

May 21, 2009

PRESS RELEASE – FOR IMMEDIATE RELEASE

FROM: JUDGES OF TOLEDO MUNICIPAL COURT

The Judges of the Toledo Municipal Court recently approved updates to 18 of the Court's 40 Local Rules. Most of the changes were made to reflect changes in local procedures. Other rules were updated to reflect changes in the Rules of Superintendence issued by the Supreme Court of Ohio. It is very important that anyone conducting business with the Court review all of the rules.

Copies of the affected rules are attached showing the changes. Please review them at your convenience.

Presiding Judge Kuhlman

Rule 2
COURT SESSIONS

(A) Court is in session daily, Monday through Friday, from 9:00 a.m. to 4:30 p.m. Court will be in session at 9:00 a.m. on Saturday mornings when there is a legal holiday on either the Friday preceding or on the Monday following, and as otherwise ordered by the court.

(B) Custody misdemeanor arraignments and arraignments for defendants charged with offenses included in Ohio Revised Code 2943.04.01 or comparable Toledo Municipal Code, repeat OVI's and vehicular or negligent homicides will be held in courtroom #4 at 9:00 a.m., Monday through Friday. Arraignments for persons summoned or released on personal recognizance or monetary bonds and Traffic court will be held in courtroom #4 at 1:00 p.m., Monday through Friday. Proceedings in aid of execution will be held in courtroom #9, Monday through Wednesday, at 8:30 a.m. Miscellaneous civil matters relating to garnishments, replevins and other attachments will be heard in courtroom #9, Monday through Wednesday at 8:30 a.m. License forfeiture hearings and Bureau of Motor Vehicle administrative hearings will be heard in courtroom #9 on Fridays at 8:30 a.m. Small Claims proceedings will be heard in Courtroom #9 at 9:00 a.m. Monday through Friday. Felony arraignments and preliminary hearings will be heard in courtroom #3 at 9:00 a.m., Monday through Friday. When a regularly-scheduled court day falls on a holiday weekend, felony cases will be merged with misdemeanor arraignments in courtroom #4, except that no preliminary examinations will be held on Saturdays.

(C) Housing court will be held on Wednesdays and Thursdays for criminal cases with full-day sessions on 4 out of 7 weeks in courtroom #2 at 9:00 a.m. The remaining Wednesday and Thursday sessions will begin at 1:30 p.m. The housing court magistrate will hear forcible entry and detainer cases in courtroom #9 at 1:30 p.m., Monday through Friday. Rent escrow cases will be heard by the magistrate in courtroom #9 at 1:00 p.m., Monday, Tuesday, Thursday, and Friday.

(D) The seven judges in Toledo Municipal Court hear cases on a rotation basis, except that all cases involving housing matters will be assigned to the housing judge. The 7-week rotation is as follows: 1 week in courtroom #4 misdemeanor arraignments; 1 week in criminal and civil trials; 1 week as duty judge; 1 week in criminal and civil trials; 1 week in courtroom #3 felony arraignments; and 2 weeks in criminal and civil trials. Court and jury trials will be scheduled on the dockets of the individual judges by the assignment commissioner.

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Rule 3
DUTY JUDGE

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(A) The duty judge hears matters not assigned to a particular judge, including consideration of prosecutor recommendations, acting on magistrate decisions, exclusive of housing matters, ~~additional stays of execution, and withdrawal of bench warrants or arrest warrants in cases with a violent offense.~~ The duty judge may sentence in unassigned cases or in assigned cases only when the assigned judge is unavailable.

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(B) Except for matters assigned to the housing court judge, in the absence of the trial judge, motions for new trial and relief from judgment will be heard by the duty judge. The assignment commissioner shall be notified of any change in the trial date.

(C) The duty judge will also hear bench warrants, proceedings in aid of execution, matters relating to default judgments, as well as miscellaneous civil matters relating to garnishments and replevins.

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(D) The duty judge will perform marriage ceremonies between 1:30 p.m. and 3:00 p.m. upon payment of the prescribed fee to the clerk of court.

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Rule 4
MAGISTRATES

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(A) In accordance with Rule 19 of the Rules of Superintendence for the Courts of Ohio, magistrates shall be appointed by a majority vote of the municipal court judges to hear the following cases: small claims proceedings, proceedings in aid of execution; miscellaneous civil matters relating to garnishments, replevins and other attachments; forcible entry and detainer proceedings in which the right of a trial by jury is waived or not demanded, rent escrow proceedings which have not been resolved through the Citizens Dispute Settlement Program; assessment of damages, criminal and traffic proceedings as defined in Local Rule 19(A) and (B) where there is a plea of guilty, not guilty or no contest and a written waiver by defendant of the right to a trial before a judge, and other duties assigned by the Judges, such as bench warrants and warrant blocks on non-violent offenses, and stays on fines and costs.

(B) Magistrates shall have the qualifications and the power to act as authorized and specified in Rule 53 of the Ohio Rules of Civil Procedure, Rule 19 of the Ohio Rules of Criminal Procedure, and Rule 14 of the Ohio Rules of Traffic Procedure as adopted by this court's order of reference and the Rules of Superintendence for the Courts of Ohio.

(C) All pretrial orders of the magistrate entered pursuant to Rule 53(C)(3) of the Ohio Rules of Civil Procedure and all decisions of the magistrate in referred matters shall be prepared, signed, and filed with the clerk who shall serve copies on all the parties or their attorneys.

(D) All proceedings referred hereunder to a magistrate shall be in accordance with the Civil Rules, any applicable statutes, these local rules, and the Rules of Superintendence, as if before the court. The magistrate is responsible for all further matters in connection with the case subject to appeal of pretrial orders pursuant to Civil Rule 53(C)(3)(b) and objections filed pursuant to Civil Rule 53(E)(3). The magistrate's decision shall be effective when adopted by the court pursuant to Civil Rule 53(E)(4).

Rule 5
ATTORNEYS

(A) Only attorneys regularly admitted to the practice of law in the State of Ohio, and registered and in good standing with the Supreme Court 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 Toledo Municipal Court.

(B) This rule does not prohibit an individual from acting as his or her own counsel in any proceeding in this court. Corporations, partnerships, and an agent of the real party in interest shall, however, be represented by counsel.

(C) In civil cases, the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the Clerk of Court.

(D) 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 is granted by the judge assigned to the case, or by the duty judge in an unassigned case.

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(E) Attorneys are directed to the Toledo Legal News which is the official daily journal of the Toledo Municipal Court.

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Rule 9

LOCATION OF COURT RECORDS

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(A) In accordance with Ohio Revised Code, Section 1901.31(E), the clerk of court shall file and safely keep all journals, records, books, and papers of the court, except as provided in section (B). As a result of this statutory responsibility, no affidavits, civil jackets, court transcripts, or any other court records shall be taken from the building by any person.

(B) Any authorized person wishing to obtain a criminal, traffic or civil case from the clerk's office or the assignment commissioner must **have the case electronically scanned prior to taking the case**. Authorized persons include attorneys, court personnel and all others authorized by journal entry.

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(C) Any person who removes and conceals any official court record may be referred to the proper legal authorities for evaluation of criminal charges, and may further be referred to the Toledo Bar Association Grievance Committee.

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Rule 10
ORDERS OF COURT

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(A) Any order, decree, finding, or judgment shall be entered by the judge or magistrate upon the Court Proceedings Page in all cases. Any order pursuant to Ohio Rule of Civil Procedure 53(C)(3) or any decision shall be entered by the magistrate upon the complaint (affidavit in criminal or traffic case and upon the jacket in a civil case). The required service of notice of such journal entries shall be upon the parties by the clerk of court. Any appealable order shall also be prepared on a separate sheet and upon filing with the clerk for journalization will constitute the order in the case.

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(B) The judgment specified in Rule 58 of the Ohio Rules of Civil Procedure shall be journalized within 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.

(C) If a judge's term expires, any unsigned judgments on the judge's assigned cases shall be presented to the administrative judge for approval. If any decision is so indefinite that the terms of the decree cannot be ascertained, the administrative judge may reassign the case for retrial.

Rule 14

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FILING AND SERVICE OF COURT PAPERS

(A) All papers filed with the clerk of court shall be originals or legible copies, handwritten in ink or typewritten on 8½ x 11 inch paper. Filings consisting of more than one sheet of paper shall be securely fastened together. The use of covers or jackets is not permitted.

With the exception of facsimile (fax) transmission, filing pursuant to Section (C) of this Rule, no civil filing is to be accepted for filing with the Office of the Clerk after the close of the business day of the civil branch, which is deemed to be 4:30 P.M., Monday through Friday, legal holidays excepted. No civil filing is deemed to be filed pursuant to the Ohio Rules of Civil Procedure unless the pleading is date and time-stamped by the office of the clerk, civil division.

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(B)(1) Every Document filed by a party represented by counsel shall designate in the caption a description of the filing itself and the name, address, direct telephone number (including extension), and the Supreme Court of Ohio attorney registration numbers of the attorney(s) responsible for the case. The correct mailing addresses, including zip codes, for all parties shall be listed in every pleading (as defined by Rule 7 (A), Ohio Rules of Civil Procedure). Pleadings which do not conform to this rule may be ordered stricken from the file by the court. Documents other than pleadings may state the identity of the parties in the case by name only.

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(2) Pursuant to Rule 45(D)(1) of the Rules of Superintendence for the Courts of Ohio, when submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document. Personal identifiers are defined by Rule 44 (H) of the Rules of Superintendence to mean social security numbers, except for the last four digits, financial account numbers, including but not limited to debit card, charge card, and credit card numbers, employer and employee identification numbers.

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(3) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to Rule 44 (D)(1) of the Rules of Superintendence, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

(4) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to Rule 44(D)(1) of the Rules of Superintendence shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

(5) Every document filed by a prose litigant shall conform to the requirements listed above, with the exception of the inclusion of the attorney registration number, unless such pro se litigant is in fact an attorney admitted to the Bar of the State of Ohio.

(6) All parties shall, subsequent to entering an appearance, file with the court any change in contact information submitted pursuant to Rule 14(B)(1).

(C) A “facsimile transmission” (abbreviated “fax”) means the transmission of a source document by a facsimile machine that encodes a document into optical or electronic signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. Pursuant to Rule 5(E) of the Ohio Rules of Civil Procedure, the court

will allow the filing on civil cases by fax transmission, through the clerk of court's office, of complaints, motions, pleadings, letters, documents and all other matters, not longer than ten pages (in addition to the cover sheet) in length which may be filed in person or by mail with the following provisions:

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(1) The clerk shall maintain a dedicated phone line of (419) 245-1801 to accept fax transmitted filings for traffic and criminal cases and (419) 936-7012 for civil cases. 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.

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(2) An attorney must provide the name of the court, title of the case, case number (if known), judge's name (if assigned), title of document being filed, date of transmission, transmitting fax number, number of pages (including cover sheet), and the identification on the cover page of transmission in the format prescribed in Rule 14(B) above.

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Transmissions without such information will not be accepted. A transmitted document must be no longer than ten pages and must pertain to only one case. Service copies shall not be transmitted by fax. Standard fees for duplication by the Clerk of Court's Office for the creation of service copies shall apply. There is no charge for submitting filings via fax.

(3) 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 date and time of the fax transmission.

(4) All filings made by fax transmission are considered to be the original document in the file and the source documents are not required to be filed. A party who wishes to file a signed source document by facsimile transmission shall either fax a copy of the signed source document or fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control. The sending party must maintain the source document, original signatures, and source copy of the cover page until all opportunities for post-judgment relief are exhausted. In addition, the filing party must make any original source documentation available for inspection by the Court upon request. Failure to do so will result in the filing becoming considered null and void.

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No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.

Deleted: must be followed within three business days by an original filing on standard bond paper bearing original signatures with deposit for costs in full attached. If not received within the time period, the electronic transmitted filings will be considered null and void and discarded. The original filing received within the time period shall be file-stamped when received but effective the date and time of the electronic transmitted filing. Attorneys must indicate on the original filing, the date and time the electronic transmission was sent.¶

(5) Electronic transmitted filings must contain all information in an original filing in addition to the transmitting phone number of the responsible attorney and the date and time of the electronic transmission.

(6) It is the responsibility of the sending party to confirm that the fax transmission was received. Any un-transmittable exhibits 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 Clerk's Office not later than 5 days of the filing of the fax transmission. Failure to comply may result in the court striking the document or exhibit. 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

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the judge, and the title of the exhibit being filed and shall be signed and served in conformance with the rules governing the signing and service in conformance with the rules governing the signing and service of pleadings in this court.

(D) In a civil case, plaintiff, or plaintiff's attorney, shall file with the complaint as many copies as there are defendants to be served with a summons. A party may extend for 28 days the time required to file a response to a complaint, a counterclaim, crossclaim, or a third-party complaint if written application is made to the clerk of court beforehand. Additional extensions of time may be granted by the court pursuant to Rule 6(B) of the Ohio Rules of Civil Procedure (or by written stipulation of the parties).

(E) Service shall be made in accordance with the applicable Ohio rules of procedure, whether civil or criminal. In civil cases, the bailiff will be the usual process server when court orders must be personally served.

(F) In any case, all motions, briefs, and memoranda in support shall be filed in duplicate with the clerk of court who shall then forward one copy to the assigned Judge's Courtroom Bailiff for referral to the assigned judge or magistrate. Any response to a motion shall be served within 17 days from the date the motion was filed, unless otherwise ordered by the court. Optional reply briefs must be filed within 10 days of the service of the response. Motions will normally be determined by the court without a hearing. The court may order a hearing on a motion at any time. The assignment commissioner shall notify all parties, in writing, of any ruling by the court except final and appealable orders for which the clerk shall serve all parties pursuant to Revised Code 2505.02.

(G) In all civil cases, when any party requests a continuance of a court event, such request must be filed in writing with the Clerk of Court under these rules at least seven calendar days before such court event and contain a certification by the moving party that either the other party or parties consent(s) to the request or has/have been notified of the request via telephone, facsimile, and e-mail, if such party(-ies) provided such contact information pursuant to Rule 14(B). It shall be the duty of the moving party to so notify the other party(-ies) of the Court's decision immediately upon receipt of the same in the same manner described above. Failure to do so may result in sanctions.

Rule 20

FELONY ARRAIGNMENT

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(A) Arraignment of felony cases will be heard in courtroom #3, 9:00 a.m., Monday through Friday. Custody cases will be arraigned first. The court shall set bail, grant a continuance if requested, accept waiver of preliminary examination if offered, or assign a date and time mutually convenient and within time limits for a preliminary examination, or enter a nolle prosequi at the request of the prosecutor.

(B) ~~When in session on Saturdays, as set forth in Local Rule 2, "Court Sessions"~~ the felony arraignment session shall be merged with the misdemeanor session to be heard in courtroom #4, but no preliminary examinations shall be held.

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(C) When a defendant is charged with more than one violation, including a felony, all matters related to the felony, including misdemeanors, shall be handled by the felony judge. All matters unrelated to the felony, including unassigned traffic, criminal cases, and unrelated bench warrants, may be brought before the judge of the misdemeanor session in courtroom #4.

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

Rule 22
BAIL

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(A) Persons arrested and in the custody of the Lucas County sheriff before 9:00 a.m. shall be brought before the appropriate session of the court on the same day as the arrest, excepting most weekends, and court holidays. Persons in custody who cannot be brought before one of the arraignment sessions within 4 hours shall have bail set either in accordance with the standard bail schedule established by the court pursuant to Rule 46 of the Ohio Rules of Criminal Procedure, or by order of the felony judge or any other judge of the court if the felony judge is unavailable. Bail may be posted with the clerk of court by credit card of recognized and established issuers.

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(B) Bail set ex parte by a judge when court is not in session, or set by the standard bail schedule, shall not remain in effect beyond the next regularly scheduled court session when a bail hearing shall be given the defendant. At the bail hearing, defendant, defendant's attorney, and the prosecutor may discuss reasonable bail, and the court will give careful consideration to reports which show a defendant's prior offense record,

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(C) Defendants charged with misdemeanors who post bond with the clerk of court and are released shall be given a written notice to appear at the time and place of their arraignment. The notice shall also advise defendant of the right to counsel. The clerk shall not set an arraignment appearance date beyond 10 days, except that in cases where the charge is operating a motor vehicle under the influence of alcohol or any drug of abuse, arraignment must be set within 5 days of the arrest. The clerk shall also note the scheduled appearance date on the complaint (affidavit). Defendants released in accordance with Rule 4(F) of the Ohio Rules of Criminal Procedure shall be given a similar court date.

(D) Persons charged with a felony 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.

(E) The bond schedule for the Toledo Municipal Court is as follows:

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<u>First Degree Misdemeanor</u>	Local	\$ 500.00
	Ohio Resident	\$1000.00
	Out of State	\$5000.00
<u>Second Degree Misdemeanor</u>	Local	\$ 250.00
	Ohio Resident	\$ 500.00
	Out of State	\$2500.00
<u>Third Degree Misdemeanor</u>	Local	\$ 200.00
	Ohio Resident	\$ 400.00
	Out of State	\$1000.00
<u>Fourth Degree Misdemeanor</u>	Local	\$ 100.00
	Ohio Resident	\$ 200.00
	Out of State	\$1000.00
<u>Minor Misdemeanor</u>	Local	\$ 50.00
	Ohio Resident	\$ 75.00
	Out of State	\$ 250.00

This schedule shall not apply to any crime involving a human victim: Domestic Violence (M1 and M4), Assault, Child Endangering, Aggravated Menacing, Menacing, Violations of TPO, and Telephone Harassment. All such charges require judicial determination of bond.

Local: Lucas, Wood, Fulton, Ottawa Counties

Ohio: Shall also include Monroe County, Michigan

Out of State: Shall not include residents of other countries, whose bond must be set by a Judge.

None of the bonds set above shall be posted at 10% without independent judicial determination.

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Rule 24

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CASE MANAGEMENT PROGRAM

(A) Pursuant to Rule 5(B)(1) of the Rules of Superintendence for the Courts of Ohio, requiring an early case management conference: In all civil cases other than FED's (first causes), and cases eligible for default judgment, a case management conference will be scheduled. Said conference will be initiated by the court and may be by telephone or otherwise as agreed to by the parties, or directed by the court. All parties or their attorneys of record at said case management conference shall indicate to the court that:

Deleted: BMV's and Small Claims cases,

(1) A Certificate of Readiness for assignment of trial date signed by all parties will be filed by that date or within 30 days of said management conference.

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(2) That the case is not ready for trial and the approximate time needed to complete discovery and/or to submit pretrial motions. The case will then be continued to a specific date for review by the judge assigned.

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(3) That a pretrial conference hearing would be beneficial and a pretrial conference hearing date will be set.

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(4) That the case, being appropriate for early dispute resolution, is referred for that purpose to the Citizens Dispute Settlement Program (CDSP).

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(5) If all parties or their attorneys do not participate on the date assigned, the case will be referred to the assigned judge for further action at the judge's discretion.

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Rule 27

JURY TRIALS AND JURY MANAGEMENT PLAN

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(A) A criminal defendant charged with other than a minor misdemeanor is entitled to a jury of 8 pursuant to Rule 23(A) of the Ohio Rules of Criminal Procedure. In serious offense cases the defendant before commencement of the trial may knowingly, intelligently and voluntarily waive in writing his right to trial by jury. Such waiver may also be made during trial with the approval of the court and the consent of the prosecuting attorney. In petty offense cases, where there is a right of jury trial, the defendant shall be tried by the court unless he demands a jury trial. Such demand must be in writing and filed with the clerk of court not less than 10 days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto.

(B) In a civil case, other than forcible entry and detainer actions, either party may demand a trial by jury with time specified by Rule 38 of the Ohio Rules of Civil Procedure by first filing a deposit of \$200.00 toward jury costs with the clerk of court. In forcible entry and detainer actions, a demand for trial by jury under Ohio Revised Code, Section 1923.10, shall be made and the jury cost deposit of \$200.00 shall be deposited with the clerk of court no later than 3 days before the date set for hearing. In any civil jury case, counsel for plaintiff must file a trial brief with the Clerk at least 20 days before the date of trial. Copies of the trial brief must be certified to all opposing counsel or parties unrepresented by counsel. Reply briefs must be filed with the clerk of court at least 10 days before the date of trial with copies certified to all opposing counsel or unrepresented parties. Said costs shall be refunded pursuant to Ohio Revised Code, Section 1901.26(A)(7).

(C) The costs of a jury trial shall include the costs for jurors charged to Toledo Municipal Court by the Lucas County Court of Common Pleas. The party demanding a jury shall be required to deposit an additional \$200.00 within 14 days after the receipt of a trial date and shall be charged with full jury costs regardless of the service of the jurors on a case unless a jury demand is withdrawn in writing pursuant to Rule 38(D) of the Ohio Rules of Civil Procedure ~~before noon the prior business day before~~, the scheduled trial date. If the jury demand is not withdrawn with the consent of all the parties in accordance with Rule 38(D) of the Ohio Rules of Civil Procedure, and a jury is called, the jury costs shall be assessed to the party that made the jury demand. Defendants who are acquitted in criminal trials will not be charged jury costs. As required by Ohio Revised Code Section 2947.23, in all criminal cases, the judge shall include in a sentence the costs of the prosecution and if a jury has been sworn, the fees of the jurors shall be included in the costs.

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(D) Pursuant to Rule 5(B)(2) of the Rules of Superintendence for the Courts of Ohio, the court has adopted and implemented the following Jury Management Plan for the purposes of ensuring the efficient and effective use and management of jury resources. To that end, the Toledo Municipal Court has an agreement with the Lucas County Court of Common Pleas to provide, administer, and manage jury resources.

(1) Opportunity for Service. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction. Jury service is an obligation of all qualified citizens. The court shall make reasonable accommodations for those jurors having special needs due to a physical impairment.

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(2) Jury Source List. The names of potential jurors shall be drawn from a jury source list compiled from registered voters in Lucas County, Ohio. This list is maintained by the Lucas County Board of Elections. The list shall be representative and as inclusive of the adult population in the jurisdiction as is feasible. The Common Pleas Court will periodically request the Lucas County Board of Elections to review the Voter's Registration List to ensure the list is representative and inclusive of the adult population in Lucas County. If improvement is needed in the representativeness or inclusiveness of the source list, appropriate corrective action shall be taken. On a quarterly basis, the Lucas County Common Pleas Court will evaluate the demographic profile of jurors reporting for service. This will be used as an indicator of the representativeness and inclusiveness of the jury source list.

(3) Random Selection Procedures. Random selection procedures shall be used throughout the juror selection process pursuant to the agreement with the Lucas County Court of Common Pleas.

(4) Eligibility for Jury Service. All persons shall be eligible for jury service except those who are less than 18 years of age, are not citizens of the United States, are not residents of the jurisdiction, are not able to communicate in the English language, or have been convicted of a felony and have not had their civil rights restored.

(5) Term of and Availability for Jury Service. The time that persons are called upon to perform jury service and to be available is the shortest period consistent with the needs of justice. Citizens shall be called upon to perform jury service for a term of 2 days or the completion of 1 trial, whichever is longer. Persons are not required to maintain a status of availability for jury service for longer than 2 days.

(6) Exemption, Excuse, and Deferral. Eligible persons who are summoned for jury service may be excused from jury service only if: (a) 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; or (b) they request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by the Lucas County Common Pleas Court. Deferrals for jury service for reasonably short periods of time may be permitted by that court. Requests for excuses, deferrals, and disqualifications and their disposition are recorded by that court.

(7) Voir Dire. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality. To reduce the time required for voir dire, basic background information contained on any juror questionnaire regarding panel members shall be made available to counsel in writing for each party on the day on which jury selection is to begin. This background information shall be handled in a manner to ensure privacy. When prospective jurors are initially sworn, the oath shall also indicate that the answers to any jury questionnaire are true. The trial judge may conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable

period of time. The judge shall ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purposes of the voir dire process. 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.

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

(9) Peremptory Challenges. The exercise of peremptory challenges shall be in accordance with the Ohio Revised Code, Civil Rules, and Criminal Rules.

(10) The responsibility for administration of the jury system is vested exclusively in the judiciary. All procedures concerning jury selection and service shall be governed by Ohio Rules of Court. Responsibility for administering the jury system is vested in the Court Administrator of the Lucas County Court of Common Pleas acting under the supervision of the administrative judge of the Lucas County Court of Common Pleas.

(11) Notification and Summoning Procedures. The notice summoning a person to jury service shall be done by the Lucas County Court of Common Pleas pursuant to the agreement between Toledo Municipal Court and Lucas County Court of Common Pleas.

(12) Monitoring the Jury System. The Lucas County Court of Common Pleas collects and analyzes information regarding the performance of the jury system on a regular basis in order to evaluate the representativeness and inclusiveness of the jury source list, the effectiveness of qualification and summoning procedures, the responsiveness of individual citizens to jury duty summonses, the efficient use of jurors, and the cost-effectiveness of the jury management system.

(13) Juror Use. The Lucas County Court of Common Pleas will determine the minimally sufficient number of jurors needed to accommodate trial activity and Toledo Municipal Court will coordinate with the Court Administrator of Lucas County Court of Common Pleas to make effective use of jurors pursuant to the agreement. If there are not enough persons to constitute the required panel, the court may order the panel filled from the bystanders, or from among the citizens from within the territorial jurisdiction of this court, or may order additional jurors from the Jury Commissioner of Lucas County.

(14) Jury Facilities. The court shall provide an adequate and suitable environment for jurors. The jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured. To the extent feasible, juror facilities are arranged to minimize contact between jurors, parties, counsel, and the public.

(15) Juror Compensation. Persons called for jury service shall promptly receive a reasonable fee for their service. Employers are prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

(16) Juror Orientation and Instruction. Juror orientation is designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors. Juror orientation shall be presented in a uniform manner using a combination of written, oral, and audiovisual materials. The Lucas County Common Pleas Court, pursuant to the agreement, shall provide some form of orientation or instructions to

persons called for jury service upon initial contact prior to service and upon first appearance at the Common Pleas Court for juror orientation.

The trial judge shall give preliminary instructions to all prospective jurors upon reporting to a courtroom for voir dire.

The trial judge shall 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. Prior to the commencement of deliberations, the trial judge shall instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. The trial judge shall within his or her discretion, make available to the jurors such written instructions during deliberations.

Before dismissing a jury at the conclusion of a case, the trial judge shall release jurors from their duty of confidentiality, explain their rights regarding inquiries from counsel or the press, and either advise them that they are discharged from service or specify where they must report.

All communication 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 such communication and given the opportunity to be heard.

(17) Jury Size and Unanimity of Verdict. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

(18) Jury Deliberations. Jury deliberations shall take place under conditions and pursuant to procedures to ensure impartiality, secrecy, and to enhance rational decision-making. A jury should not be required to 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. Training shall be provided to personnel who escort and assist jurors during deliberation. Counsel and appropriate court personnel shall remain readily available during jury deliberations.

(19) Sequestration of Jurors. A jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences. 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. Training shall be provided to personnel who escort and assist jurors during sequestration.

Rule 28

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 process subpoenas from a praecipe, filed at least 10 days in advance of the trial date. Subpoenas shall be served as follows:

~~(1) When a subpoena praecipe has been filed, except for members of the Toledo Police Division, all persons shall be served by regular U.S. postal service. The envelope shall bear a 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) Service of subpoenas to members of the Toledo Police Division shall be by delivery from the clerk of court's office to the desk lieutenant of the Toledo Police Division. The desk lieutenant shall make service and return in an appropriate manner.~~

~~(3) In any case, service of subpoena may 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. In civil cases, service of subpoena may be made by the bailiff's office.~~

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Rule 29

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DEFAULT JUDGMENT, DISMISSALS, AND REINSTATEMENTS

(A) In a civil case, when the 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 a liquidated 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) In a forcible entry and detainer action, if the defendant has failed to appear or otherwise defend on the second cause of action, default judgment may be entered upon oral or written motion when judgment is to be based upon a liquidated claim and when the motion is accompanied by an affidavit with supporting documentation signed by a party with actual knowledge verifying that the amount is accurate. A second cause of action claiming unliquidated damages will be set for an assessment hearing by the assignment commissioner before the housing court judge.

(E) There are no costs assessed or collected for filing a written motion for default judgment. The parties seeking relief by default judgment shall file with the clerk of court an affidavit in compliance with the Soldier's and Sailor's Civil Relief Act, 50 U.S.C. Section 520(1). Failure to file proper affidavits shall render the judgment voidable as provided by federal law.

(F) If 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 14 days notice before the hearing date.

~~(G)~~ Except for cases awaiting trial, civil cases on the docket for 6 months without any proceedings shall be dismissed in accordance with Rules of Superintendence for the Courts of Ohio 40(A) after written notice to counsel of record, or to the plaintiff if plaintiff is unrepresented. If notice of dismissal is returned as undeliverable, the clerk will record this on the docket, and the case may be dismissed after notice is published in the Toledo Legal News, the official court journal. Notices on cases dismissed for want of prosecution pursuant to this rule will be by publication only in the Toledo Legal News.

~~(H)~~ When the court dismisses an action 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 later 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.

Deleted: (G) In a case seeking default judgment based upon a contract, account, or note with a specified interest rate, interest shall accrue at the appropriate prejudgment rate until date of judgment, when interest accrued will be added to the principal due.

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~~(H)~~ A default judgment may only be vacated in accordance with Rule 60 of the Ohio Rules of Civil Procedure.

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(Q) Cases dismissed under this rule may be reinstated only upon written motion filed within 90 days of the dismissal and upon showing of good cause. If a motion to reinstate is granted, the movant shall pay appropriate filing fees to the clerk of court within 10 days from the date motion is granted. Upon full payment of costs, the clerk of court shall assign a new case number, but cases which have been reinstated shall remain on the docket of the originally assigned judge.

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(Q) The clerk of court shall not accept a conditional order of revivor of judgment until all accrued costs are paid.

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Rule 31
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. In the alternative, judgments may also be satisfied by plaintiff or plaintiff's attorney's endorsement on the civil docket and the presence of the clerk of court or one of the judges, and attested by the clerk of court or judge.

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(B) Proceedings in aid of execution will be held on Wednesdays in courtroom #1 in accordance with the following schedule: first, third, and fifth Wednesdays of the month at 9:00 a.m.; second and fourth Wednesdays at 3:00 p.m. Contested matters are to be referred to the duty judge. Judgment debtors who have been personally served and yet fail to appear may be held in contempt of court with a bench warrant being issued for their arrest.

(C) If more than one garnishment is filed against a debtor on a specific day, the earlier time-stamped garnishment will have priority over the later filed.

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Rule 37

CITIZENS DISPUTE SETTLEMENT PROGRAM

(A) Pursuant to Rule 16 of the Rules of Superintendence for the Courts of Ohio wherein referrals to appropriate and available alternatives dispute resolution programs shall be set forth in the local rules, the Citizens Dispute Settlement Program (CDSP) is recognized as providing the people living within the Toledo Municipal Court's jurisdiction, an alternative means of solving interpersonal disputes other than by going through the judicial court system, i.e., resolutions through mediation. "Mediation" is a non-binding process involving a neutral mediator who acts as a facilitator to assist the parties to craft a mutually acceptable resolution for themselves.

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(B) Case Selection. Cases considered appropriate for the program are those involving disputes with people having ongoing relationships such as family members, friends, neighbors, and civil cases identified for the Early Dispute Resolution Program. All civil cases may be referred to mediation. Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel.

Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence; to determine whether to grant, modify or terminate a protection order; to determine the terms and conditions of a protection order; or to determine the penalty for violation of a protection order.

(C) Sources of referrals to this program include the city prosecutor's office, the judges, magistrates, the police department, community agencies, attorneys, and individuals. Civil cases may be referred to the civil mediation program by sua sponte judicial order, by the granting of a motion of any party, or by agreement of the parties with the approval of the Judge.

(D) Agreements reached by the parties are written and signed. The case is disposed after payment of costs and a Judgment Entry reflecting the parties' written agreement is signed by a judge. All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

(E) Mediator's Duty. The Mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the Mediator to the Court, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure. The Mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure.

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.

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(F) Attendance. All participation in mediation is voluntary except in certain civil cases. Civil referrals made per TMC Rule 35 require mandatory participation. The parties may allow, if they wish, their attorneys or other individuals they designate to accompany them and participate in mediation.

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(G) 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.

(H) Small claims court cases can also use CDSP's Alternative Dispute Resolution Program. Cases can be mediated either before the case is filed or after the filing fee is paid and the case has been put on the Small Claims court docket.

(I) The Check Resolution Service is offered by the Toledo Municipal Court to promote successful resolution of passing bad check complaints through mediation thereby providing an alternative to the criminal process.

The clerk's office, prosecutor's office, or Toledo Police Department shall refer all complainants who wish to file a complaint, affidavit or warrant for a misdemeanor charge of passing bad checks to the Citizens Dispute Settlement Program Check Resolution Service.

The complainant shall provide proof to the Check Resolution Service of notice to the drawer or endorser pursuant to Ohio Revised Code Section 2913.11(B)(2) or Toledo Municipal Code Section 545.09(b)(2) or similar ordinance. The Check Resolution Service shall require the complainant to complete an application form and to pay a case processing fee of \$15.00. A case is defined for purposes of this Rule as no more than 10 passing bad checks written by one individual. The Service shall send a letter by regular mail to the drawer or endorser advising the party of the complaint and to discharge the check by payment in full to the complainant. The payment to the complainant shall include the application fee. The letter shall also advise the drawer or endorser of a date scheduled for mediation. The drawer or endorser shall be advised to attend the mediation at the appointed time if payment has not been made to the complainant prior to the scheduled mediation date.

Mediations will be held in the offices of the Citizens Dispute Settlement Program. If an agreement is reached between the two parties, the endorser may pay the monies owed directly to the complainant or the parties may set forth the terms of repayment in writing. The application fee (\$15.00) shall be reimbursed by the endorser to the complainant. The Check Resolution Service shall not collect any monies for disbursement to the complainant. If the mediation is unsuccessful or if it is determined that the offender is ineligible to participate in the Program, the Check Resolution Service shall refer the complainant to the appropriate law enforcement agency to secure a police report, or if a report has already been filed, to the prosecutor's office.

Passing bad check cases which reach the court without a mediation through the Check Resolution Service may be referred to the Program for mediation at the discretion of the court. If a case is referred to the Service, no plea will be taken and the case will be scheduled for mediation. If there is a successful mediation, the Check Resolution Service shall recommend dismissal to the prosecutor who shall recommend dismissal to the court. The application fee shall be waived and the defendant will be required to pay court costs

on at least one check. If the defendant shows proof of full payment to the court at the arraignment and prior to a referral to the Check Resolution Service, the case may be directly referred to the prosecutor's office for a recommendation. If the prosecutor recommends dismissal, the defendant shall pay court costs on at least one passing bad check complaint.

(J) The Collection Mediation Service (CMS) is offered by the Toledo Municipal Court to promote successful resolution of delinquent unpaid accounts through mediation. Collection Mediation Program will accept referrals from businesses, individual professionals or collection agencies. The complainant business must reside in the City of Toledo, Washington Township or Ottawa Hills. The service requires the complainant to complete an application form and pay a processing fee of \$15.00 per case. Per case is defined as one account per individual. The service shall send a letter to the respondent advising the party to discharge the delinquent account by paying the complainant in full, any restitution prior to mediation shall, include the court processing fee. If payment is not paid in full prior to mediation, the respondent is expected to attend the scheduled mediation set forth in the complaint letter. If a mediation is held and an agreement is reached the respondent may pay the complainant directly or set forth in writing restitution terms via payment plan. All payment plans must be voluntarily agreed to by both parties. The complainant is allowed to add the court filing fee to money owed. The Collection Mediation Service shall not collect any monies for disbursement to the complainant. If the mediation is unsuccessful either through failed negotiation, payment or non-attendance, the complainant shall be referred to the civil branch of the court system for further assistance.

(K) Civil Mediation. Cases referred to mediation shall be scheduled for mediation within thirty (30) days of referral. If necessary discovery is not completed, a case may be continued to a future mediation date with a judge's consent. If a party or attorney objects to the referral of his or her case to mediation, that person shall proffer a written objection for consideration of the assigned judge. A referral to mediation shall be reversed only under compelling circumstances.

Parties and/or parties' representatives with authority to settle a claim, and parties' counsel shall attend the mediation. If counsel or any necessary party fails to attend or attends and does not meaningfully participate in the process, the court may order sanctions including, but not limited to, attorney fees, other costs, contempt, dismissal or default judgment.

The court mediator shall promptly notify parties and counsel of a case referral. This notification shall include the date and time of mediation and a description of the mediation process.

In accordance with Ohio Revised Code, Section 2317.023, all written and oral communications made in connection with the mediation of a case shall be treated by the court as confidential. Said communication shall not be used for any purpose, including impeachment of a witness. No mediator may be subpoenaed to testify in any legal proceeding regarding the communications made in connection with the mediation.

If an agreement is reached through the mediation process, a corresponding settlement/dismissal judgment entry shall be submitted within thirty (30) days for court approval.

If an agreement is not reached or a necessary party did not appear, the court mediator shall advise the court within twenty-four (24) hours of the scheduled mediation. No other information shall be communicated to the court. Unresolved cases will be placed on the assigned judge's docket or referred to the assignment commissioner for assignment.

Rule 38

COURT SECURITY

(A) The Toledo Municipal Court is charged with dispensing justice, resolving disputes and protecting the constitutional rights of those who appear before the Court. The Court also recognizes, accordingly, that appropriate levels of security should exist in the Court for the safety and security of those who visit and work therein, pursuant to the Rules of Superintendence.

(B) A local security advisory committee shall be established, appointed by the court, consisting of a representative of each of the following: the Court, the Lucas County Sheriff, Toledo City Council, the Clerk of Toledo Municipal Court, the Public Defender, the City Prosecutor, the Toledo Bar Association, victims' advocacy groups, Toledo Police Department, ADA coordinator, employee organizations representing employees who work in the Toledo Municipal Court Building and other bar association or community groups as deemed appropriate by the court. This advisory group shall meet at least once yearly to assist the Court in meeting the Ohio Court Security Standards contained in the Rule 9 of the Rules of Superintendence for the Courts of Ohio. The court's Security Policy and Procedures Manual is a protected document and is not a public record.

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Rule 39
BOND FORFEITURES

(A) When a bench warrant is issued for the non-appearance of a defendant, the clerk of court will determine if there is a bond posted by the defendant or a surety which is forfeitable. If the court's entry includes a direction to the clerk to set a bond forfeiture hearing, or if the clerk is so directed by the court, the clerk will set a bond forfeiture hearing before the judge issuing the bench warrant pursuant to Ohio Revised Code §2937.36(A). A date for the hearing may be set any day on the judge's docket except the individual judge's civil and jury days.

(B) If the bond is ordered forfeited by a magistrate, the clerk shall set the bond forfeiture hearing in Courtroom 4 at 1:00 p.m. regardless of which magistrate is sitting in that courtroom on any particular day.

(C) The notice for hearing must be sent out 48 hours after the issuance of the bench warrant, weekends and court holidays excluded. Bond forfeiture hearings will be set no less than 20 days and no more than 30 days from the date that the notice was sent. Notice may be sent by ordinary mail. Notice must be sent to the defendant, the bailor and/or the surety. Notice must state the full amount of the bond for which judgment could be entered.

(D) At the bond forfeiture hearing, the individual judge will make a determination of the release of bond, a judgment of forfeiture, or a remission of the penalty. Also, each individual judge may, at the request of the surety, continue the case for the appearance of the defendant.

(E) If the surety returns the defendant to the custody of the court before the judge issues a judgment, that surety should take the defendant before the respective judge. If the court is closed, the surety should return the defendant to the Lucas County Correction Center and appear at the bond hearing so set to report the defendant's arrest and custody status to the judge and request discharge. It is the surety's responsibility upon receiving information that the defendant is in custody to request discharge or remission from the judgment of bond forfeiture.

(F) Upon declaration and judgment of a forfeiture of a 10% cash bond, the court will enter judgment for the entire bond, unless a lesser amount is specifically stated. The unpaid portion of that bond will be declared a judgment/fine (O.R.C. 2929.25(C)).

(G) The clerk shall forfeit any forfeitable cash bond in the full amount posted by the defendant, pursuant to Ohio Revised Code § 2329.25(C) without hearing unless ordered by a judge.

(H) The clerk may refer bond forfeiture judgments to the Law Department for further action.

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