

SYLVANIA MUNICIPAL COURT

6700 MONROE STREET

SYLVANIA, OHIO 43560

RULES OF PRACTICE

2020

MICHAEL A. BONFIGLIO, PRESIDING JUDGE

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## 2020 SYLVANIA MUNICIPAL COURT RULES OF PRACTICE

### SCOPE OF RULES

- (A) The rules of the Sylvania Municipal Court are adopted, published and periodically revised pursuant to O.R.C. 1901.14. These rules are to be read in conjunction with, and at all times subordinate to, the Revised Code, Civil Rules, Criminal Rules, Traffic Rules, and Rules of Superintendence for Municipal Courts and County Courts.
- (B) These rules apply to all traffic, criminal, civil, and small claims proceedings in the Sylvania Municipal Court

### RULE 1: SESSIONS

- (A) Court is in session daily from 8:30 a.m. to 4:30 p.m. Monday through Friday, except for legal holidays and as otherwise by the Court.
- (B) Arraignments will be heard on Monday, Wednesday, and Friday at 8:30 a.m.
- (C) Small Claims will be heard the first Thursday of each month at 8:30 a.m.
- (D) Jury Trials will be heard on Tuesdays at 8:00 a.m.

### RULE 2: ATTORNEYS

- (A) Only attorneys admitted to the practice of law in the State of Ohio, or those certified to specially practice by the Supreme Court of the State of Ohio, or those authorized by the Court, are permitted to practice in the Sylvania Municipal Court.
- (B) This rule does not prohibit an individual from acting as his or her own counsel in any proceeding in the Court. Corporations and partnerships shall, however, be represented by counsel.
- (C) An attorney who has entered an appearance as counsel of record must appear at all proceedings in the case unless an oral or written motion to withdraw is granted by the Judge.
- (D) Attorneys are directed to the Toledo Legal News which is the official daily journal of the Sylvania Municipal Court for the purpose of service by publication or as further designated by the Judge

### **RULE 3: SERVICE OF COURT PAPERS**

(A) Service: Except as otherwise provided in these rules or as otherwise ordered by the court, every order required by its terms to be served, every pleading subsequent to the original complaint, every paper relating to discovery required to be served upon a party, every written motion, and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. Service is not required on parties in default for failure to appear except that pleadings asserting new or additional claims for relief or for additional damages against them shall be served upon them in the manner provided for service of summons in Civ. R. 4 through Civ. R. 4.6.

#### **RULE 3.01: REQUIREMENTS OF PLEADINGS**

- (A) All documents filed with the Clerk, including, but not limited to pleadings, motions, applications, judgments and orders, shall be neatly prepared on 8 1/2" 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 shall not be permitted.
- (B) Each document filed by each party represented by counsel shall designate, on the first page therefor, the caption of the case and case number, the title of the document, the name, address, telephone number, fax number, and code number of the attorney responsible for the case.
- (C) The mailing address must be given for all parties and counsel and shall include the correct zip code.
- (D) 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 the summons in said action. Copies shall be clear photo copies. Pleadings which do not conform to this rule may be ordered stricken from the file by the Court.

#### **RULE 3.02: FAX FILING**

- (A) Any document that requires a filing fee shall not be filed by fax, and will not be accepted by the Clerk.
- (B) Documents that are permitted to be 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 fax cover sheet used for the subject filing. (See Cover Sheet example, page 26)

- (C) 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.
- (D) Definitions: As used in these rules, unless the context requires otherwise;
- a. "Facsimile transmission" means the transmission of a source of 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.
  - b. "Facsimile machine" means a machine that can send and receive a facsimile transmission.
  - c. "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- (E) Cover Page: The person filing a document by fax shall also provide therewith a cover page (example page 26), containing the following information:
- a. Name of the Court
  - b. Case caption
  - c. Case number
  - d. Assigned Judge
  - e. 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)
  - f. Date of transmission
  - g. Transmitting fax number
  - h. Indication of the number of pages included in the transmission, including the cover page
  - i. Name, address, telephone number, fax number, Supreme Court registration number, if applicable, and email address of the person filing the fax document if available.
    - i. If a document is sent by fax to the Clerk of Court without the cover page information listed above, the office of the clerk may, at its discretion:
      - 1. Enter the document in the Case Docket and file the document:  
or
      - 2. 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 Courts.

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

(F) Signature:

- a. 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.
- b. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

(G) Exhibits:

- a. 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, no 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.
- b. 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 Defendant’s Motion to Dismiss, See example page 27), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

(H) Time of Filing: Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the basis of twenty-four hours per day, seven days a week, including holidays. Each page of any document received by the Clerk will automatically be imprinted with the date and time of receipt (top center of page(s)). The date and time imprinted on the document will determine the time of filing, provided the document deemed accepted by the Clerk.

(I) Fees and Costs: No document filed by facsimile that requires a filing fee shall be accepted by the Clerk.

- (J) Length of Document: Facsimile filings shall not exceed ten (10) pages in length. The filer shall not transmit service copies to the Court by facsimile.

**RULE 4: DOCKETS AND RECORDS**

- (A) The Clerk shall maintain separate Civil and Criminal records and dockets as required by law and ordered by the Court. The orders of the Court in said dockets shall be validated by the signature of the Judge or facsimile thereof. The dockets and sentencing orders, together with the original papers filed therein, shall be the final record of the cases of this Court.
- (B) Nothing in this rule shall be construed to prohibit the recording and storage of the Court's dockets and records by microfilming or other suitable miniaturizing process as permitted by law.

**RULE 5: JURY TRIALS**

Jurors shall be chosen by the Jury Commissioner of the Sylvania Municipal Court as provided by law and summoned by an officer of this Court. When a jury trial is demanded and not used, a jury fee of \$10.00 per juror, as to all prospective jurors in attendance on the day of the trial shall be assessed against the party making the demand unless it is withdrawn by noon of the last working day before the date set for trial.

**RULE 6: COURT DECORUM**

- (A) All individuals, upon entering the Courthouse, are subject to security screening. All persons must pass through a magnetometer and all purses, briefcases, packages, and other items must be x-rayed. If someone has an item which is not illegal but which is not permitted in the building, the item will be held at the screening station. A claim check will be issued, and the item to be retrieved upon departure from the Courthouse. If the item being brought into the Courthouse is illegal (i.e. drugs, a weapon), the person is subject to arrest.

Individuals are not permitted to bring cell phones into the Courthouse unless he/she is an attorney, a public safety officer, a juror, a Courthouse employee, or has been pre-authorized by Court Security Department.

- (B) As a matter of respect, everyone inside the courtroom shall be requested to stand during the opening and closing of Court. Men shall remove their hats or head coverings while in the courtroom. Proper attire is required of all, particularly in the summer months, unduly immodest or revealing clothing by any person shall not be permitted in the courtroom. The courtroom space inside the railing is reserved for officials, counsel, parties and witnesses. The bailiff and Court officer shall see that no one impedes or disrupts the orderly conduct of the business of the Court.

(C) No smoking shall be permitted within the courthouse at any time.

**RULE 7: WITNESSES**

Witnesses must answer to their names when called or otherwise claim their attendance each day of the trial, pre-trial or hearing in order to be entitled to witness fees.

**RULE 8: DESTRUCTION OF CASE FILES**

Destruction of case files are subject to the provisions set forth in the Supreme Court Rules of Superintendence as follows:

**RULE 26. Court Records Management and Retention.**

**RULE 26.01. Retention Schedule for the Administrative Records of the Courts**

**RULE 9: COURT REPORTERS**

The responsibility of arranging for the attendance of a Court reporter as well as payment of fee for such reporter shall rest with the attorney and/or party desiring the same.

**RULE 10: BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS**

- (A) All broadcasting, televising, recording and photography equipment in the courtroom shall be subject to the permission of the Judge of the court and its usage shall be restricted, as provided by Municipal Court Superintendent Rule 12.
- (B) Requests for permission for the broadcasting, televising, recording or taking of photographs in the courtroom must be submitted to the Judge prior to the scheduled time of commencement of the proceeding.
- (C) The Judge presiding at the trial or hearing shall permit the broadcasting or recording by electronic means, and the taking of photographs in Court proceedings open to the public, upon request, if the Judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial or hearing.
- (D) The request for permission, and the allowance of the request, must be in writing and made a part of the record of the proceedings.
- (E) The Judge, after consultation with the media, shall specify the place or places in the courtroom where the operators and equipment are to be positioned. The equipment and operations to be allowed, as detailed under the Rules of Superintendence for the Municipal Courts, M.C. Sup. R. 9(B), is limited to the following;
  - a. One (1) portable camera, with one (1) operator; no more than one (1) still photographer; and, not more than one (1) audio system for radio-broadcast purposes.



- (F) The filming, videotaping, recording or taking of photographs of victims or witnesses who object shall not be permitted. The other limitations as provided by Rule 9(C), Rules of Superintendence for Municipal Courts, shall also be in effect at all times.
- (G) All pooling arrangements are the responsibility of the media representatives. Such arrangements must be made without involving the Court. If any disputes arise, the Judge may exclude all contesting media representatives.
- (H) Upon failure of any media representative to comply with the conditions prescribed by the Judge, or the Superintendence Rules of the Supreme Court, the Judge may revoke the permission to broadcast or photograph the trial or hearing.

**RULE 11: ORDERS OF THE COURT**

Any order, decree, finding, or judgement shall be entered by the Judge upon the journal entry in a criminal or traffic case and upon the jacket in a civil case. The required service of notice of such journal entries shall be made upon the parties by the Clerk of Court. Any appealable order once journalized by the Clerk will constitute the order in the case.

**RULE 12: JURY MANAGEMENT PLAN**

- (A) Introduction: This local Rule or Practice is being implemented in compliance with Superintendence Rule 9 which requires that each municipal court, prior to July 1, 1994, develop and implement a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Sylvania Municipal Court.
- (B) Jury Eligibility: All persons are eligible to serve on a jury, except those who:
  - a. Are less than 18 years of age
  - b. Are not residents of the Sylvania Municipal Court jurisdiction
  - c. Are not citizens of the United States
  - 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
- (C) All reasonable efforts shall be made to accommodate prospective physically handicapped jurors who have special needs.
- (D) Procedure for Jury Selection:
  - a. Potential jurors shall be drawn from a jury source list which shall constitute a list including all registered voters in the Sylvania Municipal Court jurisdiction, by use of random selection procedures using automated data processing equipment in conformity with O.R.C. Section 2913.08, and O.R.C. Section 2313.21.
  - b. Each year, the jury commissions, duly appointed by the court pursuant to Revised Code Section 2313.01, shall convene and select a suitable number of names to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from the list, in

accordance with the powers provided to jury commissioners by O.R.C. Section 2313.01.

- c. If, in the opinion of the court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.
- d. Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire.
- e. Departures from random selection shall be permitted only as follows:
  - i. To exclude person ineligible for service
  - ii. To excuse or defer prospective jurors
  - iii. To remove prospective jurors with any opportunity to be called for jury service and to be assigned to a panel
- f. All prospective jurors shall be notified by ordinary mail for their requirement of service by the issuance of a summons directing them to appear on the date assigned. The summons shall include a jury questionnaire and a request for excuse, exemption or a deferral. Failure to respond to the summons shall be noted by the Jury Commissioner. All action for enforcement of summons shall be pursuant to the Ohio Revised Code.

(E) Summoning of Prospective Jurors

- a. Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, upon filing the jury demand, a jury deposit of two hundred dollars (\$200.00) shall be assessed. In the event the deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to a trial by jury. A person determined to be indigent may petition the court for a waiver of the jury deposit requirement. Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity.

(F) Withdrawal of Jury Demand

- a. In civil cases, when a jury trial is demanded and not used, a jury fee of \$10.00 per juror, as to all prospective jurors in attendance on the day of the trial shall be assessed against the party making the demand unless it is withdrawn by noon of the last working day before the date set for trial.
- b. In criminal cases, the Prosecutor's office will receive the court file of each case set for jury trial at least twenty-one (21) days in advance of the scheduled trial date. On the date the file is received by the Prosecutor's office, the prosecutor shall contact defense counsel and determine whether the matter will be proceeding to trial by jury. At the conclusion of the conference, the Prosecutor's office shall prepare and file with the court the Prosecutor's Report on Status of Jury Trial.
  - i. If the Prosecutor's Report on Status of Jury Trial indicates that the case will be proceeding to jury trial, it shall then be the responsibility of

defense counsel to notify the Prosecutor's office and the Court if the case will not so proceed.

- c. Notice shall be given by the defendant to the Prosecutor's office and the court no later than noon of the last working day before the day set for trial. If such notice is not given to the Prosecutor's office and the Court, a jury fee of ten (\$10.00) per person shall be assessed against the defendant as to all prospective jurors for the scheduled trial.

(G) Jury Instructions: Proposed jury instructions shall be filed in all civil cases by all parties seven (7) days prior to the date scheduled for trial, when a jury demand has been filed unless modified by court order.

(H) Exemption, Excuse and Deferral

- a. All persons except those who exercise their right to exemption are subject to service. Persons may be deferred from service by a Judge or other authorized court official upon application showing the necessity therefor, which shall be in writing or otherwise recorded. All requests for excuse and exemption must be made on the form provided, and shall be accompanied by appropriate documentation.
- b. The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused from jury service:
  - i. Any person whose ability to reason and evaluate information is so impaired that they are unable to perform their duties as jurors.
  - ii. Any person for who service would be a continuing hardship to them or to members of the public.
- c. No person shall be excused from a jury service, except by the Judge or an individual specifically authorized to excuse jurors.

(I) Examination of Prospective Jurors

- a. Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.
- b. Jury questionnaires indicating basic background information concerning panel members shall be made available to counsel on the day on which the jury selection is to begin. Once jury selection has been completed, the jury questionnaire will be collected by the bailiff and retained.
- c. If it is determined by the Court during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon the motion of the Court. Further, Ohio Revised Code Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.

- d. Peremptory challenges shall be exercised alternatively as presently established by Revised Code Section 2945.23, and Civil Rule 47, and Criminal Rule 24. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

(J) Jury Orientation

- a. Jurors shall report for orientation on the date and time noted in the summons unless otherwise directed. Orientation shall be conducted by the Judge in open court on the record.
- b. The court shall also give instructions following the impaneling of the jury to explain the basic and relevant legal principles.
- c. Prior to jury deliberations, the court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury.
- d. A final jury charge shall, whenever, possible, be committed to writing, and shall be provided to the jury for its use during deliberation.
- e. All jurors shall be permitted to take notes during the course of the presentation of evidence after proper instruction by the court. Jurors shall be permitted to submit written questions of witnesses subject to court approval, and upon appropriate instruction.
  - i. Jurors are not permitted to take into the deliberation any notes they may have taken during the course of the trial.
- f. Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate instruction
- g. All communications between the judge and the members of the jury panel, from the time of reporting to the court through dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.
- h. All jury deliberations shall be conducted in the jury deliberating room. The jury deliberation room shall include space furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize contact between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the court without permission.

- i. Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict in criminal cases, either party may request that the jury be polled.
- (K) Conclusion: the court shall collect and analyze information regarding the performance of this jury management plan through the use of juror exit survey and other methods designated by the court and the jury commissioner.

**RULE 13: COSTS**

See attached cost sheet, page 24.

**RULE 14: CASE MANAGEMENT IN CIVIL CASES**

- (A) The purpose of this rule is to establish, pursuant to Sup. R. 5(B), a system for civil case management that will achieve the prompt and fair disposal of civil cases.
- (B) The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in four (4) clerical steps and four (4) Court judicial steps.
- a. Clerical Steps
    - i. Summons - Shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service of summons within six (6) months from the date the case has been filed, then the Clerk shall notify counsel or plaintiff if not represented by counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.
    - ii. Pleadings - After any responsive pleading is filed, the Clerk shall forward said pleading and file to the Judge so the matter may be set for a hearing where appropriate.
    - iii. Dismissals –
      - 1. In accordance with Sup.R.40(A), cases that have been on the docket for six (6) months without any proceedings taken therein, except cases awaiting trial, shall be dismissed, after thirty (30) days written notice to counsel of record or to the plaintiff if plaintiff is not represented by counsel.
      - 2. When an action in this Court is dismissed without prejudice for want of prosecution, for failure to comply with an order of the Court, or by the plaintiff voluntarily, all proceedings by the plaintiff in any subsequent suit upon the same cause of action shall be stayed until the costs of the former action are paid, unless otherwise ordered by the Court.
      - 3. Cases dismissed under the Rule may be reinstated only upon written motion showing good cause filed within ninety (90) days

of the dismissal. Upon granting of a motion to reinstate, movant shall pay appropriate filing fees to the Clerk of Court.

- iv. Settled Cases - When a file has been marked “settled” and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that the case will be dismissed unless the entry is received within thirty (30) days. These time periods may be modified by the Court.

## Judicial Steps

### v. Motions –

1. Any motion, unless made during a hearing or trial, shall be in writing and shall state with particularity the grounds therefore, shall clearly state the relief or order sought.
2. Any motion, unless made during a hearing or trial, shall be submitted and determined by the Court upon the briefs served and filed as hereinafter provided, unless an oral hearing is required or allowed by the Court. No oral argument will be allowed except by a party entered prior to final submission of said motion.
3. The moving party shall serve and file with the motion a brief containing the reason and authorities that support said motion. If consideration of facts not appearing of record is required, movant shall serve and file copies of those documents, exhibits and affidavits offered in support of the motion simultaneously with the motion.
4. Unless otherwise ordered by the Court, opposing counsel or party shall serve and file an answer brief, along with attachment and material offered in opposition to a motion, within fourteen (14) days after service of such motion.
5. Movant may file a reply brief only with permission of the Court, which shall be granted upon a showing of necessity therefor. Any such brief permitted shall be served and filed within seven (7) days of service of the brief opposing the motion unless otherwise ordered by the Court.
6. Any motion shall be deemed submitted to the assigned Judge on the seventeenth (17<sup>th</sup>) day after such motion is filed with the Court or when an answer memorandum is filed, whichever is earlier. In the event that leave is granted to file a reply brief, the motion shall be deemed submitted on the twenty-fourth (24<sup>th</sup>) date after such motion is filed or when the memorandum brief is filed, whichever is earlier.

7. Any motion to strike a pleading shall quote all words that are sought to be stricken.
  8. Motions to withdraw as attorney of record and to revive action shall be considered ex parte in nature and shall be accompanied by an order for signature by the Judge. These motions may be set for oral hearing.
- vi. Civil Pre-Trials
1. In any civil action, the Court may, in its discretion, with or without request or motion of a party, assign the case for pre-trial conference. The assignment commissioner shall notify all counsel of record and any unrepresented parties of the time and place of the pre-trial conference. The parties and their counsel, if they are represented, shall appear before the Court fully prepared to discuss and consider the following:
    - a. Possibility of settlement of the case
    - b. If a jury demand has been requested, the possibility of waiver of jury demand
    - c. Amendments to pleadings and outstanding motions
    - d. Any existing discovery problems
    - e. Stipulation of facts
    - f. Need for expert witnesses
    - g. Need for trial briefs
    - h. Determination of trial date and time required for trial
    - i. Jury instructions
  2. The Court may prepare a written order reciting the action taken at the pre-trial conference. The order, when filed, shall control the subsequent proceedings in the case unless it is modified in order to prevent manifest injustice to any of the parties.
  3. Unless a settlement is agreed upon in the pre-trial conference, the Court shall not refer to any settlement negotiation either directly or indirectly in any later proceeding.
- vii. Continuances
1. Except in cases of emergency where good cause is shown, 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.
  2. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or other trial Court of the State, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority

over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial Court.

3. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the Court may require the attorney to provide a substitute trial attorney.
- viii. Judgement Entries - The judgment specified in Rule 58 of the Ohio Rules of Civil Procedure shall be journalized within thirty (30) days of the judgment. If the entry is not prepared by counsel, it shall be prepared by the Court and filed with the Clerk of Court for journalization.

#### **RULE 15: DEFAULT JUDGMENT**

- (A) In a civil case, when a defendant is in default for appearance or answer, judgment shall be rendered in accordance with Rule 55(a) of the Ohio Rules of Civil Procedure.
- (B) If the defendant has failed to plead or otherwise defend (having entered no appearance), the Court may grant a default judgment immediately upon written or oral motion in a case involving documentation supporting the claim.
- (C) If the defendant has failed to plead or otherwise defend, the Court may grant a default judgment in the amount of the prayer if the action is for recovery of money only arising out of damages to personal property and if an affidavit with supporting documentation signed by a party with actual knowledge is filed verifying that the prayer of the complaint reflects a reasonable cost of repairing the property or its diminution in value, whichever is less.
- (D) The parties seeking relief by default judgment shall file with the Clerk of Court an affidavit in compliance with the Solder's and Sailor's Civil Relief Act, 50 U.S.C. Section 520(1).
- (E) If the defendant has entered an appearance in the action, in accordance with Civil Rule 55(A), a hearing shall be set on the application for the default judgment with defendant or defendant's representative being given at least fourteen (14) days' notice before the hearing date.
- (F) Any request for attorney fees must be supported by applicable law and include an itemized fee statement.

#### **RULE 16: ASSIGNMENT FOR TRIAL**

- (A) When a case is at issue, either the plaintiff or the defendant may request that the case be assigned for trial. The Judge may also set a case for trial at any time after the case is at issue.
- (B) All cases shall be heard on the day of assignment, continuances being granted only upon a showing of good cause.



#### **RULE 17: POST-JUDGMENT PROCEEDINGS**

- (A) Filing of a satisfaction of judgment entry with the Clerk of Court approved by plaintiff or plaintiff's attorney of record will satisfy judgments of this Court.
- (B) Proceedings in aid of execution will be scheduled by the Clerk of Court. Judgment debtors who have been personally served and yet fail to appear may be held in contempt with a bench warrant being issued for their arrest.
- (C) If more than one (1) garnishment is filed against a debtor on a specific day, the earlier time-stamped garnishment will have priority over the later filed.

#### **RULE 18: EFFECT OF BANKRUPTCY FILING**

- (A) When a notice of bankruptcy filing on behalf of a defendant which has not yet resulted in discharge is received by the court in a case which has not yet resulted in judgment, the Court will enter an Order staying all proceedings for six months at which time the complaint will be dismissed unless the plaintiff prior to the expiration of the six month period files a motion to place the case back on the active docket or continue the stay of proceedings.
- (B) Once the Court receives notice that a debt has been discharged in bankruptcy in a case that has not yet resulted in judgment, the complaint upon which this debt arises will be dismissed.
- (C) When the Court receives a notice of bankruptcy filing or discharge in a case in which a judgment has resulted, all further proceedings will be stayed indefinitely unless the court grants a motion filed by plaintiff to vacate or modify the stay order issued by this Court.
- (D) When the Court receives a notice of bankruptcy filing or discharge in a case in which the Court is holding funds received pursuant to a garnishment, a notice will be sent to the parties and trustee in bankruptcy that the funds will be held for twenty-eight (28) days after which the funds will be distributed to the defendant unless an objection is received prior to the disbursement date.

#### **RULE 19: FORCIBLE ENTRY AND DETAINER**

- (A) The service of summons on the defendant shall be in accordance with the Ohio Civil Rules. Such service must be at least seven (7) days before the date set for trial. The trial date shall be set as close to fourteen (14) days from the date of filing as possible.
- (B) Demand for trial by jury shall be filed in accordance with Ohio Revised Code Section 1923.10, but not later than three (3) days before the trial date.
- (C) At the time set for trial the plaintiff and plaintiff's attorney shall be present in Court. Failure to comply with this rule shall result in a dismissal of the case.
- (D) In the event that the defendant fails to appear at the hearing for restitution of the premises, no default judgment shall be ordered unless testimony is taken from

plaintiff regarding the proper form and service of the “three (3) day notice” on the defendant and the grounds for restitution of the premises.

**RULE 20: RENT ESCROW**

- (A) A tenant may deposit with the Clerk of Court all rent money becoming due to a landlord, by filing an application in accordance with Sections 5321.07 or 3733.121 of the Ohio Revised Code.
- (B) Service by the bailiff upon the landlord shall be by personal or residence service in accordance with Rule 4.1(2) or (3), Ohio Rules of Civil Procedure.
- (C) Upon request a hearing date will be scheduled.
- (D) At the hearing, the tenant shall establish, by a preponderance of the evidence, the grounds upon which the application for rent escrow was filed. Specifically, the tenant must prove:
  - a. That reasonable notice was given to the landlord prior to commencement of the action
  - b. That the landlord had violated a statutory or contractual duty justifying an application for rent escrow, and
  - c. That the tenant was current in his rental payments prior to the application for rent escrow
- (E) If the tenant fails to satisfy the burden of proof set forth in subsection (D) above, the Court shall proceed in accordance with the Ohio Revised Code Section 5321.09(C).

**RULE 21: SMALL CLAIMS**

- (A) Small Claims proceedings shall be governed by Ohio Revised Code Chapter 1925. Claims shall be for the recovery of money only not to exceed six thousand (\$6,000.00) dollars.
- (B) Cases filed in the Small Claims Division shall be heard at 8:30 a.m. on the second Tuesday of each month, but no more frequently than twice a month, unless dictated by an increase in filings.
- (C) In all unliquidated damage cases where the defendant appears personally or through counsel or files an answer, the case shall be assigned to the Small Claims Docket without further deposit of cost, but subject to this Rule. Any written document received from the defendant prior to hearing shall be construed to be an answer, and is to be considered as such in any application for default judgment.

**RULE 22: CASE MANAGEMENT IN CRIMINAL CASES**

- (A) The purpose of this rule is to establish, pursuant to Sup. R. 5(B), a system for criminal case management that will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court justice system.

(B) Scheduling of events: The scheduling begins after arraignment. Therefore, the case is managed in four (4) judicial steps.

a. Judicial Steps

i. Pre-Trials

1. After arraignment and upon request of the defendant, first, second, third and fourth degree misdemeanors shall be set for a pre-trial conference with the prosecutor by the assignment commissioner of the Judge within thirty (30) days of arraignment unless good cause is shown for extending the pretrial date.
  2. Failure of the defendant to appear at a pretrial conference without just cause will constitute grounds for the issuance of a bench warrant. Any attorney who fails to appear for pretrial without just cause being shown may be cited for contempt of Court. At the conclusion of the pretrial, the prosecutor shall report to the Court any proposed settlement agreement. If the Court approves the proposed settlement agreement, disposition will proceed accordingly. If the Court does not approve the settlement agreement, or if no agreement is reached, the case will be assigned a trial date.
  3. An attorney who has entered an appearance as counsel of record will be required to schedule a court date with the Assignment Clerk. The Assignment Clerk will schedule the case for a future date that complies with these Rules and the Administrative Orders issued by the Judge. Cases will **NOT** be heard on the same day that the request is made to the Court but will be scheduled on a future date. In cases where defendants turn themselves in due to active warrants/bench warrants the Court will address the status of the warrant (ie; bond) and will continue the case for any additional proceedings.
- ii. Motions - All motions, unless made during a trial, shall be in writing and shall state with particularity, the grounds therefor, and shall clearly state the relief or order sought. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure.
- iii. Trials - Each case not resolved at pretrial shall be set for trial to the Court, unless a jury demand is timely filed, at which time the case will be moved to the jury trial docket.
- iv. Jury Instructions - Proposed jury instructions shall be filed in all criminal cases by all parties seven (7) days prior to the date scheduled

for trial when a jury demand has been filed, unless modified by Court order.

- v. Sentencing - Sentencing hearings shall be held upon entry of plea or after trial if no pre-sentence report is requested. When a pre-sentence investigation is ordered by the Court, the probation office shall set the sentencing date upon completion of the pre-sentence interview and inform the defendant and defendant's counsel no later than thirty (30) days from the date of the interview unless modified for good cause.

**RULE 23: BAIL**

- (A) Persons arrested and held in custody shall appear at the next regularly scheduled session of the Court.
- (B) Bail set ex parte when Court is not in session, or set by the standard bail schedule, shall not, unless posted, remain in effect beyond the next regularly scheduled Court session when a bail hearing shall be given to the defendant. At the bail hearing, defendant, defendant's attorney, and the prosecutor may discuss reasonable bail.
- (C) Defendants charged with misdemeanors who post bond shall be given a written notice to appear at the time and place of their arraignment. The Clerk shall not set an arraignment appearance date beyond ten (10) days, except that in cases where the defendant is charged with a violation of Ohio Revised Code Section 4511.19 or a related Municipal ordinance, arraignment must be set within five (5) days of arrest, unless waived by the defendant. The Clerk shall also note the scheduled appearance date on the journal. Defendants released in accordance with Rule (F) of the Ohio Rules of Criminal Procedure shall be given a similar Court date.
- (D) Persons charge with a felony who are released on bail shall appear at a time and date set by the Court or Clerk.

**RULE 24: APPEARANCE OF PERSONS NOT ARRESTED**

- (A) Persons who receive traffic or misdemeanor citation shall be given a Court date by the citing officer not more than seven (7) calendar days from the date of the citation except persons charged with operating a vehicle under the influence of alcohol and/or drugs of abuse who shall be given a Court date not more than five (5) calendar days from the date of the citation. If the seventh (7<sup>th</sup>) calendar days falls on a Saturday, Sunday or Court holiday, the next regularly scheduled Court day shall be set by the citing officer.
- (B) Persons who are summoned to appear for arraignment as defendants in traffic and criminal cases shall be given a Court date not more than twenty-one (21) calendar days from the date the complaint is filed.

## **RULE 25: NOTICE TO DEFENDANTS WHO FAIL TO APPEAR**

Defendants who fail to appear for their initial Court arraignment and have been properly notified shall be given a fourteen (14) day continuance for arraignment unless otherwise ordered by the Court. The Clerk of Court shall cause a notice of continuance date to be mailed to the defendant, which shall inform the defendant that failure to appear on the continuance date shall result in the issuance of a warrant for their arrest or driver's license forfeiture if applicable.

## **RULE 26: SECURITY PROCEDURE**

The Security Procedure Manual contains the security procedures outlined by the Supreme Court of Ohio and required to be implemented by all courts in the state. The procedures in the manual are to be followed by all persons who enter the Sylvania Municipal Court Building. Manual available upon request.

## **RULE 27: COURT APPOINTMENTS**

- (A) The Court currently has a contractual arrangement with Lucas County for Public Defender Representation. Should a conflict arise the Court may appoint Counsel for indigent defendants in Criminal/Traffic Cases in the following manner
- a. The assignment clerk and bailiff will each **maintain a list** of attorneys licensed to practice in the State of Ohio, who have indicated a willingness to be appointed to Criminal/Traffic cases.
  - b. **Appointment** will be based upon the availability of the attorney, time requirements and nature of the charge. **Removal** from the list will be at the request of the appointee or by the Court. Cause for removal by the Court would be based upon unprofessional conduct or lack of skill and expertise in criminal law.
  - c. **Payment** for services will follow the guidelines and fees as established by Lucas County Common Pleas Court. The Clerk shall provide Ohio Public Defender forms to the appointee. The form must be completed/returned and submitted to the Judge within fourteen (14) days of final disposition of the case. Upon approval by the Judge, the Clerk shall forward the Motion, Entry and Certification for appointed counsel fees to the appropriate agency for payment. Cases filed under Ohio Revised Code are sent to the Lucas County Commissioners and cases filed under Sylvania Codified Ordinance will be sent to the City of Sylvania.

## **RULE 28: CIVIL/SMALL CLAIMS MEDIATION**

- (A) Mediation is an option for the parties. Mediation is always voluntary and while no one will be compelled to participate, it is strongly encouraged. Mediation can be an option for and civil claims, pre and/or post filing. The fee for mediation is fifty (\$50.00) dollars which is to be paid at the time of filing by the initiating party.
- (B) Upon mediation being selected, a deputy clerk will schedule the mediation and have notices issued to each of the parties. Mediations will be scheduled late in the afternoon or early evening to accommodate the parties involved. The Court will maintain and assign a list of qualified volunteer mediators to participate in the dispute resolution program. The mediator will oversee the discussion to allow each party a full opportunity to be heard in an atmosphere of cooperation and respect. The parties will be encouraged to generate a solution to the dispute and arrive at a settlement. A settlement will not be imposed on either party contrary to his or her will. When an agreement is reached, it should be reduced to writing and signed by all of the parties. A copy of the agreement will be given to the parties. If mediations unsuccessful, the fifty (\$50.00) dollar mediation fee will be applied to the cost of filing a civil/small claims action.
- (C) In any pending case, the parties, their attorneys, and any individual designated by the parties shall take part in the mediation session. Any participant who fails to attend without being excused by the Judge or who fails to take part in a session, as determined by the mediator, may be subject to appropriate sanctions, including but not limited to, contempt of Court, attorney fee, costs or dismissal of the case.
- (D) All mediation sessions shall be confidential (ORC Section 2710.07). No communication made during a session, including settlement terms, may be disclosed to third persons or used for any purpose (including impeachment) in any pending or future proceeding.
- (E) Before beginning the mediation, the mediator shall encourage the parties, including victims of and potential victims of domestic violence, to seek legal counsel if they desire. The mediator shall refer the parties to legal counsel or other support services upon request.
- (F) The Court prohibits mediation of domestic violence disputes, and it shall not be used as an alternative to prosecution or adjudication of domestic violence. If the subject of domestic violence arises during the course of the mediation, the mediator is not permitted to address the issue, and the mediation shall not continue. Additionally, the Court will not allow mediation
  - a. In determining whether to grant, modify or terminate a protection order
  - b. In determining the terms and conditions of a protection order; or
  - c. In determining the penalty for violation of a protection order

## **RULE 29: ELECTRONIC TRAFFIC FILING**

- (A) The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Sylvania Municipal Court. It is also authorized for the filing of the ticket to be done electronically. The electronically produced ticket shall confirm in all substantive respects to the "Ohio Uniform Traffic Ticket" set forth in the Appendix of Forms. The provisions of division (B) of this rule relative to the color and weight of paper, size, and method of binding shall not be applicable to a ticket that is produced by computer or other electronic means. If an electronically produced ticket is issued at the scene of alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.
- (B) A law enforcement officer who files a ticket electronically or by an electronically produced means, and electronically affixes the officer's signature thereto, shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with other tickets issued pursuant to these rules. Officer's signature may include a cursive signature, officer's unit number, or a typed name applied by computer or other electronic means.

<b>Civil</b>	
License Suspension Appeal	\$75.00
Transfer Transcript to Common Pleas	\$75.00
Common Pleas Court	\$275.00
Transfer Transcript to Court of Appeals	\$75.00
Common Pleas Court	\$150.00
<b>Small Claims</b>	
One (1) Defendant	\$75.00
Each Additional Defendant	\$10.00
Amended Complaint – Each Defendant	\$10.00
Mediation Fee	\$50.00
Copy Fee	\$.10/per page
Certified	\$2.00
<b>Criminal/Traffic Costs</b>	
Base Court Costs	\$130.00

Additional charges may be added depending on required collection of BMV reinstatement fee, late fee, service of summons, subpoenas, etc. These fees are computed at the time of conviction since each agency has different fees.

Probation Fee – assessed for every month referred for probation supervision	\$10.00/month
Expungement Fee – for those persons completing an alternative program or filing a Motion to Expunge	\$30.00
Contempt of Court	\$30.00
Community Service Insurance Fee	\$15.00



## **HOURS**

### **Criminal/Traffic**

Monday – Friday: 8:00 a.m. to 4:15 p.m.

### **Civil/Small Claims**

Monday – Friday: 8:00 a.m. to 4:15 p.m.

## **PHONE NUMBERS**

Phone: (419) 885-8975

Criminal/Traffic: Option 1

Assignment Commissioner: Option 2

Civil/Small Claims Option 3

Probation Option 4

Criminal/Traffic/Civil Fax: (419) 885-8987

Probation Fax: (419) 885-5724

FACSIMILE FILING COVER PAGE  
SYLVANIA MUNICIPAL COURT  
PH: (419) 885-8975  
FAX: (419) 885-8987

**SENDING PARTY INFORMATION**

NAME: \_\_\_\_\_  
SUPREME COURT \_\_\_\_\_  
REGISTRATION NO: \_\_\_\_\_  
(IF APPLICABLE) \_\_\_\_\_  
OFFICE/FIRM: \_\_\_\_\_  
CITY/STATE/ZIP: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
EMAIL ADDRESS: (IF \_\_\_\_\_  
APPLICABLE) \_\_\_\_\_

**CASE INFORMATION**

CRIMINAL     TRAFFIC     CIVIL     SMALL CLAIMS     OTHER \_\_\_\_\_

Plaintiff \_\_\_\_\_ CASE NO: \_\_\_\_\_

-VS-

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

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

**FILING OF INFORMATION**

DATE OF FAX TRANSMISSION \_\_\_\_\_  
NUMBER OF PAGES (INCLUDING THIS PAGE) \_\_\_\_\_

CHECK ALL THAT APPLY:

NO CASE NUMBER IS CURRENTLY ASSIGNED     NO JUDGE IS CURRENTLY ASSIGNED

IN THE MUNICIPAL COURT OF SYLVANIA, LUCAS COUNTY, OHIO

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Smith _____	*	Case No. _____
	*	
_____	*	Judge: _____
Plaintiff,	*	
VS.	*	[ ] NO JUDGE IS CURRENTLY ASSIGNED
	*	
Jones _____	*	PLAINTIFF'S NOTICE OF FILING
	*	EXHIBIT "G" TO PLAINTIFF'S
_____	*	RESPONSE TO DEFENDANT'S
Defendant	*	MOTION TO DISMISS

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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" should not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Sylvania Municipal Court Local Rule 3 "Exhibits".

Respectfully Submitted,

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Attorney Names & Sup. Court Reg. No.  
Office/Firm  
Address  
Telephone  
Facsimile  
Email  
Counsel for Plaintiff,

**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 & address of recipient).

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Attorney Name  
Counsel for Plaintiff, John Smith