for the plaintiff in the amount of the prayer if an affidavit with supporting documentation is filed by the plaintiff or his attorney verifying that the prayer of the complaint does reflect the reasonable cost of repairing said personal property or the diminution in the market value of said personal property, whichever is less.

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

### **Rule No. 31: Small Claims Division**

Pursuant to the Ohio Revised Code, a Small Claims Division has been established for cases for the recovery of money only, wherein the prayer of said case does not exceed Three Thousand Dollars (\$3,000.00).

Any plaintiff may file up to twenty-four (24) claims in the Small Claims Division during any calendar year. All municipalities and the State of Ohio are exempt from a limiting number.

Cases filed in the Small Claims Division shall be heard by a Magistrate appointed and assigned under Superintendence Rule 19. Sessions shall be set by the Presiding/Administrative Judge as required.

Cross claims and counterclaims must be filed with the Clerk of Court at least seven (7) days prior to the date of trial. Requests to continue or dismiss the case must be done in writing. The Court needs to be notified in writing once the case has been satisfied (paid in full).

Transfer to the regular docket: Upon filing a motion and affidavit or a counterclaim as set forth in R.C. Section 1925.10 and payment of the required costs, a case shall be assigned to an individual Judge pursuant to MMCR No. 7. No case shall be transferred until the filing fee is paid.

**Rule No. 32: Replevin**

All replevin proceedings shall be made in accordance with statutory requirements set forth in R.C. Section 2737.01 et seq.

**Rule No. 33: Attachment and Garnishment**

All pre-judgment attachment and garnishment proceedings shall be made in accordance with the statutory requirements set forth in R.C. Section 2715.01 et seq.

All post-judgment garnishments of personal earnings and property other than personal earnings shall be made in accordance with the requirements set forth in R.C. Section 2716.01 et seq.

### **Rule No. 34: Sales and Proceedings in Aid of Execution**

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

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

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

**Rule No. 35: Dismissal for Want of Service - Other**

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

Cases pending on the docket for failure to comply with an order or direction of the Court, and cases held for settlement or other disposition shall be dismissed sixty (60) days after such failure to comply, file, settle or dispose unless good cause is shown to the contrary.

**Rule No. 36: Satisfaction of Judgments**

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

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

### **Rule No. 37: Forcible Entry and Detainer**

In Forcible Entry and Detainer cases, the complaint shall conform to the requirements of R.C. Section 1923.05.

Summons in Forcible Entry and Detainer actions shall be drawn so as to notify each defendant that he has been sued and to summon him to appear at a designated room at the time specified therein or the complaint will be taken as true and judgment rendered accordingly.

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

Objections to the Magistrate's Report: The party objecting to the Report of the Magistrate shall file such objections within two (2) days following the filing of the report. Objections to the report shall point out specifically the matters complained of, and should indicate what it was that the Magistrate should have found. The Clerk shall notify the Magistrate on the day that the objections are filed, and the Magistrate shall file any supplement to the report within two (2) days following such notification.

Approval of the Magistrate's Report: Where there is a written acceptance of the Magistrate's report, it may be approved at any time thereafter, but not later than three (3) days. If no acceptance or objections are filed, it shall be considered for approval on the third (3<sup>rd</sup>) day following the filing of the Magistrate's report. On the third (3<sup>rd</sup>) day following the filing of the Magistrate's report, the Clerk shall take the reports to which objections have been filed to the Judge for disposition.

Jury Demands: In any case in which there has been service of process, upon the filing of a jury demand in accordance with R.C. Section 1923.10.1, and upon failure of the parties to agree to a waiver of the time requirement of R.C. Section 1923.08, and upon the failure of the defendant to post an appropriate bond, assignment to a Judge shall be made immediately, by lot, to one of the Judges having jury availability within the time limitation.

**Rule No. 37, continued**

Eviction: Should actual, physical eviction of property be required pursuant to a writ of restitution, plaintiff shall arrange for sufficient workers to be present to accomplish the set-out under the supervision of the Bailiff. If required, the plaintiff shall post security for their payment, such security to be taxed as costs.

**Rule No. 38: Judgment Debtor's Examination**

All judgment debtor examinations will be held as assigned by the Judge who is scheduled for arraignments, or a Magistrate, or by plaintiff's attorney.

If a judgment debtor fails to appear at a scheduled examination, and it appears that the debtor was served with notice, the attorney for the creditor may request of the Court that a Show Cause Hearing be scheduled. The request for a Show Cause Hearing shall be made in writing to the Court.

If a creditor fails to appear at a debtor's examination, the Court may order that there be no further examination of the same party within ninety (90) days from the date set for the examination at which the creditor failed to appear.

### **Rule No. 39: Trusteeships**

An application by a debtor for a trusteeship under R.C. Section 2329.70 must contain a full and complete statement, under oath, setting forth:

1. The filing fee for Trusteeship is Fifteen Dollars (\$15.00) which must be paid when you file.
2. You must have received a legal **15 Day Demand** within the past forty-five (45) days. This is the notice a creditor or his attorney sends you by certified mail or certificate of mailing before they garnish your wages.
3. The Trusteeship application is to be filled out with a complete list of all your creditors, their address, any account numbers you have, and the amount you owe each one. If any account has been turned over to an attorney, credit bureau, or collection agency, put the name of the creditor, who it was turned over to, their address, and the amount you owe.
4. YOU are required to pay twenty-five percent (25%) of every paycheck (less all taxes and social security) including vacation and holiday pay. You may pay any amount over this if you wish, but you are not required to do so.
5. You must have your pay stub with you in order to make a payment.
6. No partial payments will be accepted nor will you be excused from making any payments. Payments must be kept up to date.

**Rule No. 39, continued**

7. We do not accept any checks. You must have cash, certified check or money order.
8. Once every three (3) months the money you have paid into your Trusteeship is distributed among your creditors. Out of that amount, a fee of three percent (3%) for court costs is charged.
9. If you get sick, laid off, or for any other reason do not draw a paycheck, you must report each payday as usual and you must sign a form. Failing to report will result in your dismissal from Trusteeship.
10. You will not be able to re-file for six (6) months if your Trusteeship is dismissed for any reason.
11. You are required to notify the Court if you change address or employment.
12. Any additional accounts you want to add will need the Clerk's permission and will cost Two Dollars (\$2.00) per account.
13. The name of the person(s) who made demand upon the applicant in accordance with R.C. Section 2716.02 and the date of such demand.

Any Trusteeship that is in arrears for payment for sixty (60) days shall be dismissed. Any Trusteeship that is inactive for six (6) months shall be dismissed.

**Rule No. 39, continued**

The attorney representing an applicant for Trusteeship shall be permitted to include his claim for such service in the Trusteeship and such claim shall be given priority over all other creditors in an amount not to exceed Fifty Dollars (\$50.00).

R.C. Section 2329.66 provides for exemptions and are based upon disposable earnings. The Trustee is hereby authorized to require proof of disposable earnings and eligibility for exemption of payment by affidavit or otherwise at such times as he shall deem necessary.

**Rule No. 40: Jury Costs**

In any civil action or proceeding when a jury trial is demanded, the party making such demand shall be required to make an advance deposit of Two Hundred Fifty Dollars (\$250.00), unless upon affidavit or other evidence the Court concludes that such party is unable to make the required deposit. If a jury is sworn, the fees of a jury shall be taxed as costs.

**Rule No. 41: Jury Management Plan of The Massillon Municipal Court**

I. Opportunity for Service.

A. The opportunity for jury service will not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction of The Massillon Municipal Court.

B. Jury service is an obligation of all qualified citizens.

II. Jury Source List

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

B. The jury source list should be representative and should be inclusive of the adult population in the jurisdiction as is feasible.

C. The Court will periodically review the jury source list of its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. Should the Court determine that improvement is needed in the representativeness or the inclusiveness of the jury source list, appropriate corrective action should be taken.

## **Rule No. 41, continued**

### III. Random Selection Procedures.

- A. Random selection procedures shall be used throughout the jury selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods will be documented.
  
- B. Random selection procedures should be employed in:
  - 1) Selecting persons to be summoned for jury service;
  - 2) Assigning prospective jurors to panels;
  - 3) Calling prospective jurors for voir dire.
  
- C. Departure from the principle of random selections are appropriate:
  - 1) To exclude persons ineligible for service in accordance with Section IV of these rules;
  - 2) To excuse or defer prospective jurors in accordance with Section VI of these rules;
  - 3) To remove prospective jurors for cause or if challenged peremptorily in accordance with Sections VIII and IX of these rules;

**Rule No. 41, continued**

- 4) To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Section XIII of these rules.

IV. Eligibility for Jury Service.

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

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

V. Terms of Availability of Jury Service.

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

**Rule No. 41, continued**

B. A term of one (1) day or the completion of one (1) trial, whichever is longer, will be the standard used by The Massillon Municipal Court.

C. Jurors will not be required to maintain a status availability for jury service for more than one (1) day unless the provisions of Subparagraph (B) above apply.

VI. Exemption, Excuse, and Deferral.

A. All automatic excuses or exemptions, with the exception of statutory exemptions from jury service are eliminated.

B. Eligible persons who are summoned may be excused from jury service only if:

- 1) Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a Judge;
- 2) They request to be excused because their service would be a continuing hardship to them or a member of the public and they are excused by a Judge or a specifically authorized Court official.

**Rule No. 41, continued**

- C. Deferrals for jury service for reasonably short periods of time may be permitted by a Judge or a specifically authorized Court official.
- D. Requests for excuses and deferrals and their dispositions should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the Court.

VII. Voir Dire.

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

**Rule No. 41 (continued)**

VIII. Removal From the Jury Panel for Cause.

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

IX.. Peremptory Challenges.

- A. Peremptory challenges are limited in The Massillon Municipal Court to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- B. In civil cases, the number of peremptory challenges should not exceed three (3) for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three (3) peremptory challenges.
- C. In criminal cases, the number of peremptory challenges should not exceed three (3) for each side in all misdemeanor prosecutions. At least one (1) additional peremptory challenge should be allowed for each Defendant in a multi-Defendant misdemeanor criminal proceeding.
- D. In criminal and civil proceedings each side should be allowed one (1) peremptory challenge if one or two alternate jurors are impaneled, and two (2) peremptory

**Rule No. 41 (continued)**

challenges if three or four alternate jurors are impaneled, and three (3) peremptory challenges if five or six alternate jurors are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

X. Administration of the Jury System.

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

XI. Notification and Summoning Procedures.

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that prospective juror should be:

**Rule No. 41 (continued)**

1. Combined in a single document;
  2. Phrased so as to be readily understood by an individual familiar with the legal and jury systems;
  3. Delivered by ordinary mail.
- B. The summons will clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
1. Determining whether a person meets the criteria for eligibility;
  2. Providing background information ordinarily sought during voir dire examinations;
  3. Efficiently managing the jury system.
- D. The two Judges of The Massillon Municipal Court shall monitor failure of a prospective juror to respond to a summons and enforce the summons to report for jury service.

**Rule No. 41, continued**

XII. Monitoring the Jury System.

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

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

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

**Rule No. 41, continued**

XIV. Jury Facilities.

- A. It is the desire of the two Judges of The Massillon Municipal Court to attempt to provide an adequate and suitable environment for jurors.
- B. Presently, the entrance and registration area will be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors of The Massillon Municipal Court.
- C. It is the intention of the two Judges of The Massillon Municipal Court to keep a separate jury waiting room.
- D. The jury deliberations of The Massillon Municipal Court have been created to include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation room has been ensured.

XV. Juror Compensation.

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

**Rule No. 41, continued**

XVI. Jury Orientation and Instructions.

- A. The two Judges of The Massillon Municipal Court shall make their best efforts to:
  - 1. Increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors;
  - 2. Present in a uniform and efficient manner a combination of written, oral, and audio visual materials.
  
- B. The Massillon Municipal Court will make its best efforts to provide some form of orientation or instructions to persons called for jury service:
  - 1. Upon initial contact prior to service;
  - 2. Upon first appearance at the Court;
  - 3. Upon reporting to a courtroom for voir dire.
  
- C. The trial Judge shall:
  - 1. Give preliminary instructions to prospective jurors;
  - 2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;

**Rule No. 41, continued**

3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method of reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system;
5. Recognize utilization of written instructions if possible;
6. Before dismissing a jury at the deliberation of a case:
  - a. Release the jurors from their duty of confidentiality;
  - b. Explain their rights regarding inquiries from counsel or the press;
  - c. Either advise them that they are discharged from service or specify where they must report;
  - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

**Rule No. 41, continued**

- D. All communications between the Judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of each communication and given the opportunity to be heard.

XVII. Jury Size and Unanimity of Verdict.

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law in The Massillon Municipal Court.

XVIII. Jury Deliberation.

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

**Rule No. 41, continued**

- F. The Massillon Municipal Court shall train personnel who escort and assist jurors during deliberation.

XIX.. Sequestering Jurors.

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

**Rule No. 42: RESERVED**

**Rule No. 43: RESERVED**

**Rule No. 44: RESERVED**

**Rule No. 45: Branches of Criminal Division**

The Criminal and Traffic Divisions of The Massillon Municipal Court shall consist of two branches: Criminal and Traffic Court and Magistrate's Court.

## **Rule No. 46: Criminal Court Sessions**

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

The **Arraignment Session**, which shall hold regular sessions beginning at **8:45 A.M., Monday, Wednesday, Thursday and Friday**, except on legal holidays. The Court shall consider all pleas of Guilty or No Contest, requests for setting bail, stays of execution and all other matters to come before the Criminal Court not handled by other sessions. Judges of this Court will be assigned to Arraignment Sessions for one (1) week periods.

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

The **Felony Session**, which shall be conducted by the Arraignment Judge unless otherwise ordered by the Presiding Judge. The Felony Session shall hear all felony matters coming before the Court, including requests for continuances, preliminary examinations and such other felony matters as may be assigned to the Felony Session. The Felony Session shall hold sessions beginning at **9:00 A.M., Monday, Wednesday, Thursday, and Friday**, except on legal holidays.

**Rule No. 47: Traffic Court Sessions**

Traffic Court shall consist of three sessions:

The **Arraignment Session** shall be held at **8:45 A.M. Monday, Wednesday, Thursday and Friday**, conducted by the Court. The Arraignment Session shall consider all pleas of Not Guilty or No Contest and all other traffic matters not handled by other sessions. All pleas of Not Guilty shall be assigned from the Arraignment Session.

An **Arraignment Session** shall be held on **Wednesday and Thursday at 1:00 P.M.**, conducted by a Magistrate appointed by the Court. The Arraignment Session shall consider all pleas of Not Guilty or No Contest and all other traffic matters not handled by other sessions. All pleas of Not Guilty shall be assigned from the Arraignment Session. No Defendant shall be required to have his arraignment heard by a Magistrate, and upon his refusal to do so, his case shall be assigned to the Arraignment Judge for hearing as soon thereafter as possible.

The **Traffic Violations Bureau** is hereby established. The Clerk of Court is appointed to be its Violations Clerk, who shall collect fines paid to, give receipts for, and render accounts of the Bureau. The Bureau shall be open to the public from **8:30 A.M. to 4:30 P.M., Monday through Friday**, except for legal holidays.

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

**Rule No. 48: Order of Call - Arraignment Sessions**

The order of call of the docket in each Arraignment Session of this Court shall be as follows:

- A. Cases where Defendant is represented by an attorney;
- B. Cases in alphabetical order for those persons not in custody; and
- C. Cases in which the Defendant is in custody.

The defendant or attorney for defendant may enter an appearance or request a continuance of his arraignment in writing prior to the arraignment date.

### **Rule No. 49: Arraignment and Pleas**

Persons cited, summoned, or arrested and charged with a misdemeanor must appear in open Court (except as otherwise hereinafter provided), and after receiving an explanation of their rights, enter a plea of “Not Guilty,” “Guilty,” or “No Contest.” If a plea of “Not Guilty” is entered, the case shall be set for a pre-trial conference and defendant notified.

Prior to the arraignment, defendant’s counsel may file a written Not Guilty Plea which shall be signed by defendant and approved by the Prosecuting Attorney. The Court shall notify said counsel, in writing, of a pre-trial date. After the initial arraignment, no changes in plea or continuance can be made without the written approval of the Judge assigned to the case. No requests for continuances or pleas will be accepted over the telephone.

## **Rule No. 50: Pre-Trial Procedure**

### **A. PERSONS REQUIRED TO ATTEND CRIMINAL AND TRAFFIC PRETRIAL CONFERENCE WITH THE JUDGE**

When a Pretrial Conference is ordered by the Court the following persons are required to attend:

- 1) The Assistant Prosecutor or Prosecuting Attorney assigned to the case (hereinafter referred to as “Prosecutor” or “Prosecuting Attorney”);
- 2) The attorney for defendant, if any; and
- 3) The defendant. Failure to attend shall result in a warrant issuance for defendant’s arrest and forfeiture of defendant’s bond.

The Judge shall have complete control and discretion on how the Court’s Pretrial Conferences shall be conducted and issue Pretrial Orders, if needed.

### **B. TIME AND LOCATION**

The Pretrial Conference ordered by the Court shall be scheduled pursuant to a Pretrial Order generally issued at the defendant’s arraignment and/or initial appearance. A Pretrial Conference shall be continued by either the Prosecutor or the defendant, by a written motion to continue at least seventy-two (72) hours prior to the Court ordered Pretrial, stating the reasons for a continuance. The Judge shall review the motion to continue and, in his/her discretion, grant a reasonable continuance, if the reasons set forth in the motion for continuance justify a continuance. The time and location of each Pretrial shall be set by the Judge.

**Rule No. 50, continued**

**C. ATTENDANCE OF ARRESTING OFFICER, COMPLAINING WITNESS OR VICTIM AT PRETRIAL**

If the defendant desires the arresting officer, the complaining witness or the victim to be present at a scheduled Pretrial conference, the defendant or defendant's attorney shall file a written motion requesting the attendance of named persons; such demand shall be made by written motion served upon the Prosecutor assigned the case at least seventy-two (72) hours (three (3) working days) prior to the scheduled date for the Pretrial conference.

The Prosecutor shall contact the victim, complaining witness or Victim Advocate prior to the Pretrial to obtain meaningful information or victim's approvals for any sentencing recommendation. The Prosecutor, in his discretion, shall have the victim, complaining witness or Victim Advocate present at the Pretrial conference, or available by telephone.

**D. MATERIALS AND DOCUMENTS TO BE PROVIDED AT PRETRIAL CONFERENCE**

The Prosecutor or the arresting officer or the complaining witness shall bring to the Pretrial conference all of the following materials which relate to the case:

1. Any written or recorded statement of the defendant or co-defendant, or a summary of any oral statement;
2. Any prior criminal record of the defendant, including defendant's CCH if the Prosecutor so desires; and, in an OMVI or traffic case, the prior traffic record of the defendant (a current LEADS printout within the last forty-eight (48) hours). The Prosecutor shall access the Court's computerized docket and county-wide criminal justice docket system for review of the defendant's traffic and criminal record;

**Rule No. 50, continued**

3. Reports of tests or examinations made in connection with the case, accident reports or in OMVI cases, alcohol influence reports, BMV Form 2255 (or its successor), physical coordination test information and calibration information shall be readily available to the Prosecutor from the law enforcement agency by fax; and,
4. A written list of the names and addresses of all known witnesses intended to be called at trial.

**E. EFFECT OF CRIMINAL RULES 12 AND 16**

No provision in this Rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Criminal Rules 12 and 16.

**F. DUTIES OF CLERK OF COURT IN PRETRIAL CONFERENCE PREPARATIONS**

The Clerk of Court or his staff shall deliver all case files scheduled for Pretrial conference to the Prosecuting Attorney's Office at least seventy-two (72) hours (three (3) working days) prior to the Court ordered Pretrial conference.

In addition to the delivery of the case files, the Clerk of Court shall prepare for the Prosecuting Attorney and the Judge a computerized listing of each Judge's Pretrials that are scheduled. The listing shall contain the defendants' names, case number(s), description of the charge(s), the amount of delinquent fines and costs, last payment date, the case numbers of defendant's prior offenses and the date(s) and number of jail days the defendant was previously ordered to serve in prior cases that are due to be served (or were rescheduled by the Stark County Jail) in years 1998 through 2003.

## **Rule No. 51: Probable Cause Hearing in Misdemeanor Cases**

Summons and arrest warrants upon misdemeanor complaints. The Court adopts the following procedure for the issuance of summons or arrest warrants upon a complaint for a criminal or jailable traffic offense classified as a misdemeanor under the Massillon City Code and Ohio Revised Code.

1. The clerk or deputy clerk shall review the sworn complaint and attached affidavits, if any, and determine if all statutory elements of the crime are alleged, if the facts contained in the complaint are sufficient to establish probable cause that a crime has been committed, and that the defendant committed that crime. In making this determination the clerk or deputy clerk shall rely upon the factors listed in Exhibit A attached hereto.
2. If the clerk or deputy clerk determines that the complaint is insufficient, the complaint shall be immediately referred to the duty judge for a determination of probable cause. If the duty judge determines that the complaint is insufficient in the law or facts, no process shall issue. If the duty judge determines that the complaint establishes probable cause that a crime was committed and that the defendant committed that crime, the duty judge may order process to issue on summons or may order that a warrant be issued for the defendant's arrest.
3. A complaint in which a private citizen is the complainant shall be accepted for filing at any time after the preliminary determination of probable cause is made pursuant to Rule 4, Ohio Rules of Criminal Procedure, and this local rule.
4. All misdemeanor complaints shall be issued on summons unless an arrest warrant is authorized or requested under this rule.
5. An arrest warrant on a misdemeanor complaint shall be issued by the clerk or deputy clerk only when at least one of the following apply:
  - A. The clerk, or deputy clerk shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer upon the charge contained in the complaint.

**Rule No. 51, continued**

- B. The clerk or deputy clerk shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer, or confined in any type of penal facility, on a charge other than the charge contained in the complaint.
- C. The clerk or deputy clerk shall issue an arrest warrant for the defendant if the complainant is a law enforcement officer as defined in Section 2935.01, Ohio Revised Code, and the officer requests the issuance of an arrest warrant.
- D. The clerk or deputy clerk shall issue an arrest warrant for the defendant upon the written request of a duly authorized prosecutor of The Massillon Municipal Court.
- E. The clerk or deputy clerk shall issue an arrest warrant for the defendant upon the written request of the village prosecutor of a municipality for an offense under a village ordinance of that municipality or for a violation of state law occurring within that municipality. This subparagraph does not apply to cases transferred to this Court from a Mayor's Court.
- F. The clerk or deputy clerk shall issue an arrest warrant when the duty judge so orders in accordance with this rule.

**Summons and arrest warrants upon felony complaints.**

The Court adopts the following procedure for the issuance of summons or arrest warrants upon a complaint for a criminal offense classified as a felony under the Ohio Revised Code:

1. The clerk or deputy clerk shall review the sworn complaint and attached affidavits, if any, and determine if all statutory elements of the crime are alleged, if the facts contained in the complaint are sufficient to establish probable cause that a crime

**Rule No. 51, continued**

has been committed, and that the defendant committed that crime. In making this determination the clerk or deputy clerk shall rely upon the factors listed in Exhibit A attached hereto.

2. If the clerk or deputy clerk determines that the complaint is insufficient, the complaint shall be immediately referred to the duty judge for a determination of probable cause. If the duty judge determines that the complaint is insufficient in law or facts, no process shall issue. If the duty judge determines that the complaint establishes probable cause that a crime was committed and that the defendant committed that crime, the duty judge may order process to issue on summons or may order that a warrant be issued for the defendant's arrest.
3. A complaint in which a private citizen is the complainant shall be accepted for filing at any time after the preliminary determination of probable cause is made pursuant to Rule 4, Ohio Rules of Criminal Procedure, and this local rule.
4. All felony complaints shall be issued on summons unless an arrest warrant is authorized or requested under this rule.
5. An arrest warrant on a felony complaint shall be issued by the clerk or deputy clerk when at least one of the following apply:
  - A. The clerk or deputy clerk shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer upon the charge contained in the complaint.
  - B. The clerk or deputy clerk shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer, or confined in any type of penal facility, on a charge other than the charge contained in the complaint.
  - C. The clerk or deputy clerk shall issue an arrest warrant for the defendant if the complainant is a law enforcement officer as defined in Section 2935.01, Ohio Revised Code, and the officer requests the issuance of an arrest warrant.

**Rule No. 51, continued**

- D. The clerk or deputy clerk shall issue an arrest warrant for the defendant upon the written request of a duly authorized prosecutor of the county or The Massillon Municipal Court.
  
- E. The clerk or deputy clerk shall issue an arrest warrant when the duty judge so orders in accordance with this rule.

**Rule No. 51, continued**

**EXHIBIT A**

**IN RE: PROBABLE CAUSE DETERMINATION FOR ARREST  
WARRANTS**

In the discharge of duties authorized pursuant to Criminal Rule 4(A)(1) and R.C. 2935.09 et seq., the Clerk of The Massillon Municipal Court is hereby directed to determine the presence of probable cause for the filing of a criminal complaint as follows:

In effecting this determination said Clerk and his duly authorized clerks are hereby instructed to consider the totality of the given circumstances, including, but not limited to, the following factors:

1. Definition of Probable Cause

In Brinegar v. United States, the United States Supreme Court set forth the standard which has been cited most often with approval:

“In dealing with probable cause, however, as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.”

2. Form and Content of Documents

The appropriate form(s) should be completed and signed, utilizing the applicable ordinance or statutory designation and compatible language in the narrative. The Prosecutor’s Office will continue to review and approve complaints as to form and content only.

## **Rule No. 51, continued**

### 3. Factual Basis for Probable Cause

The determination of probable cause must be made upon the basis of facts set forth in the charging documents. Statements which are conclusions only without a stated factual foundation, and complaints which recite only such conclusory statements or the statutory language are not sufficient basis for the findings of probable cause.

### 4. General Application of Facts

In the context of the abovementioned definition, the totality of the stated facts should be applied in a common sense manner to decide if sufficient probable cause exists.

### 5. Specific Application of Facts

Specific facts which should be present include, but are not limited to: proper venue; the ability to identify the defendant; facts related to the particular elements of the alleged crime; and sufficient facts from the totality of the circumstances to give rise to a belief that a crime has been committed and that the person to be arrested committed it.

Reasonable, common sense inferences may be drawn, but such inferences are valid only when drawn from facts actually alleged in the affidavit and/or complaint.

The complainant and any witnesses can be required to appear personally and be examined under oath by the Clerk prior to the issuance of a warrant. If recorded this sworn testimony is admissible at any suppression hearings which might be demanded by the defendant.

## **Rule No. 51, continued**

Hearsay can be the sole basis or a portion of the basis of a probable cause finding. There must, however, be a substantial basis for believing that the source of the hearsay is credible, and for believing that there is factual basis for the information furnished.

### 6. Time of Probable Cause Determinations

The above-mentioned determinations shall be made as promptly as practicable under the circumstances as is further defined by the U.S. Supreme Court in County of Riverside vs. McLaughlin (1991) L.Ed. 2d 49.

**Rule No. 52: Jury Demand**

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

Once a written demand for a jury has been filed, any subsequent waiver of the jury shall be made in writing at least three (3) days prior to the trial date. Failure to comply shall result in the defendant paying all jury fees and expenses incurred by such jury demand, unless otherwise ordered by the Court.

### **Rule No. 53: Posting of Bonds**

Bond for traffic moving violations and equipment violations of a minor nature:

If an individual is required to post bond at the time of receiving a traffic citation, a valid Ohio operator's license may be accepted in lieu of cash bond.

Bail in misdemeanor cases:

Any Judge of this Court may, at his option order the warrant of arrest withdrawn and a summons issued to a stated address, or set bail in accordance with Criminal Rule 46. However, in assigned cases where the assigned Judge has set the bond, no Judge shall modify or set the bond aside, except in extraordinary circumstances.

Bail in felony cases:

When possible, bail in felony cases shall be set with the benefit of a report of the Pre-trial Release Program.

Bond schedules are set forth for both felonies and misdemeanors in **APPENDIX D.**

**Rule No. 54 - Misdemeanor Summons and Arrest Warrants Upon Complaint**

The Court adopts the following procedure for the issuance of summons and arrest warrants upon complaints for criminal offenses classified as misdemeanors, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance.

A. Pursuant to Criminal Rule 4(A)(1) the Clerk of Court shall issue a summons upon a complaint for all misdemeanor offenses, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance, unless an arrest warrant is authorized or requested pursuant to paragraphs B through E below.

B. The Clerk of Court shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer, or confined in any type of penal facility, on a charge other than the charge contained in the complaint.

C. The Clerk shall issue an arrest warrant for the defendant upon the written request of the Massillon City Prosecutor.

D. The Clerk of Court shall issue an arrest warrant for the defendant upon the written request of the city law director of a municipality for an offense under a city ordinance of that municipality or for a violation of state law occurring within that municipality. This subsection does not apply to cases transferred to this Court from a mayor's court.

E. Pursuant to R.C. Section 2935.24, this Court hereby honors arrest warrants issued by this Court and any other Court of competent jurisdiction of this state, and grants authority to serve such arrest warrants by teletype by all law enforcement agencies in Stark County, and hereby directs that any such arrest warrants issued by the Clerk of the Massillon Municipal Court pursuant to R.C. Chapter 2935, based upon probable cause that a crime has been committed and the defendant committed such crime shall carry with it the authority of this Court to be served by teletype.

**Rule No. 55: Termination of Criminal and Traffic Cases**

Upon the happening of any of the following, criminal and traffic cases shall be terminated by the written entry of the Judge assigned to the case or assigned to the applicable particular session:

- 1) finding by a trier of fact that guilty is not proved;
- 2) dismissal pursuant to Criminal Rule 48;
- 3) discharge pursuant to Criminal Rule 5;
- 4) discharge for delay in trial pursuant to R.C. Section 2945.73;
- 5) granting of judgment of acquittal pursuant to Criminal Rule 29;
- 6) pronouncement of sentence; or
- 7) order of probation.

## **Rule No. 56: Case Assignments**

Upon entering a plea of “Not Guilty” before Judge (or Magistrate in traffic matters), the case shall be assigned to a specific Judge using a random method approved by the Court and in conformity with the Superintendence Rules.

The Judge to whom the case is assigned shall be responsible for all further matters with the case.

Each charge having a different case number shall be assigned to a Judge using the random method of selection. Multiple charges against a single defendant which have the same case number shall be assigned to a single Judge.

Once a case is assigned to a Judge only the Presiding/Administrative Judge shall rule on motions to consolidate the case with others or to transfer the case to others. Such consolidation and/or transfer shall be approved in writing to be valid. Only written motions to consolidate or transfer shall be considered. Such motions shall include the reason for the request to transfer or consolidate.

**Rule No. 57: Trial Assignment**

After a case has been assigned to an individual Judge, the case shall be set for trial by said Judge or the Assignment Commissioner.

All trials shall be set within the time limits provided in R.C. Chapter 2945.

Any request by the Prosecutor or Defense Counsel to set a trial date beyond the legal time limits must be in writing and state the reason for the request. Such motion shall be ruled on in writing by the assigned Judge.

**Rule No. 58: Vacation of Trial Date**

No trial date shall be vacated unless specifically ordered by the assigned Judge, or in his absence, by the Presiding/Administrative Judge. When any trial date is vacated, a new trial date shall be assigned forthwith.

Whenever a trial date has been assigned, a change of plea shall be made before the trial date, and the Prosecutor shall notify the assigned Judge.

**Rule No. 59: Notice to Defendants**

Defendant shall be required to appear before the Court by notice to appear (citation), summons, arrest or continuance from a former date.

Notice to appear shall be the standard means to appear before the Court in all traffic violations not involving an aggravated breach of the peace and where it appears the defendant resides in Stark County.

Summons shall be the standard means for requiring defendants to appear in criminal misdemeanor violations where it does not appear to the citing officer that a further aggravated breach of the peace will occur and where residence of the defendant is in Stark County.

## **Rule No. 60: Appearance of Persons Arrested**

Persons arrested and held in custody shall appear at the next regularly scheduled Arraignment Session of the Court, except persons charged with misdemeanors who have been released on bail.

Defendants charged with misdemeanors who are released on bail, after having posted the required bond with the Clerk of Court, shall be given a Notice of Appearance in writing by the Clerk of Court or Court appointed officer directing their attention to the time and place of appearance for the arraignment. The Notice of Appearance shall also advise the defendant to contact an attorney, if desired. The appearance date for arraignment shall be set by the Clerk of Court not to exceed ten (10) days. The Clerk of Court shall note such appearance date on the complaint. Defendants released in accordance with Criminal Rule 4(F) shall be given a similar Court date.

Persons charged with a felony and who are released on bail shall appear at a time and date set by the Judge setting the bond, or at a time and date set by the Clerk of Court.

Where the Court has issued a warrant for the arrest of a person who has previously failed to answer a notice to appear, citation or summons, or where the Court has issued a bench warrant upon the failure of a person to appear in accordance with the conditions of his release on bail, upon the apprehension or appearance of such person upon such warrant or bench warrant, his case shall be brought before the next regular or special session of the Court whether or not he is re-released on bond.

**Rule No. 61: Appearance of Persons Not Arrested**

Persons who receive traffic or minor misdemeanor citations in which a plea of “Guilty” and payment of a set fine and costs may be done by mail or at the Clerk of Court’s Office shall be given a Court date for arraignment by the citing officer not more than seven (7) calendar days from the date of citation. If the seventh calendar day falls on a Saturday, Sunday, or Court holiday, or if it is inconvenient for the person who receives the citation, the next regularly scheduled Court day shall be set by the citing officer.

Persons who are charged with traffic offenses which require a Court appearance by law shall be given a Court day for arraignment by the citing officer of at least seven (7) calendar days, but not more than ten (10) calendar days from the date of citation. If the tenth calendar day falls on a Saturday, Sunday or Court holiday, or if it is inconvenient for the person who receives the citation, the next regularly scheduled Court day shall be set by the citing officer.

If the citation is for a minor traffic offense, the citing officer shall inquire whether an 8:45 A.M. or 1:00 P.M. Court appearance is more convenient for the person charged with a traffic offense or watercraft violation and shall set the Court time accordingly. If the traffic citation is for one of the following offenses, the Court appearance shall be set at 8:45 A.M. only:

- 1) injury accident;
- 2) drugs or alcohol;
- 3) driver’s license;
- 4) speed in excess of twenty (20) miles per hour over the speed limit;
- 5) passing a stopped school bus;
- 6) traffic manslaughter;
- 7) hit skip; or
- 8) drag racing.

The citing officer shall also verify the correct local address of the person receiving the citation and shall enter that address on the citation.

**Rule No. 61, continued**

Persons who are summoned to appear for arraignment as defendants in misdemeanor and felony cases shall be given a Court date by the prosecutor requesting the summons not more than seven (7) calendar days from the date the complaint is filed.

**Rule No. 62: Appearance of Persons in Custody**

Persons arrested and in custody before 8:45 A.M. shall be brought before the appropriate session of the Court on the same day as the arrest, excepting Saturdays, Sundays and Court holidays.

Persons arrested and in custody who cannot be brought before one of the Arraignment sessions within four (4) hours shall have bail set either in accordance with the schedule or standard bails, or, if a felony, by order of the Felony Judge, or, if he is unavailable, by any other Judge of this Court.

Any bail set ex parte by the Duty Judge or other Judge while Court is not in session, or by the schedule of standard bails, shall not remain in effect, unless posted, beyond the next regularly scheduled session of the Court, when a hearing shall be given the Defendant, his attorney and the Prosecutor, as to what reasonable bail should be set. At such hearing careful consideration shall be given to the reports and recommendations of the Pre-trial Release Program.

**Rule No. 63: Warrant for Arrest of Persons Who Fail to Appear**

In the case of persons who fail to appear at the designated time and place, the Court may issue a bench warrant and order a forfeiture of the bond posted; or where the bond is a personal recognizance executed by the defendant, violation of the terms of the personal recognizance shall be referred to the Prosecutor for such further action as he, in the execution of this office, deems proper and necessary.

In all cases of stays of execution on fines or jail sentences, where the defendant has failed to appear at the end of the stay, the Judge may order the sentence enforced and shall order a bench warrant to issue for the arrest of the defendant.

## **Rule No. 64: Witnesses and Subpoenas**

(A) Witnesses must answer to their names or otherwise claim their attendance each day of trial or hearing in order to be entitled to witness fees.

(B) The Clerk of Court, Criminal Division, shall issue subpoenas from a precipe, filed at least fifteen (15) days in advance of the trial date. Subpoenas shall be served as follows:

(1) When a subpoena praecipe has been filed more than fifteen (15) days before the trial date, except for members of local law enforcement agencies, all persons shall be served by regular U.S. postal service. The envelope shall bear the request for return to the clerk of court's office if it is not delivered at once. The clerk shall make a return on the reverse side of the subpoena showing the name and address where the subpoena was served. When the envelope containing the subpoena is returned by the U.S. postal service showing failure of delivery, the clerk shall attach the envelope to the complaint.

(2) When a subpoena praecipe is for local law enforcement agencies, or received **less** than fifteen (15) days before the trial date, service of subpoena shall be made by personal or residence service by designated bailiffs of the Massillon Municipal Court.

(3) The Prosecutor's Office of the Massillon Municipal Court shall promptly notify the Clerk of Court's Office of any dismissal or continuance of hearings or trial for which it has filed praecipes.

(C) In any case, civil or criminal, service of subpoena may also be made by an attorney-at-law or by any person designated by the Court pursuant to Rule 45(B) of the Ohio Rules of Civil Procedure or Rule 17(D) of the Ohio Rules of Criminal Procedure.

**Rule No. 65: Joint Felonies and Misdemeanors**

When a defendant is charged with more than one violation, one or more of which is a felony, all matters which are related to the felony, including misdemeanors, shall be handled by the Arraignment Judge. All matters unrelated to the felony, including unassigned traffic, criminal cases and unrelated bench warrants, shall also be brought before the Arraignment Judge.

If it should appear to the Court that justice would be served by awaiting the outcome of the felony charge before bringing the misdemeanor charge(s) to conclusion, reasonable continuances shall be allowed on the misdemeanor charge(s).

No defendant who has posted satisfactory bail in this Court or in the Court of Common Pleas on a felony charge shall be held in custody to answer for contemporaneously filed misdemeanor charges.

**Rule No. 66: Pre-Trial Motions**

The filing dates of all motions in criminal cases shall be governed by Criminal Rule 12. The Court, in the interest of justice, may extend the time for making pre-trial motions.

**Rule No. 67: Indigents**

All indigents charged with a criminal offense shall first be referred to the Public Defender's Office.

In felony and certain misdemeanor cases, if a Defendant claims he is indigent and the Public Defender, for any valid reason, cannot represent him, the Defendant may request that a private attorney represent him. In support of this request, the Defendant shall submit to an investigation by the Court. An attorney shall thereafter be appointed only if the Court finds the Defendant to be indigent.

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

**Rule No. 68: Advance Deposit of Costs Waived**

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

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

**Rule No. 69: Deferred Fines and Costs and TTP**

The sentencing Judge may grant a stay of execution of sentence (to give defendant time to pay) on the date of sentencing.

Any defendant who is granted a stay of execution of sentence for time to pay his fine and costs shall be referred to the Financial Enforcement Officer for the purpose of setting up a time to pay plan not to exceed one hundred and twenty (120) days unless otherwise ordered by the Court.

The Financial Enforcement Officer shall assist the Defendant in filling out the Time to Pay Application and Information Sheet. Upon completion, the executed application shall be returned to the custody of the Clerk, who shall maintain a TTP (Time to Pay) file.

If the defendant is paid weekly, his payment shall be made weekly. If he is paid every two (2) weeks, his payment shall be made every two (2) weeks, etc.

All defendants who are accepted into the TTP plan are expected to make at least one (1) payment during a thirty (30) day period. Defendant's cost of TTP shall be Ten Dollars (\$10.00) and shall be taxed as costs.

The Clerk shall, on the fifth day of each calendar month, furnish the Financial Enforcement Officer a list of all defendants who have failed to make payment during the previous thirty (30) days.

The Financial Enforcement Officer shall review the list, deliver the same to the appropriate Judge with any recommendations the Financial Enforcement Officer may have for further disposition.

In cases of unemployed, sick or ill defendants, the Financial Enforcement Officer is authorized to demand a verified statement of such unemployment or illness.

No sentenced defendants are to be referred to a Judge except by the Financial Enforcement Officer during any deferred TTP plan.

**Rule No. 69, continued**

There shall be a minimum payment of Ten Dollars (\$10.00) made the day of court. Future payments shall be set up as the Financial Enforcement Officer shall determine after reading the completed application and information sheet. The defendant may be given time to place a phone call if necessary to get minimum payment.

**Rule No. 70: Community Work Service Program**

A Community Work Service Program is hereby established pursuant to R.C. 2951.02 as a sentencing alternative. The sentencing Judge or Magistrate may allow a person convicted of a misdemeanor who qualifies for the Community Work Service Program to elect to perform community service work. The Community Work Service Officer shall establish the guidelines for the qualification and administration of the Community Work Service Program.

Community work service may be performed as follows:

- 1) As a condition of suspended confinement;
- 2) In lieu of confinement; and
- 3) In lieu of payment of fines.

Community work service shall be at the option of the misdemeanant, but only as ordered by the Court and approved by the Community Work Service Officer. Credit for same shall be given upon verification by the Community Work Service Officer and at the Court's discretion.

When a misdemeanant performs community work service as a condition of a suspended sentence or in lieu of confinement, then an eight (8) hour day of work shall be equal to one (1) day's confinement.

When a misdemeanant is unable to pay fines imposed, the Court may refer him to the Community Work Service Program. He shall be credited Thirty-Four Dollars (\$34.00) towards fines for each eight (8) hours of work. If the balance on fines is Ten Dollars (\$10.00) or more but less than Thirty-Four Dollars (\$34.00), then four (4) hours of work shall be credit for same. If the balance on fines is less than Ten Dollars (\$10.00), then it shall be waived.

**Rule No. 70, continued**

Any violation of the Community Work Service Program by a misdemeanant, including the requirements established by the Community Work Service Officer or the sentencing Judge, is a violation of a Court order and subjects that misdemeanant to sanctions provided by law.

## **Rule No. 71: Court Security**

### **A. Security Policy, Procedures and Plan:**

The Court establishes a revised and updated local Security Policy, Procedures and Plan governing the security of the Court, its personnel, the general public and its facilities to ensure consistent, appropriate and adequate security procedures. The Security Policy and Procedures Plan include a physical security plan, operational and routine security procedures, a special operations and facility plan and emergency procedures. The Court's Security Procedures and Plan implemented over the last eight (8) years pursuant to the Ohio Supreme Court's Security Project is incorporated by reference, along with the Court's Journal Entry No. 25 filed with the Ohio Supreme Court on July 3, 1995. The Court revises its Court Security Plan under its continuous improvement plan and to comply with the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994. Said Court Security Plan is not a public record.

## **Rule No. 72 Creation of EMHA Indigent Fund and Collection of Fees**

An Electronically Monitored House Arrest and Detention Fund for Indigent Defendants is hereby created to provide electronically monitored house arrest for indigent Defendants as a sentencing alternative.

The Clerk shall collect from the Court's EMHA (Electronically Monitored House Arrest) Vendors fees and costs in both traffic and criminal cases in which EMHA has been ordered.

After collection of said Court costs, the Clerk of this Court shall pay said Court costs to the Stark County Treasurer to the credit of the Electronically Monitored House Arrest and Detention Fund all per diem and per case Court costs collected from the EMHA Vendors.

The Stark County Auditor shall establish a separate fund with a T1 receipt account and a T2 expenditure account for the Massillon Municipal Court. Expenditures from said account shall be made pursuant to a duly executed voucher signed by the Administrative Judge of this Court.

Those offenders who qualify for either appointed counsel or representation by the Stark County Public Defender shall be deemed indigent offenders eligible for this program. Any additional applicants for the EMHA program shall submit an affidavit of indigency to the Administrator of this Court's Indigent EMHA Program and their eligibility will be determined by eligibility for appointed counsel.

## **Rule No. 73: Alternative Dispute Resolution and Mediation**

**Mandatory Mediation:** Upon order of the Court, a civil action filed in this Court may be submitted to mediation as provided in this rule. By participating in mediation, a non-party participant, as defined by Ohio Revised Code Section 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

**Non-Parties:** The Mediator may permit the spouse, fiancé, parent, child or guardian of a party to attend the mediation if the Mediator believes that such attendance will further the process of mediation.

Mediator is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer.

All civil cases filed after December 3, 1997 will be ordered to mediation by the Court. The mediation sessions will be conducted by the Court's Mediator.

**Scheduling of Cases for Mediation:** Cases ordered for mediation shall be scheduled for mediation within a timely manner after the filing of the answer(s) or other responsive pleading. Rental Escrow cases shall be scheduled for mediation within thirty (30) days of filing. Counsel for the parties will be notified by Court order of the date, time and location of the mediation pursuant to the order, attached hereto. If the initial mediation date scheduled by the Court conflicts with the counsel's schedule or that of any person needed to attend the mediation in order to provide full authority to settle the case, then counsel shall contact opposing counsel and the Mediator to agree upon an alternative date and time no later than twenty (20) days after the date originally scheduled for the mediation. In the event that counsel believes that the mediation needs to be set more than thirty (30) days after the originally scheduled mediation date then counsel shall submit a written request, which shall include the reasons for such request, to the Mediator. Upon receipt of the request, the Mediator will discuss the matter with counsel and set a new date no later than sixty (60) days from the originally scheduled mediation date. If the Mediator determines after discussion that the mediation should proceed as scheduled, no change in the date and time will be made.

**Rule No.73, continued**

**Small Claims:** Small Claims cases, where an answer has been filed, will be set for Mediation as any other civil case. All other Small Claims cases will be mediated on the scheduled trial date at the discretion of the Presiding Judge or Magistrate.

**Exclusions From Mediation:** The following cases shall not be referred to Mediation, except upon petition of all parties:

- (1) Habeas corpus;
- (2) Extraordinary writs;
- (3) Declaratory relief;
- (4) Replevin actions;
- (5) Petitions to perpetuate testimony;
- (6) Forcible Entry and Detainer Actions, First Cause only. Second Cause of Action to be mediated as any other civil matter;
- (7) Quiet title actions; and
- (8) Other matters as may be specified by the Court.

**Authority of the Mediator:** The Mediator shall at all times be in control of the mediation, including scheduling, and the procedures to be followed. The Mediator may meet and consult privately with any party or parties or their counsel during the mediation.

**Duties of the Mediator:** The Mediator shall define and describe the following to the parties at the beginning of the mediation:

**Rule No.73, continued**

- (a) The process of mediation;
- (b) The difference between mediation and other forms of conflict resolution;
- (c) The facts that a mediation is not a trial, the Mediator is not a Judge, and the parties retain their right to trial if they do not reach settlement;
- (d) The circumstances under what conditions communications with the Mediator will be held in confidence during the conference;
- (e) The duties and responsibilities of the Mediator and the parties;
- (f) Determination whether an impasse exists or that the mediation should end;
- (g) Report to the Court in writing whether a full or partial agreement has been reached; whether efforts to settle the case through mediation have ceased or are continuing;
- (h) Report to the Court the name of the necessary person who failed to be present for a scheduled mediation session;
- (i) No other information shall be communicated in any manner by the Mediator to the Court, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosures. The Mediator shall keep mediation communications confidential, unless all who hold a mediation privilege have consented to such disclosures.

**Rule No.73, continued**

**Duties of Parties, Representatives, and Attorneys:**

**Attendance:** The following persons shall physically attend Mediation unless excused under (d) below:

- (a) All individual parties; or an officer, director, or employee having authority to settle the claim for a corporate party, or in the case of a governmental agency, a representative of that agency with full authority to negotiate on behalf of the agency and to recommend settlement to the appropriate decision making body of the agency; and
- (b) The party's counsel of record, if any; and
- (c) The principal insurance adjusters, if any, with authority to settle;
- (d) Upon the request of counsel or a party and for good cause, the Mediator or the Judge may permit an individual to attend the mediation by telephone. Time and costs of travel, the amount in dispute and the nature of the case are factors that will be considered when a request is made.

**Finalizing Agreement:** Upon reaching agreement, the Mediator and/or the parties shall reduce the agreement to writing and sign it along with their counsel.

**Termination Entry- Resolution:** Upon reaching a resolution in mediation, counsel shall be instructed to present a termination entry for approval within fourteen (14) days.

- (a) The fact that a settlement has been reached shall be transmitted to the Administrative Assistant who shall check for filing of the termination entry at the end of the fourteen (14) day period;

**Rule No.73, continued**

(b) If the termination entry has not been filed, then a notice shall be sent to counsel informing them that they have fourteen (14) days to file a termination entry; and

(c) If no entry has been filed fourteen (14) days after notice has been sent to counsel, then an administrative dismissal entry shall be sent to the assigned Judge for approval;

**Termination Entry-No Resolution:** If resolution is not possible, the parties and counsel, if any, shall be asked to sign **Exhibit A**, attached hereto.

**Sanctions for Failure to Attend:** If counsel or a party fail to attend a duly ordered mediation without good cause, the Court may impose sanctions, including an award of attorney fees and other costs, contempt, or other appropriate sanction.

**Immunity, Confidentiality, and Privilege:**

**a. Immunity:** A Mediator acting pursuant to this Local Rule shall have all immunity conferred by statute, rule and/or common law.

**b. Mediation Privilege:** Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05.

**c. Client Defined Confidentiality:** If the parties wish mediation communication to be confidential they will effect a written confidentiality agreement prior to mediation.

**No Advice:** The efforts of the Mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The Mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

**Rule No.73, continued**

**Administrative Dismissal:** If the parties fail to dismiss a settled case within the later of sixty (60) days or the time noted in the entry that gave the Court notice of the settlement, then the Court may dismiss the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

**Rule No.73, continued**

**EXHIBIT A**

**MEDIATION TERMINATION**

**CASE:** \_\_\_\_\_

**The parties have attempted to resolve this case through mediation and have concluded that a mediated resolution is not possible.**

**The parties do hereby give the Mediator permission to report to the Judge the following:**

- 1. That the mediation has concluded without a final resolution.**
- 2. The date(s) of the mediation conference(s).**
- 3. The parties, counsel and non-parties who were in attendance.**
- 4. A brief summary of the facts and issues of the dispute.**

\_\_\_\_\_  
**PLAINTIFF                      DATE**

\_\_\_\_\_  
**DEFENDANT                      DATE**

\_\_\_\_\_  
**ATTORNEY FOR              DATE**  
**PLAINTIFF**

\_\_\_\_\_  
**ATTORNEY FOR              DATE**  
**DEFENDANT**

**Rule No. 74: Surety Bail Bonding Policies and Procedures**

- 1) No surety bail bonding company, agency or individual agent shall execute surety bail bonds in the Massillon Municipal Court without first obtaining written authorization of the Court as set forth in this Rule.
- 2) Each surety bail bonding company, agency and agent which desires to execute surety bail bonds in the Massillon Municipal Court shall make application for approval to the Clerk of Court as set forth herein.
- 3) Because of the large number of bail bonding companies, agencies and agents conducting business in the Massillon Municipal Court, the Court shall restrict the filing of applications for approval to execute surety bonds during only two filing periods each year: by January 15 and/or by August 15 of each calendar year. Only two approved lists shall be published each year based upon the foregoing application periods. Should an interim filing occur between January 15 and August 15, eligibility shall not be effective until August 15.; except the initial compliance with this Rule shall commence on March 1, 1999, pursuant to paragraph 13 below. All applicants shall pay the same fees as prescribed in paragraph 5(e), regardless of their application date and all applicants shall be subject to the same renewal requirements, as set forth in paragraph 12 of this Rule.
- 4) Each applicant shall file with the Clerk of Court the following documents:
  - (a) A completed Massillon Municipal Court Bond Information Sheet as provided by the Clerk of Court;
  - (b) A valid Power of Attorney from the parent insurance company;
  - (c) Certificate of Qualification from the Ohio Department of Insurance;
  - (d) Certificate of Authority from the Ohio Department of Insurance;
  - (e) A non-refundable fee as follows:

**Rule No. 74, continued**

- (i) \$250 fee for the bail bonding company or agency; and
  - (ii) \$100 fee for each agent of the bail bonding company or agency who is authorized to execute surety bail bonds by the company or agency. No more than four agents will be permitted to execute bail bonds for any one company or agency.
  - (f) Applicants for authority under this section shall have a continuing duty to promptly supplement application information required by this paragraph in the event that such information changes in any way from what is stated on the application or any of the individual documents. **The failure to comply with such continuing duty within 30 days from the date of such change, by supplementing the application on file with the Clerk of Court, shall be grounds for suspension.**
- 5) Upon receipt of the application, the Clerk of Court shall act on the application within 30 days after the filing of the application. The application shall be denied if:
- (a) The application is incomplete, contains any false information or fails to comply with this Rule.
  - (b) The applicant failed to file any of the necessary documents contained in paragraph 5(b) through (d) and/or failed to file the annual filing fee.
  - (c) The required Certificates of Qualification and/or Certificate of Authority from the Ohio Department of Insurance or the valid Power of Attorney from the agent's insurance company are not in force and effect.
  - (d) The bail bonding company, agency or agent has an outstanding and unsatisfied forfeiture or judgment pending before the Massillon Municipal Court, Canton Municipal Court, Alliance Municipal Court or the Stark County Court of Common Pleas.

**Rule No.74, continued**

(e) The bail bonding company, agency or agent, in the immediately preceding calendar year, was required to pay judgments on three (3) separate occasions because of the non-appearance of a defendant for whom the company posted bond and insured appearance.

6. If the application is denied, the Clerk of Court shall promptly notify the applicant in writing of the denial and the reason for the denial. If approved, the Clerk of Court shall establish and publish a list of companies, agencies and agents authorized to execute bail bonds in the Massillon Municipal Court. Said list shall be forwarded to the Stark County Court of Common Pleas Clerk of Court; the Stark County Jail; the Massillon City Jail; and posted in a conspicuous place in the public areas of the Massillon Clerk of Court's Offices.

7. An approved bail bonding company, agency or agent shall be subject to the immediate suspension of their authority to execute surety bail bonds in the event that the bail bonding company, agency or agent:

(a) Ceases to be qualified to execute surety bail bonds by virtue of the voiding of their Certificates from the Ohio Department of Insurance; or

(b) Fails to appear for any hearing on forfeiture proceedings as set forth in Revised Code Section 2937.36(c) or fails to promptly (within fifteen (15) days) pay the forfeiture amount upon Judgment of the Court pursuant to Revised Code Section 2937.36(c); or

(c) The bail bonding company, agency or agent, was required to pay judgments on three (3) separate occasions during the current calendar year because of the non-appearance of a defendant for whom the company posted bond and insured appearance; or

(d) For any other reason to be determined by Order of Court, upon hearing, as to any matter affecting the administration of justice.

The Clerk of Court shall promptly notify the applicant in writing of any notice of suspension and said notice shall be promptly forwarded to all Clerk of courts and Jailers in the county.

**Rule No. 74, continued**

9. A suspended applicant may be reinstated upon hearing and by Order of the Court.
10. An agent of a disqualified or suspended bail bonding company or agency may not issue surety bonds on such company or agency but may qualify to execute surety bonds for another bail bonding company or agency upon the application and approval of such company pursuant to the procedure set forth in this Rule and upon reapplication of the agent, and payment of the fees in paragraph 5(e) by the agent, provided the agent did not participate in the action for which the company was disqualified or suspended.
11. Forfeiture proceedings upon the failure of the bonded defendant to appear shall be conducted in the manner set forth in Revised Code Sections 2937.36, et seq.
12. Bail bonding companies, agencies or agents shall be required to renew their application and refile all of the information required in paragraph 5 of this Rule, not later than January 15th of each year, regardless when the original application was made. Renewals shall be subject to approval of the Clerk of Court in the same manner as set forth above. The renewal fee shall be \$125.00 per year for the bail bonding company or agency and \$50.00 per year for each agent who was previously approved.
13. This Rule shall be effective immediately with the first filing period commencing on March 1, 1999. The first interim filing for eligibility period shall be effective March 1, 1999; with the months of January and February, 1999 available for compliance. The Court grants each bail bonding company at least 30 days, prior to March 1, 1999 to become eligible for compliance with this order.

## 1) **Rule No. 75: Procedures for Domestic Violence Cases**

The State of Ohio and Clerk of Court shall comply with all procedures set forth in Sup. R. 10 and the Court's procedures as follows:

1. The standard format for the Motion for Temporary Protection Order shall be uniform as set forth in **APPENDIX H** and shall be reviewed and submitted by the Prosecutor at the defendant's arraignment. The motion shall be revised, from time to time, by the State of Ohio to conform with the County wide computer network software system..
2. The standard format for the Temporary Protection Order ("TPO") as mandated by the The Supreme Court of Ohio, shall be uniform as set forth in **APPENDIX H**. The Court shall revise the TPO, from time to time, as mandated by Sup. R. 10 and to conform with the County wide computer network software system. The Clerk shall issue and serve time-stamped copies of the TPO to all parties noted by the Court on page two of the TPO.
3. The Clerk of Court shall complete Form 10-A as required by Sup. R. 10, and forward Form 10-A, along with a certified copy of the TPO to the arresting agency for data entry into LEADS/NCIC.
4. The State of Ohio and Domestic Violence Project, Inc. shall prepare a uniform Victim Information Form that is given to the victim/complainant at the time of arrest setting forth all of the victim's rights in Domestic Violence cases and the date, time and location of the defendant's arraignment or initial appearance. The State of Ohio, through the local Prosecutor's Offices, shall instruct their law enforcement agencies to obtain all necessary information required to complete Form 10-A at the time of defendant's arrest for Domestic Violence or at the arraignment.
5. The Clerk of Court shall initiate a TPO recall and termination procedure and notice to all parties who received the TPO that the TPO has been terminated by operation of law. The Clerk's recall and notification shall be by regular mail, fax, or any acceptable

**Rule No. 75, continued**

electronic mode. The Clerk shall institute a TPO recall procedure the same as or very similar to the Canton Municipal Court's TPO Recall Program.

6. All procedures, notifications, forms and motions herein shall be revised in a timely manner to conform to the County wide computer network software system as adopted and implemented by this Court.

**Rule No. 76: Procedure for Appointment of Counsel for Indigent Defendants**

The Massillon Municipal Court shall maintain a list of local counsel who agree to accept appointments of indigent defendants with cases charged under state statute. The Massillon Municipal Court shall also maintain a list of local counsel who agree to accept appointments of indigent defendants charged under Massillon City Ordinances.

When the Court is notified by the Stark County Public Defender of a conflict in their representation of an indigent defendant, appointed counsel shall be randomly selected from the list of counsel maintained for cases charged under state statute.

When an indigent defendant is charged under a Massillon City Ordinance and requests counsel, appointed counsel shall be randomly selected from the list of counsel maintained for cases charged under Massillon City Ordinance.

Those persons included on the court appointment lists maintained by the Massillon Municipal Court shall be attorneys-at-law admitted to the Ohio Bar and in good standing with same. Attorneys requesting to be placed on the court appointment lists shall be added to such lists after approval by the Administrative Judge of the Court.

If an attorney included on the court appointment lists maintained by the Massillon Municipal Court shall request to have his/her name removed from said lists, the request for removal shall be made to the Court Administrator.

Random selection of counsel for appointment to represent indigent defendants shall ensure equitable distribution of appointments among all persons on the appointment lists maintained by the Court. However, the skill and expertise of the appointee in the designated area of the appointment, and the management by the appointee of his caseload may be considered at the time such appointment is made.

**Rule No. 76, continued**

All appointments made by the Court shall be reviewed bi-annually by the Court Administrator to ensure the equitable distribution of appointments among persons on each list maintained by the Court.

The manner of compensation and rate at which appointed counsel is paid shall comply with the requirements of the Stark County Auditor in cases charged under state statute and the Massillon City Auditor in cases charged under Massillon City Ordinances.

## **Rule No. 77: Facsimile Filing**

The provisions of this local rule are adopted under Civil Rule 5 (E).

Pleadings and other papers may be filed with the Massillon Clerk of Court by facsimile transmission ("Fax") to **330-830-3648** subject to the following conditions:

### **APPLICABILITY**

- 1.1 These rules apply to civil, criminal and small claims proceedings in the Massillon Municipal Court.
- 1.2 These rules do not apply to Domestic Violence motions and proceedings. In these proceedings no facsimile transmission of documents will be accepted.
- 1.3 The following documents will not be accepted for fax filing: Cognovit Promissory Notes, Attachment and Garnishment proceedings.

### **ORIGINAL FILING**

- 2.1 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 with the Clerk of Court but must, however, maintain in his or 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.
- 2.2 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.

## **Rule No. 77, continued**

### **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

- 3.1 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.
- 3.2 A “facsimile machine” means a machine that can send and receive a facsimile transmission.
- 3.3 “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

### **COVER PAGE**

- 4.1 The person filing a document by fax shall also provide therewith a cover page containing the following information: (See Appendix H-A for sample cover page form).
  - (I) The name of the court;
  - (II) The title of the case;
  - (III) The case number;
  - (IV) The assigned Judge
  - (V) The title of the document being filed; (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);

**Rule No. 77, continued**

- (VI) The date of transmission;
  - (VII) The transmitting fax number;
  - (VIII) An indication of the number of pages included in the transmission, including the cover page;
  - (IX) If a Judge or case number has not been assigned, state that fact on the cover page;
  - (X) The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
  - (XI) If applicable, a statement explaining how costs are being submitted.
- 4.2 If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion;
- (I) Enter the document in the Case Docket and file the document; or
  - (II) Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Court.
- 4.03 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.

**Rule No. 77, continued**

**SIGNATURE**

- 5.01 A party who wishes to file a signed source document by fax shall either:
- (I) Fax a copy of the signed source document; or
  - (II) 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.
- 5.02 A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

**EXHIBITS**

- 6.01 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 document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.
- 6.02 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 Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court. (See Appendix H-B for sample exhibit cover sheet.)

**Rule No. 77, continued**

**TIME OF FILING**

- 7.01 Subject to the provisions of these rules, all documents sent by fax and received 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. However, the fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays.
- 7.02 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.
- 7.03 The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.
- 7.04 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.

**FEES AND COSTS**

- 8.01 No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Court cost and fees may be paid by credit or debit cards or through an escrow account established with the Clerk. The forms necessary for the authorization of payment by credit card or escrow account shall be available at the Clerk's office during normal business hours. 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. (See Appendix H-C for sample credit card payment form.)

**Rule No. 77, continued**

8.02 No additional fee shall be assessed for facsimile filings.

**LENGTH OF DOCUMENT**

9.01 Facsimile filings shall not exceed fifteen (15) pages in length. The filer shall not transmit service copies by facsimile.

**EFFECTIVE DATE**

10.01 These local rules shall be effective October 1, 2005, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

## **Rule No. 78: First Time Offender Diversion Program**

### **A. PURPOSE**

The Massillon Municipal Court Diversion Program is intended to provide a short period of supervision and education to those persons who (1) have been charged with any of several alcohol-related misdemeanor offenses, certain drug-related offenses that are minor misdemeanors or fourth-degree misdemeanors or certain theft offenses and (2) are willing to accept responsibility for their misconduct. The Program is intended for first time offenders. At Pretrial, the Defendant will enter a plea of guilty. The Court will find the Defendant guilty and will impose on the defendant an appropriate sentence for the charge. Enforcement of the sentence will be stayed for ninety days. Upon successful completion of the Diversion Program, the Prosecutor will move to dismiss the charges against the Defendant.

### **B. ELIGIBILITY**

The Program is open to first time offender and at the complete discretion of the Judge (persons who have not already participated in the Diversion Program and who have not been convicted as an adult in this or other courts for any other criminal activity or any alcohol related traffic offense) whose pending charges are limited to any or all of the following: (1) misdemeanor violation of Chapter 4301 of the Revised Code (regulating the sale, possession, and consumption of alcohol) or comparable municipal ordinances, (2) minor misdemeanor violation of R.C. 2925.11(A) and 2925.11(C)(3)(a) (barring the possession or use of less than 100 grams of marijuana) or comparable municipal ordinances, (3) fourth-degree misdemeanor violation of R.C. 2925.14(C)(1) (barring the use or possession of drug paraphernalia) or comparable municipal ordinances or (4) certain theft offenses.

### **C. ADDITIONAL STEPS DURING THE PROGRAM**

Within 90 days after entering the plea, the Defendant must:

1. (A) Complete an alcohol-education, drug-education, or theft diversion class and (B) attend a treatment program for alcohol or drug dependency if directed to do so by the Court's Probation Department;
2. Complete 20 hours of community service under the direction of the Court's Probation Department;

3. Report to the Probation Department as scheduled, and notify the Probation Department about any address changes and any events that affect the Defendant's ability to complete the Program;
4. Refrain from committing any other criminal offense or any drug-related or alcohol-related traffic offense while participating in the Program;
5. Pay the \$200.00 supervision fee, pay the cost of the appropriate drug or alcohol class or theft diversion program, pay the cost of any drug or alcohol assessment, pay the full amount of any restitution owed to any victims of the offense(s), and pay any court costs associated with the case.

**D. COURT ORDERS \$200.00 SUPERVISION FEE TO BE CREDITED  
PROBATION FUND NO. 1238**

**Rule No. 79: Use of Electronically Produced Tickets**

The use and filing of a ticket that is produced by a computer or other electronic means is hereby authorized in The Massillon 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.

**APPENDIX A - TIMES OF COURT SESSIONS**

**APPENDIX B - COURT COSTS**

**APPENDIX C - FORMS**

**APPENDIX D - BOND SCHEDULE**

**APPENDIX E - CASEFLOW MANAGEMENT (CIVIL & CRIMINAL CASES)**

**(APPENDIX F - RESERVED)**

**APPENDIX G - FORMS FOR USE IN DOMESTIC VIOLENCE CASES**

**APPENDIX H - FACSIMILE FILING FORMS (RULE NO. 77)**

Case No. \_\_\_\_\_

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Address

\_\_\_\_\_  
**NOTARY PUBLIC**

\_\_\_\_\_  
Signature of Attorney (if applicable)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Attorney Registration Number

\_\_\_\_\_  
Phone Number

**INSTRUCTIONS FOR SERVICE**

Please serve a copy of the foregoing Motion upon \_\_\_\_\_  
by  personal service or  certified mail, return receipt requested at the following address: \_\_\_\_\_

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

Per R.C. 2919.26(G)(3), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

STATE OF OHIO/CITY OF \_\_\_\_\_

v.

DEFENDANT

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_

State

**OHIO**

## DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER (DVTPO) (R.C. 2919.26)

New Order     Modification of Previous Order

### ALLEGED VICTIM:

--	--	--

First

Middle

Last

### PERSON(S) PROTECTED BY THIS ORDER:

Alleged Victim \_\_\_\_\_ DOB: \_\_\_\_\_

Alleged Victim's Family or Household Member(s):

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

### DEFENDANT:

--	--	--

First

Middle

Last

Address where Defendant can be found:

\_\_\_\_\_

### DEFENDANT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Distinguishing Features: \_\_\_\_\_

**WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

**Ex Parte DVTPO Granted:** \_\_\_\_\_ (Date)

**DVTPO Granted:** \_\_\_\_\_ (Date)

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

### THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Defendant has been or will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

### THE COURT HEREBY ORDERS:

That the above named Defendant be restrained from committing acts of abuse or threats of abuse against the Alleged Victim and other protected persons named in this Order, as set forth below. Additional terms of this Order are set forth below.

**WARNING TO DEFENDANT: See the warning page attached to the front of this Order.**

(Ex Parte DVTPPO)

(DVTPPO)

Upon a hearing held on \_\_\_\_\_ OR \_\_\_\_\_ the Court finds that the Motion for a Domestic Violence Temporary Protection Order is well taken. The Court finds that the safety and protection of protected persons named in this Order may be impaired by the continued presence of Defendant. Therefore, the following orders, which are designed to ensure the safety and protection of protected persons named in this Order, are issued to Defendant as pretrial conditions in addition to any bail set under Crim. R. 46.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE DEFENDANT**

- 1. **DEFENDANT SHALL NOT ABUSE** protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **DEFENDANT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person.** [NCIC 04]
- 3. **DEFENDANT SHALL NOT INTERFERE** with protected persons' right to occupy any residence by canceling utilities or insurance and interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence: \_\_\_\_\_  
 \_\_\_\_\_  
 at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_  
 \_\_\_\_\_
- 5. **DEFENDANT SHALL STAY AWAY FROM PROTECTED PERSONS NAMED IN THIS ORDER**, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with the protected persons' permission.** If Defendant accidentally comes in contact with protected persons in any public or private place, Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Defendant may not violate this Order **even with the permission of a protected person.** [NCIC 05]
- 7. **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 8. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Defendant shall turn over all deadly weapons in Defendant's possession to the law enforcement agency that serves Defendant with this Order as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]
- 10. **DEFENDANT MAY PICK UP CLOTHING** and personal items from the following residence: \_\_\_\_\_  
 \_\_\_\_\_ only in the company of a uniformed law enforcement officer within seven days of the filing of this Order or the date of Defendant's release on bond in connection with this charge, whichever is later. Arrangements may be made by contacting: \_\_\_\_\_  
 \_\_\_\_\_

11. DEFENDANT SHALL NOT USE OR POSSESS alcohol or illegal drugs.

12. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_

13. DEFENDANT IS ADVISED THAT VISITATION ORDERS DO NOT PERMIT DEFENDANT TO VIOLATE ANY OF THE TERMS OF THIS ORDER.

14. IT IS FURTHER ORDERED that a copy of this Order shall be delivered to Defendant on the same day that the Order is entered.

15. THIS ORDER REMAINS IN EFFECT: (1) until modified by this Court; or (2) until the criminal proceeding arising out of the complaint upon which these orders were issued is disposed of by this Court or by the court of common pleas to which the defendant is bound over for prosecution; or (3) until a Court issues a Domestic Violence Civil Protection Order ("CPO") arising out of the same activities as those that were the basis of the complaint filed in this action.

IT IS SO ORDERED.

\_\_\_\_\_  
MAGISTRATE – DATE OF *EX PARTE* DVTPO

\_\_\_\_\_  
JUDGE – DATE OF *EX PARTE* DVTPO

\_\_\_\_\_  
MAGISTRATE – DATE OF DVTPO

\_\_\_\_\_  
JUDGE – DATE OF DVTPO

**NOTICE TO DEFENDANT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A HEARING** on this Order shall be held before  
 Judge \_\_\_\_\_ or  
 Magistrate \_\_\_\_\_  
 on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.,  
 (the next court day) at the following location:  
 \_\_\_\_\_  
 \_\_\_\_\_

**TO THE CLERK:**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

Prosecutor  
 Alleged Victim  
 Defendant (by personal service)  
 Attorney for Defendant  
 Police Department Where Alleged Victim Resides:  
 \_\_\_\_\_  
 Police Department Where Alleged Victim Works:  
 \_\_\_\_\_  
 The \_\_\_\_\_ County Sheriff's Office  
 Other \_\_\_\_\_

Service acknowledged: \_\_\_\_\_  
Defendant Signature Date

**WAIVER OF HEARING**

I HAVE BEEN ADVISED OF MY RIGHT TO HAVE A HEARING ON THE MOTION FOR A DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE HEARING ON THE MOTION AND AGREE TO BE BOUND BY THE TERMS OF THIS ORDER.

DEFENDANT: \_\_\_\_\_ DATE: \_\_\_\_\_

## FORM 10.04-A: NOTICE CONCERNING POSSESSION OR PURCHASE OF FIREARMS

**NOTE:** Rule 10.04 of the Rules of Superintendence for the Courts of Ohio requires notice of possible firearm restrictions be provided to the Defendant before entering a guilty plea or plea of no contest to a misdemeanor crime of violence against a family or household member.

Pursuant to R.C. 2943.033, you are advised that if you enter a guilty plea or plea of no contest to a misdemeanor crime involving violence where you are or were any of the following:

- A spouse, person living as a spouse, former spouse of the Alleged Victim;
- A parent or child of the Alleged Victim;
- A parent or child of a spouse, person living as a spouse, or former spouse of the Alleged Victim;
- The natural parent of any child of whom the Alleged Victim is the other natural parent or the putative natural parent

it may be unlawful for you to ship, transport, purchase, or possess a firearm or ammunition as a result of any conviction for a misdemeanor offense of violence pursuant to federal law under 18 U.S.C. 922(g)(9).

**If you have any questions whether this law makes it illegal for you to ship, transport, purchase, or possess a firearm or ammunition, you should consult an attorney.**

# Domestic Violence Protection Order Forms

10.01-A: General Information About Domestic Violence Protection Orders

10.01-B: How to Obtain a Domestic Violence Civil Protection Order ("CPO")

10.01-C: Instructions For Completing the Petition for a Domestic Violence Civil Protection Order

10.01-D: Petition for Domestic Violence Civil Protection Order (R.C. 3113.31)

10.01-E: Instructions For Completing the Information For Parenting Proceeding Affidavit

10.01-F: Information for Parenting Proceeding Affidavit (R.C. 3127.23 A)

10.01-G: Warning Concerning the Attached Domestic Violence Protection Order

10.01-H: Domestic Violence Civil Protection Order (CPO) Ex parte (R.C. 3113.31)

10.01-I: Domestic Violence Civil Protection Order (CPO) Full Hearing (R.C. 3113.31)

10.01-J: Consent Agreement and Domestic Violence Civil Protection Order (R.C. 3113.31)

10.01-K: Motion to Modify or Terminate Domestic Violence Civil Protection Order or Consent Agreement

10.01-L: Judgment Entry on Motion to Modify/Terminate Domestic Violence Civil Protection Order or Consent Agreement

10.01-M: Modified Domestic Violence Civil Protection Order

10.01-N: Instructions for Completing a Motion for Contempt for Violating a Domestic Violence Civil Protection Order

10.01-O: Motion for Contempt of a Domestic Violence Civil Protection Order

10.02-A: Domestic Violence Criminal Temporary Protection Order (DVTPO) (R.C. 2919.26)

10.04-A: Notice Concerning Possession or Purchase of Firearms

# Stalking Order Protection Forms

10.03-A: Motion for Criminal Protection Order (CRPO) (R.C. 2903.213)

10.03-B: Criminal Protection Order (CRPO) (R.C. 2903.213)

10.03-D: Petition for Civil Stalking Protection Order or Sexually Oriented Offense Protection Order (SSOPO) (R.C. 2903.214)

10.03-E: Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order (SSOPO) *EX PARTE* (R.C. 2903.214)

10.03-F: Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order (SSOPO) Full Hearing (R.C. 2903.214)

10.03-G: Instructions For Obtaining Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order (SSOPO)

10.03-H: Warning Concerning Attached Protection Order



THE SUPREME COURT of OHIO

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO/CITY OF \_\_\_\_\_ :

\_\_\_\_\_ : Case No. \_\_\_\_\_

\_\_\_\_\_ :  
 v. \_\_\_\_\_ : Judge \_\_\_\_\_

\_\_\_\_\_ :  
 DEFENDANT : MOTION FOR CRIMINAL PROTECTION  
 ORDER (CRPO) (R.C. 2903.213)

\_\_\_\_\_ (Name of person), moves the Court to issue a protection order containing terms designed to ensure the safety and protection of the complainant or the alleged victim in the above captioned case, in relation to the named defendant, pursuant to its authority to issue a protection order under R.C. 2903.213.

A complaint, a copy of which has been attached to this motion, has been filed in this Court charging the named defendant with a violation of R.C. 2903.11 (*Felonious Assault*), 2903.12 (*Aggravated Assault*), 2903.13 (*Assault*), 2903.21 (*Aggravated Menacing*), 2903.211 (*Menacing by Stalking*), 2903.22 (*Menacing*), or 2911.211 (*Aggravated Trespass*) or a violation of a municipal ordinance substantially similar to R.C. 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211, or the commission of sexually oriented offenses as defined in R.C. 2950.01 .

I understand that I must appear before the Court, at a time set by the Court not later than the next day that the Court is in session after the filing of this motion, for a hearing on the motion, and that any protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint or until the issuance under R.C. 2903.214 of a protection order arising out of the same activities as those that were the basis in the attached complaint.

\_\_\_\_\_  
 Signature of Alleged Victim

\_\_\_\_\_  
 Address of Alleged Victim

- NOTES: (1) *This form must be provided by the Clerk of Court, per R.C. 2903.213(B).*
- (2) *By its own definitions [see R.C. 2903.213(A)], this statute does not apply to a complaint that involves a person who is a family or household member. In those cases where the Alleged Victim is a family or household member of the defendant, use Domestic Violence Temporary Protection Order (DVTPO) forms and procedures under R.C. 2919.26, and/or Civil Protection Order (CPO) forms and procedures under R.C. 3113.31.*

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

Per R.C. 2903.213(G)(2), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED  
 ( ) -  
 PHONE NUMBER

STATE OF OHIO/CITY OF \_\_\_\_\_  
 v.

**DEFENDANT**

**ALLEGED VICTIM**

\_\_\_\_\_  
 First Middle Last

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_ State **OHIO**

## CRIMINAL PROTECTION ORDER (CRPO) (R.C. 2903.213)

New Order  Modification of Previous Order

**PERSON(S) PROTECTED BY THIS ORDER:**

Alleged Victim \_\_\_\_\_ DOB: \_\_\_\_\_  
 Alleged Victim's Family or Household Member(s) (May attach additional form):  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_

**DEFENDANT:**

\_\_\_\_\_  
 First Middle Last

Address where Defendant can be found:  
 \_\_\_\_\_

**DEFENDANT IDENTIFIERS**

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Distinguishing Features: \_\_\_\_\_

**WARNING TO LAW ENFORCEMENT: DEFENDANT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

**Ex Parte CRPO Granted:** \_\_\_\_\_ (Date)

**CRPO Granted:** \_\_\_\_\_ (Date)

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

**THE COURT HEREBY FINDS:**

That it has jurisdiction over the parties and subject matter, and the Defendant has been provided with reasonable notice and the opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

**THE COURT HEREBY ORDERS:**

That the above named Defendant be restrained from committing acts of abuse or threats of abuse against and contacting the Alleged Victim and other protected persons named in this Order, as set forth below. Additional terms of this Order are set forth below.

**WARNING TO DEFENDANT: See the warning page attached to the front of this Order.**

This matter came before the Court on \_\_\_\_\_ for hearing on Alleged Victim's Motion for Criminal Protection Order. The Court finds the Motion of the Alleged Victim for a Criminal Protection Order is well taken. The Court finds that the safety and protection of the Alleged Victim and protected persons named in this Order may be impaired unless the Court acts. The following provisions of this Order are designed to enhance the safety of those covered by its terms. They are issued to the Defendant as pretrial conditions, in addition to any bail.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE DEFENDANT**

- 1. **DEFENDANT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, contacting, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **DEFENDANT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 3. **DEFENDANT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities, insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence: \_\_\_\_\_  
at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_
- 5. **DEFENDANT SHALL STAY AWAY** from protected persons named in this Order, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons, wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with protected persons' permission**. If Defendant accidentally comes in contact with protected persons in any public or private place, Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 05]
- 8. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON**. Defendant shall turn over all deadly weapons in Defendant's possession to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_  
Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]
- 10. **IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 11. **IT IS FURTHER ORDERED** that a copy of this Order shall be delivered to Defendant on the same day that the Order is entered.
- 12. **THIS ORDER REMAINS IN EFFECT:** (1) until modified by this Court; or (2) until the criminal proceeding arising out of the complaint upon which these orders were issued is disposed by this Court or by the court of common pleas to which the Defendant is bound over for prosecution; or (3) until the Court issues a Civil Stalking Protection Order ("CSPO") or Civil Sexually Oriented Offense Protection Order ("CSOPO") arising out of the same activities as those that were the basis of the complaint filed in this action.

**IT IS SO ORDERED.**

\_\_\_\_\_  
MAGISTRATE – DATE OF *EX PARTE* CRPO

\_\_\_\_\_  
JUDGE – DATE OF *EX PARTE* CRPO

\_\_\_\_\_  
MAGISTRATE – DATE OF CRPO

\_\_\_\_\_  
JUDGE – DATE OF CRPO

**NOTICE TO DEFENDANT:** THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

*NOTES: By its own definitions [see R.C. 2903.213(A)], this statute does not apply to a complaint that involves a person who is a family or household member. In those cases where the Alleged Victim is a family or household member of the Defendant, use the Domestic Violence Temporary Protection Order ("DVTPO") forms and procedures under R.C. 2919.26, and/or Domestic Violence Civil Protection Order ("DVCPO") forms and procedures under R.C. 3113.31.*

**A HEARING** on this Order shall be held before

Judge \_\_\_\_\_

or Magistrate \_\_\_\_\_

on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

(the next court day) at the following location:

\_\_\_\_\_

\_\_\_\_\_

**TO THE CLERK**

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

Prosecutor

Alleged Victim

Defendant (by personal service)

Attorney for Defendant

Police Department Where Alleged Victim Resides: \_\_\_\_\_

Police Department Where Alleged Victim Works: \_\_\_\_\_

The \_\_\_\_\_ County Sheriff's Office

Other: \_\_\_\_\_

Service acknowledged: \_\_\_\_\_  
Defendant Signature \_\_\_\_\_ Date \_\_\_\_\_

**WAIVER OF HEARING**

**I HAVE BEEN ADVISED OF MY RIGHT TO HAVE A HEARING ON THE MOTION FOR A CRIMINAL PROTECTION ORDER AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE HEARING ON THE MOTION AND AGREE TO BE BOUND BY THE TERMS OF THIS ORDER.**

**DEFENDANT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

IN THE COURT OF COMMON PLEAS  
 \_\_\_\_\_ COUNTY, OHIO

Petitioner	:	Case No.	
Address	:	Judge	
City, State, Zip Code	:	PETITION FOR CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER (R.C. 2903.214)	
Date of Birth:	:		
v.	:	Notice to Petitioner: Check every <input type="checkbox"/> that applies.	
Respondent	:	DO NOT WRITE YOUR ADDRESS ON THIS FORM IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE ANOTHER ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.	
Address	:		
City, State, Zip Code	:		
Date of Birth:	:	The Respondent does NOT have to be related to Petitioner in any way for Petitioner to be eligible for relief.	

1. Petitioner seeks relief on Petitioner's own behalf.
2. Petitioner seeks relief on behalf of the following family or household members:

NAME	DATE OF BIRTH	HOW RELATED TO PETITIONER

Ohio law defines "Menacing by Stalking" as follows:

*"No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person."* R.C. 2903.211(A)(1).

*"No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section (above)"* R.C. 2903.211-(A)(2).

"Sexually oriented offenses" are defined in R.C. 2950.01.

3. Petitioner states that Respondent has engaged in the following act(s) which create an immediate and present danger. For (a), (b), or (c) below, attach additional paper if you need more room.

(a) For a civil stalking protection order due to menacing by stalking, describe the nature and extent of the pattern of conduct that causes you to believe that Respondent will cause you physical harm or causes (or has caused) mental distress. Also describe any previous convictions of Respondent for the crime of Menacing by Stalking, if known.

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(b) For a civil sexually oriented offense protection order due to a sexually oriented offense, describe the acts of Respondent as fully as possible. You do not need to include any pattern of conduct information for a protection order due to a sexually oriented offense.

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(c) For electronic monitoring of the Respondent, describe the nature and extent of the Respondent's conduct before the filing of this Petition that puts you or your family or household members' health, welfare, or safety at risk. Also describe how the Respondent presents a continuing danger to you or your family or household members.

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4. Petitioner requests the Court grant relief under R.C. 2903.214 for the Petitioner and the family or household members named in this Petition by granting a Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order that:

(a) Requires Respondent not to abuse the Petitioner and the family or household members named in this Petition by harming, attempting to harm, threatening, following, stalking, harassing, contacting, forcing sexual relations upon them, or by committing sexually oriented offenses against them.

(b) Requires Respondent to refrain from entering the residence, school, business, place of employment, child care providers, or day care centers of Petitioner and the family or household members named in this Petition, including the buildings, grounds, and parking lots at those locations.

(c) Requires Respondent not to interfere with Petitioner's right to occupy the residence including, but not limited to canceling any utilities, insurance, interrupting phone service, mail delivery, or the delivery of any other documents or items.

- (d) Requires Respondent not to remove, damage, hide, or dispose of any property or pets owned or possessed by the Petitioner and Petitioner's family or household members named in this Petition.
- (e) Requires Respondent not to possess, use, carry, or obtain any deadly weapon.
- (f) Requires Respondent to be electronically monitored.
- (g) Includes the following additional provisions: \_\_\_\_\_

- 5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under R.C. 2903.214(D) and this Petition.
- 6. Petitioner further requests that the Court not issue any mutual protection orders or other orders against Petitioner unless all of the conditions of R.C. 2903.214(E)(3) are met.
- 7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by R.C. 2903.214(L).
- 8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.
- 9. The following is a list of all present and past court cases involving Respondent, that Petitioner knows of:

CASE NAME	CASE NUMBER	COURT/COUNTY	OUTCOME OF CASE

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsifying this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsifying this document may also subject me to criminal penalties for perjury under R.C. 2921.11.

\_\_\_\_\_  
SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE ANOTHER ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney for Petitioner (if applicable)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Attorney Registration Number

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email

IN THE COURT OF COMMON PLEAS  
 COUNTY, OHIO

# Order of Protection

Per R.C. 2903.214(F)(3), this Order is indexed at

Case No.

Judge \_\_\_\_\_

County  State **OHIO**

CIVIL STALKING PROTECTION ORDER *EX PARTE*  
 (R.C. 2903.214)

CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION  
 ORDER *EX PARTE* (R.C. 2903.214)

LAW ENFORCEMENT AGENCY WHERE INDEXED

( )

PHONE NUMBER

**PETITIONER:**

First Middle Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s): \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First Middle Last

Address where Respondent can be found:

**RESPONDENT IDENTIFIERS**

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Distinguishing Features: \_\_\_\_\_

**WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

**THE COURT HEREBY FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

**THE COURT HEREBY ORDERS:**

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order, as set forth below. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (DATE CERTAIN).

**WARNING TO RESPONDENT: See the warning page attached to the front of this Order.**

This proceeding came on for an *ex parte* hearing on \_\_\_\_\_, \_\_\_\_\_ (Respondent not being present), upon the filing of a Petition by Petitioner for a civil stalking protection order or civil sexually oriented offense protection order against the Respondent, pursuant to R.C. 2903.214. In accordance with R.C. 2903.214(D)(1), the Court held an *ex parte* hearing not later than the next day that the Court was in session after the Petition was filed.

The Court finds that the protected persons named herein are in immediate and present danger and, for good cause shown, the following temporary orders are necessary to protect the persons named in this Order.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 04]
- 3. **RESPONDENT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities, insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items.
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:  
 \_\_\_\_\_  
 at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_
- 5. **RESPONDENT SHALL STAY AWAY FROM** protected persons named in this Order, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with protected persons' permission.** If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 05]
- 8. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

10. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

12. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL**  
\_\_\_\_\_ , \_\_\_\_\_ .

**IT IS SO ORDERED.**

\_\_\_\_\_  
**MAGISTRATE**

\_\_\_\_\_  
**JUDGE**

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A FULL HEARING** on this Order shall be held before  
Judge \_\_\_\_\_ or  
Magistrate \_\_\_\_\_  
on \_\_\_\_\_ , at \_\_\_\_\_ a.m./p.m.  
at the following location:  
\_\_\_\_\_  
\_\_\_\_\_

**TO THE CLERK:**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Respondent (by personal service)
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Other: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS  
COUNTY, OHIO

# Order of Protection

Per R.C. 2903.214(F)(3), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( )  
PHONE NUMBER

Case No.

Judge

County

State

OHIO

CIVIL STALKING PROTECTION ORDER FULL HEARING (R.C. 2903.214)

CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER FULL HEARING (R.C. 2903.214)

### PETITIONER:

\_\_\_\_\_  
First Middle Last

v.

### PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_  
Petitioner's Family or Household Member(s): \_\_\_\_\_  
\_\_\_\_\_ DOB: \_\_\_\_\_  
\_\_\_\_\_ DOB: \_\_\_\_\_  
\_\_\_\_\_ DOB: \_\_\_\_\_  
\_\_\_\_\_ DOB: \_\_\_\_\_

### RESPONDENT:

\_\_\_\_\_  
First Middle Last

Address where Respondent can be found:  
\_\_\_\_\_  
\_\_\_\_\_

### RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Distinguishing Features: \_\_\_\_\_

**WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

### THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

### THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order, as set forth below. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (DATE CERTAIN – FIVE YEARS MAXIMUM).

**WARNING TO RESPONDENT: See the warning page attached to the front of this Order.**

This proceeding came on for a hearing on \_\_\_\_\_ before the Court and the Civil Stalking Protection Order *Ex Parte* or Civil Sexually Oriented Offense Protection Order *Ex Parte* filed on \_\_\_\_\_ all in accordance with R.C. 2903.214. The following individuals were present: \_\_\_\_\_

The Court hereby makes the following findings of fact: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- The Court finds by a preponderance of the evidence that 1) the Respondent has knowingly engaged in a pattern of conduct that caused Petitioner to believe that the Respondent will cause physical harm or cause or has caused mental distress; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from stalking offenses.
- The Court finds by a preponderance of the evidence that 1) the Petitioner or Petitioner's family or household member(s) are in danger of or have been a victim of a sexually oriented offense as defined in R.C. 2950.01, committed by Respondent; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from sexually oriented offenses.
- The Court finds by clear and convincing evidence that 1) the Petitioner or Petitioner's family or household member reasonably believed the Respondent's conduct before the filing of the Petition endangered the health, welfare, or safety of the Petitioner or Petitioner's family or household member(s); 2) the Respondent presents a continuing danger to the Petitioner or Petitioner's family or household member(s); and 3) the following orders are equitable, fair, and necessary to protect the person(s) named in this Order.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 03]
- 3. **RESPONDENT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities, insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items.
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:  
\_\_\_\_\_  
at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_
- 5. **RESPONDENT SHALL STAY AWAY** from protected persons named in this Order, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons, wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with protected persons' permission.** If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

- 6. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 05]
- 8. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

- 10. **IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 11. **RESPONDENT IS ORDERED TO COMPLETE** the following counseling program: \_\_\_\_\_  
 \_\_\_\_\_

**Respondent shall contact this program within seven days after receiving this Order and immediately arrange for an initial appointment.** The counseling program is requested to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

**Respondent is ordered to appear before Judge \_\_\_\_\_ or Magistrate \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m., to review Respondent's compliance with this Counseling Order. Respondent is warned: If you fail to attend the program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.**

- 12. **RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.
- 13. **RESPONDENT SHALL BE SUBJECT TO ELECTRONIC MONITORING.** Respondent is ordered to report to \_\_\_\_\_ for the placement of a global positioning system for the purpose of electronic monitoring for the duration of this Order or until \_\_\_\_\_, whichever expires first. The Court further imposes the following terms and conditions: \_\_\_\_\_  
 \_\_\_\_\_

- 14. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

15. ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL \_\_\_\_\_

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**NOTICE OF FINAL APPEALABLE ORDER**

Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the following date:

\_\_\_\_\_

By: \_\_\_\_\_  
CLERK OF COURT

**TO THE CLERK**

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Respondent
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Other: \_\_\_\_\_
- Attorney for Petitioner
- Attorney for Respondent

**WAIVER**

I, \_\_\_\_\_, understand that I have the right to a full hearing on the Petition for Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order, and acknowledge each of the following:

1. I waive the right to have a full hearing on this Protection Order;
2. I waive the right to cross-examine witnesses and review evidence submitted in support of this Protection Order;
3. I waive the right to present witnesses and evidence on my own behalf;
4. I waive the right to request specific factual findings from the Court concerning the issuance of this Protection Order.

I understand that based on the foregoing waivers a Protection Order will be entered against me.

RESPONDENT: \_\_\_\_\_

DATE: \_\_\_\_\_

## FORM 10.03-G: HOW TO OBTAIN A CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER

These instructions are intended to assist you in preparing the Petition for a Civil Stalking Protection Order or Sexually Oriented Offense Protection Order, which can only be heard by the court of common pleas in your county. Throughout the Petition you are called *Petitioner* and the person you are filing this Petition against is called *Respondent*.

### SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you print your name on the Petition, use the same name you use when you write your signature.
- Write your name and Respondent's name the same way throughout the Petition.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, ask the Clerk of Court's office for assistance or contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.
- Under federal and state law no fees may be charged to obtain a protection order.

### FILLING OUT THE PETITION: Mark each instruction below after you read and complete it

- On the front page, leave the "Case No." line and "Judge" lines blank.** The Clerk of Court's office will fill in this information.
- On the top left-hand side of the front page, fill in the requested information about yourself.** If you do not want your present address to be known, write "confidential" in the space for your address, but list someone else's address where you can receive notices from the Court.
- Also on the top left-hand side of the front page, fill in the requested information about Respondent as best you can.** You may use Respondent's work address if you do not know Respondent's home address. If you do not know Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so.
- Paragraph 1:** If you are filing the Petition on behalf of yourself, mark the first box.
- Paragraph 2:** If you are filing the Petition on behalf of a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. You may attach additional pages if you need more room.
- Paragraph 3(a):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary; approximate time frame may be sufficient. If you are requesting a civil stalking protection order due to stalking, provide a brief description of the pattern of conduct (two or more instances) that caused you to believe that the Respondent will cause physical harm or cause mental distress to you or another family member. (NOTE: Petitioner and/or Respondent need not be related in any way for Petitioner to obtain the protection order.) If you are aware of any prior convictions of the Respondent for menacing by stalking or similar offenses, or prior convictions of Respondent for any sexually oriented offenses, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.
- Paragraph 3(b):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary; approximate timeframe may be sufficient. If you are requesting a civil sexually oriented offense protection order due to a sexually oriented offense, you do not have to provide a description of a pattern of conduct. A brief description of what happened that caused you to request the protection order will be enough. (NOTE: Petitioner and/or Respondent need not be related in any way for Petitioner to obtain the protection order.) If you are aware of any prior convictions of the Respondent for menacing by stalking or similar offenses, or prior convictions of Respondent for any sexually oriented offenses, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.
- Paragraph 3(c):** State the date(s) of the incident(s) that caused you to file the Petition and request electronic monitoring of the Respondent. Exact date(s) is not necessary; approximate timeframe may be sufficient. If you are requesting electronic monitoring of the Respondent, describe the nature and extent of the Respondent's conduct before the filing of this Petition that puts you or your family or household members' health, welfare, or safety at risk. Also describe how the Respondent presents a continuing danger to you or your family or household members.
- Paragraph 4:** Indicate the action you want the Court to take by marking the boxes next to the numbered paragraphs that apply to your situation.

FORM 10.03-G: HOW TO OBTAIN A CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER

Amended: July 1, 2010

Discard all previous versions of this form

- Paragraph 4(f):** Write any special court orders you believe would help protect you and your family or household members.
- Paragraph 5:** Be sure to mark the box next to Paragraph 5 if you need an emergency (“*ex parte*”) protection order.
- Paragraph 9:** List ALL present or past court cases or investigations that involve Respondent. This includes all criminal, divorce, custody, visitation, and any other case that may have a bearing on the safety of you or your family or household members. Write the case name, the court, the case number, and the outcome of the case, if known. You may attach additional pages if you need more room.

**SIGNING THE PETITION**

Try to fill out the Petition before you go to the courthouse. **AFTER YOU HAVE FILLED OUT THE PETITION, TAKE IT TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC.** An employee of the Clerk of Court’s office may be available to take your oath.

**FILING THE PETITION**

After you have your signature notarized, file your Petition at the Clerk of Court’s office. The Clerk of Court’s office will tell you when and where your *ex parte* hearing will take place.

**FEES**

Under federal and state law, you cannot be charged any costs or fees for filing and obtaining a protection order.

## FORM 10.03-H: WARNING CONCERNING THE ATTACHED PROTECTION ORDER

**NOTE:** Rule 10.03 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the **FRONT** of all protection orders issued pursuant to R.C. 2903.213 and 2903.214 by the courts of the State of Ohio. **TO BE USED WITH FORMS 10.03-B, 10.03-E, and 10.03-F.**

### **WARNING TO RESPONDENT/ DEFENDANT**

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and can cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

As a result of this Order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

Only the Court can change this Order. The Petitioner/Alleged Victim cannot give you permission to violate this order. If you go near the Petitioner or other protected persons, even with their consent, you may be arrested. You act at your own risk if you disregard this WARNING. If you want to change the Order you must ask the Court.

### **WARNING TO PETITIONER / ALLEGED VICTIM**

You cannot change the terms of this Order by your words or actions. This Order **cannot** be changed by either party without obtaining a written court order.

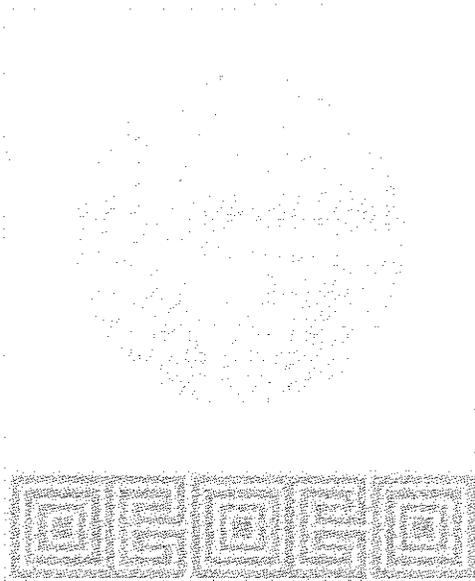
### **NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS**

The attached Protection Order is enforceable in all jurisdictions. Violating this Protection Order, whether it is a criminal or civil Protection Order, is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.27, 2903.213, and 2903.214. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, in Ohio under R.C. 2935.03, you should arrest and detain Respondent/Defendant until you can obtain a warrant. Federal and state laws prohibit charging a fee for service of this order.

# National Crime Information Center

10-A: Protection Notice to National Crime Information Center

10-B: Instructions for Completing a Protection Order Notice to National Crime Information Center



THE SUPREME COURT OF ONTARIO

**FORM 10-A: PROTECTION ORDER NOTICE TO NCIC**  
 (Required fields appear in bold print)

Initial NCIC Form  
 Modification of Previous Form  
 \_\_\_\_\_ of \_\_\_\_\_ Pages

**SUBJECT NAME** \_\_\_\_\_  
 (LAST) (FIRST) (M.I.)

**ADDRESS** \_\_\_\_\_  
 (STREET) (CITY) (STATE) (ZIP)

**PHYSICAL DESCRIPTION:** HGT \_\_\_\_\_ WGT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_

**NUMERICAL IDENTIFIER (NOTE: Only ONE of the 4 numerical identifiers is needed.)**  
 1. SSN \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 2. DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 3.\* DRIVER'S LIC. NO. \_\_\_\_\_ STATE \_\_\_\_\_ EXPIRATION YR. \_\_\_\_\_  
 4.\* VEHICLE LIC. NO. \_\_\_\_\_ STATE \_\_\_\_\_ EXPIRATION YR. \_\_\_\_\_ LIC. TYPE \_\_\_\_\_  
 (\* If #3 or #4 is used as a numerical identifier, entire line MUST be completed.)

**BRADY DISQUALIFIERS:**  
 (Pursuant to 18 U.S.C. 922(g)(8), a "yes" response to all three Brady questions disqualifies the subject from purchasing or possessing any firearms, including a rifle, pistol, revolver, or ammunition.)

- Does Order protect an intimate partner or child(ren)?  YES  NO
- Did subject have opportunity to participate in hearing regarding Order?  YES  NO
- Does Order find subject a credible threat or explicitly prohibit physical force?  YES  NO

**CASE / ORDER NO.** \_\_\_\_\_ (15 DIGIT MAXIMUM)

**COURT ORIGINATING AGENCY IDENTIFIER** \_\_\_\_\_ (9 DIGIT ORI ASSIGNED BY NCIC)

R.C. 2903.213  R.C. 2903.214  R.C. 2151.34  R.C. 2919.26  R.C. 3113.31 **NAME OF JUDGE** \_\_\_\_\_

**DATE OF ORDER** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **EXPIRATION OF ORDER** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 (IN R.C. 2919.26 CASES, "NONEXP" MAY BE USED)

**TERMS AND CONDITIONS OF ORDER (Mark all that are applicable):**

- 01 The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering, or stalking the protected person and/or the child(ren) of the protected person.
- 02 The subject shall not threaten a member of the protected person's family or household.
- 03 The protected person is granted exclusive possession of the residence or household.
- 04 The subject is required to stay away from the residence, property, school, or place of employment of the protected person or other family or household member.
- 05 The subject is restrained from making any communication with the protected person, including but not limited to, personal, written, or telephone contact, or their employer, employees, or fellow workers, or others with whom the communication would be likely to cause annoyance or alarm the victim.
- 06 The subject has visitation or custody rights of the children named in this Order.
- 07 The subject is prohibited from possessing and/or purchasing a firearm or other weapon.
- 08 See the Miscellaneous Field for comments regarding the specific terms and conditions of this Order.  
 Miscellaneous comments: \_\_\_\_\_

09 The protected person is awarded temporary exclusive custody of the children named.

**LIST ALL PROTECTED PERSONS** (Total of 9 allowed, may attach additional forms; **SSN is NOT necessary if DOB is given**):

**PROTECTED PERSON** \_\_\_\_\_  
 (LAST) (FIRST) (M.I.)  
**DOB** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **SSN** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **RACE** \_\_\_\_\_ **SEX** \_\_\_\_\_

**PROTECTED PERSON** \_\_\_\_\_  
 (LAST) (FIRST) (M.I.)  
**DOB** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **SSN** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **RACE** \_\_\_\_\_ **SEX** \_\_\_\_\_

**PROTECTED PERSON** \_\_\_\_\_  
 (LAST) (FIRST) (M.I.)  
**DOB** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **SSN** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **RACE** \_\_\_\_\_ **SEX** \_\_\_\_\_

**Authorized by (signature):** \_\_\_\_\_ **Date** \_\_\_\_\_  
 Judge/Magistrate (circle one)

OHP  
 DATA  
 ONLY  
 #EPO

MIS/

## FORM 10-B: HOW TO COMPLETE A PROTECTION NOTICE TO NCIC

These instructions are intended to assist the court in the proper completion of Form 10-A, Protection Notice to NCIC, in compliance with requirements of Ohio and federal law. Thorough and accurate completion of Form 10-A is critical, as this form is the sole method used to enter the terms and conditions of the protection orders issued by the court into the computerized index of criminal justice information maintained by the National Crime Information Center ("NCIC"). Inaccurate or inconsistent information in Form 10-A will result in delay in entering the protection order into the NCIC index and enforcing the order. Form 10-A must be completed each time the court approves, issues, modifies, renews, or terminates a protection order or consent agreement, regardless of whether it is an *ex parte* or full hearing order.

### ELEMENTS OF FORM 10-A

- (A) The required fields in Form 10-A appear in **BOLD**.
- (B) Form 10-A is the primary method used to inform law enforcement of the terms and conditions of the protection order. The court should be cautious to mark the appropriate box in the upper right corner of the form. The court must check the box next to "Initial NCIC Form" anytime the court is issuing a protection order out of the same set of facts for the first time, i.e., an *ex parte* order or a full hearing order where an *ex parte* order was not issued. The court must check the box next to "Modification of Previous NCIC" anytime the court has already issued a protection order arising out of the same facts and is now modifying or terminating the order or is making a clerical or orthographical correction to the form.
- (C) **SUBJECT'S NAME, RACE, & SEX.** The subject's full name, including first and last name, race and sex, are mandatory identifiers that the court must provide to have the form accepted by NCIC. The other identifiers under physical description, i.e., height ("HGT"), weight ("WGT"), hair, and eyes, are not mandatory, yet they are helpful information to ensure the correct person is identified if a violation of the order occurs. Similarly, the address is not mandatory information.
- (D) **NUMERICAL IDENTIFIER.** The FBI requires the court to provide certain numerical identifiers to properly identify the person subject to the protection order. While completion of all the numerical identifiers is very useful, the FBI mandates that only **one** of the following numerical identifiers be entered to have the form accepted by NCIC:
1. **SOCIAL SECURITY NUMBER ("SSN");**
  2. **DATE OF BIRTH ("DOB");**
  3. **DRIVER'S LICENSE NUMBER ("DRIVER'S LIC. NO."):** In the instance the driver's license number is to be provided, the state that issued the driver's license and the expiration date of the driver's license must also be included for this entry to be accepted by NCIC;
  4. **VEHICLE LICENSE NUMBER ("VEHICLE LIC. NO."):** In the instance the vehicle's license plate is to be provided, the state that issued the license plate and the expiration date of the license plate must also be included for this entry to be accepted by NCIC.
- (E) **BRADY DISQUALIFIERS.** Federal law makes it illegal for certain persons subject to a protection order to purchase or possess a firearm, including a rifle, pistol or revolver, or ammunition. This section guides the court in properly identifying those persons subject to a protection order that are also Brady disqualified. An affirmative response to all three questions on Form 10-A results in disqualifying the person subject to a protection order from purchasing or possessing firearms pursuant to 18 U.S.C. 922(g)(8).

Generally, a person subject to a protection order is Brady disqualified under 18 U.S.C. 922(g)(8) when the protected party is a spouse, former spouse, person living or who lived as a spouse, a child of the person subject to the protection order or a child of a spouse, former spouse, or person living or who lived as a spouse. The court must afford the person

subject to the protection order an opportunity to be heard and, after evaluating all the evidence, find that the person subject to the order poses a credible threat of harm to the protected party.

- (F) **CASE/ORDER NO.** The case/order number of the protection order is a required element. It is particularly relevant when the court modifies, renews, or terminates a protection order. Law enforcement and NCIC will use the case/order number to cross-reference the appropriate order. In addition, law enforcement also uses this information to verify the currency of an order.
- (G) **COURT ORIGINATING AGENCY IDENTIFIER.** To accept a Form 10-A entry into the federal protection order database, NCIC mandates the court issuing the protection order to include its agency identifier. The agency identifier is a unique nine digit alphabetic and/or numeric series issued by the FBI that easily allows identification of the court issuing the order. Although the "Name of Judge" is not a mandatory field, it is prudent to include the name of the judicial officer issuing the protection order. Similarly, NCIC does not require a court to indicate under which Revised Code section the order is being issued. However, this information is useful for law enforcement to quickly determine the relationship between the parties and determine how to assess risk if the order is violated.
- (H) **DATE OF ORDER AND EXPIRATION OF ORDER.** The court must note on the form the date the protection order was issued and the date when it will expire. The protection order database will automatically purge the orders on their expiration date. If a protection order is terminated before the original expiration, it is critical the court explicitly indicate on Form 10-A the new expiration date to allow proper removal of the order from the database.
- (I) **TERMS AND CONDITIONS OF ORDER.** The court must check every box that corresponds to all provisions of the protection order as ordered by the court. Note the numbering next to each term and condition in Form 10-A does not correspond to the sequence of the remedies listed in the protection orders. However, the remedies in the protection order forms cross-reference, by number, the terms and conditions listed in Form 10-A.  
  
The court should submit a modified Form 10-A to the appropriate law enforcement reporting agency in every instance that any court order, i.e., divorce decree or custody order, results in the modification of a term or a protected party in a protection order.
- (J) **LIST ALL PROTECTED PERSONS.** The court must provide the full name and date of birth for all persons who are protected by the protection order. The protected person's social security number, race, and gender are not required entry in Form 10-A.
- (K) **AUTHORIZED SIGNATURE.** The judge or magistrate who issued the protection order must sign and date Form 10-A.

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT:            MASSILLON MUNICIPAL COURT

FAX NUMBER:                (330) 830-3648

SENDING PARTY INFORMATION:

NAME: \_\_\_\_\_

SUPREME COURT  
REGISTRATION NO. (IF APPLICABLE): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (IF AVAILABLE): \_\_\_\_\_

CASE INFORMATION:

TITLE OF CASE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

TITLE OF DOCUMENT: \_\_\_\_\_

JUDGE: \_\_\_\_\_

FILING INFORMATION:

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (INCLUDING THIS PAGE): \_\_\_\_\_

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:  
\_\_\_\_\_  
\_\_\_\_\_

\*IF A JUDGE OR CASE NUMBER HAS NOT BEEN ASSIGNED, PLEASE STATE THAT FACT IN THE SPACE PROVIDED.

IN THE MASSILLON MUNICIPAL COURT  
STARK COUNTY, OHIO

JOHN SMITH, PLAINTIFF

CASE NO. 1234567

v.

JUDGE \_\_\_\_\_

(In the alternative a notation

BILL JONES, DEFENDANT

here that the case is not yet assigned)

---

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G" TO PLAINTIFF  
SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

---

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on (date). Exhibit "G" could not be accurately transmitted by fax and is thereby being timely filed as a separate document with the Court pursuant to Local Rule No. 77.

Respectfully Submitted,

\_\_\_\_\_  
Attorney Name (Sup. Crt. Reg. No.)

Office/Firm

Address

Telephone

Facsimile

E-Mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on (date) to counsel for defendant Bill Jones, (name and address of recipient).

\_\_\_\_\_  
Attorney Name

Counsel for Plaintiff John Smith

CREDIT/DEBIT CARD AUTHORIZATION FORM

TO: CLERK MASSILLON MUNICIPAL COURT

FAX NO: \_\_\_\_\_

REGARDING: (IF APPLICABLE)

CASE NAME: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

DEAR CLERK'S OFFICE REPRESENTATIVE:

PLEASE CHARGE MY CREDIT/DEBIT CARD IN THE AMOUNT OF

\$ \_\_\_\_\_ IN PAYMENT OF FEES FOR THE FOLLOWING

COURT COSTS/SERVICE(S): (IDENTIFY DOCUMENT TO BE FILED OR OTHER SERVICE TO BE PERFORMED BY THE CLERK'S OFFICE FOR WHICH A FEE IS ASSESSED.)

CIRCLE ONE:

MASTERCARD

VISA

CREDIT/DEBIT CARD NO: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

NAME OF CARDHOLDER: \_\_\_\_\_

BILLING ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_ FAX NO. \_\_\_\_\_

CARDHOLDER SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

NAME & TELEPHONE NO. OF PERSON SUBMITTING THIS FORM:  
\_\_\_\_\_