

LOCAL RULES OF COURT  
FRANKLIN MUNICIPAL COURT  
Franklin, Ohio

RULE 1.01 LOCAL RULES- SCOPE AND AUTHORITY

The following Local Rules of the Franklin Municipal Court are intended to be supplemental to and to be used in conjunction with:

- (1) The Ohio Rules of Civil Procedure (Civ. Rule), as amended.
- (2) The Ohio Rules of Criminal Procedure (Crim. Rules), as amended.
- (3) The Ohio Rules of Superintendence for Municipal Courts and County Courts (Sup. Rules), as amended.
- (4) The Rules of Superintendence of the Supreme Court of Ohio, (Sup. Ct. Sup. Rules), as amended.

These local rules are not to be interpreted in any way which conflict with the various Ohio Rules. Should any conflict or contradiction be found, the Ohio Rules shall in all cases prevail over these Local Rules.

RULE 1.02 HOURS OF COURT SESSIONS

The hours of court sessions are 8:30 A.M. until 5:00 P.M. Monday through Friday. The Court will also be in Session on each Tuesday from 5:00 P.M. until completion of business. Court sessions may also be scheduled on Saturdays as needed.

RULE 2.00 HOURS OF CLERK'S OFFICE

The Clerk shall be appointed as provided in Section 1901.31 O.R.C. The office of the Clerk of Courts shall be open for the transaction of business from 8:30 A.M. until 5:00 P.M. Monday thru Friday.

RULE 2.01 HOLIDAYS

The following days shall be scheduled holidays:

The day before New Year's, New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving Day, Day before Christmas, Christmas Day, and President's Day. In addition, each full time employee shall be entitled to four personal days per year and their birthday.

RULE 2.02 TIME COMPUTATION

The time within which an act is required to be done shall be computed by excluding the first day and including the last, except when the last day falls on a Sunday or a holiday, in which case it shall be excluded and the next day counted. Civ. R. 6.

RULE 2.03 TERMS OF COURT

There shall be no term of Court, but in accordance with O.R.C. Sec. 1901.29 for the purpose of computing time, 90 calendar days following judgment

shall be considered within term and time thereafter shall be considered after term.

All actions and all motions and other business of the court pending at the expiration of any term of the court shall be continued to the following term of the court without any special or general order or entry to that effect.

**RULE 2.04 'CLASSES OF ACTIONS' NOT APPLICABLE; EXCEPTIONS**

In the civil branch of this court there shall be no division of civil actions into "classes" with respect to the amount of money judgment claimed. All cases shall be designated as general civil actions, with the exceptions of Actions in Forcible Entry and Detainer, Replevin, Small Claims and such other special statutory proceedings (e.g. trusteeship proceedings) exempted under Civ. Rule 1(C).

**RULE 2.05 AGREEMENTS**

Agreements of counsel with each other or with a party or with an officer of the court shall be filed in the case or dictated into the record.

**RULE 3.00 PREPARATION OF DOCUMENTS**

The officers or employees of this court shall not prepare or help prepare any pleading, affidavit, entry or order in any civil or criminal matter, except as provided under Section 1925.04 O.R.C.

**RULE 3.01 CONTROL OF DOCUMENTS**

The clerk shall permit any person to make a copy of any of the papers filed, but original papers filed in any case shall not be removed from the office without the Judge's approval. Reproduction of any material shall be at the rate of \$.25 per page.

**RULE 3.02 NOTARY FEE**

No fee shall be charged by any officer or employee of this court for notarizing affidavits or any other matter pertaining to civil or criminal business of this court.

**RULE 3.03 COURT REPORTER (Section 1901.32 O.R.C.)**

- A. Criminal: A court reporter is provided for all jury cases and is charged as part of court costs paid by the defendant if found guilty. If the defendant demands a jury trial and the request for trial by jury is withdrawn, it must be filed at least five days prior to the date of such trial, or the defendant may be required to pay court cost resulting from late cancellation of the jury.
- B. Civil: Normally a court reporter is not provided by the court on civil case, however, either party may, at his own expense, bring a reporter to any proceeding of this Court.
- C. Recording: This court utilizes a mechanical recording device; tapes are retained for two (2) years.

RULE 3.04 JURORS (1901.15 O.R.C.)

A. Selection of Jurors: Jurors are selected at random from a list of legal voters supplied by the Board of Elections.

B. Jury Subpoenas:

1. Forty notices of jury service are mailed for each criminal jury and usually forty for civil juries.

2. Notices of jury duty are to be processed one week before the trial date, when possible to ensure adequate time for service.

C. Jury List: A list of the jury is made for the Judge, Clerk, Bailiff and each party involved in the case.

D. Cancellation of Jury: If a jury is cancelled after it has been ordered into court and the Clerk of Courts is unable to notify all prospective jurors of said cancellation, the court must assess the costs incurred to the party originally filing the jury demand. If both parties file a demand for a jury trial, the costs will be assessed equally against both parties.

RULE 4.00 FILING- IDENTIFICATION OF DOCUMENTS

All pleadings, motions, leaves to plead or other papers filed in an action must bear the case number, the name, address and telephone number of the attorney filing same, and that attorney's Supreme Court Identification Number. Certificate of judgment for lien or for transfer of judgment shall be obtained only upon filing a praecipe therefor.

RULE 4.01 FILING- COMPLAINT-FORMALITIES

A. Complaint: Every complaint filed shall contain in the caption thereof the full names and addresses of all the parties to the action, and on any cross-claim or counterclaim or any pleading making new parties, the addresses of such new parties shall be given in the caption of such pleading.

B. Unknown Address: This rule, however, shall not apply when it is alleged that such address is unknown.

C. Number of Copies: It shall be the duty of the plaintiff or his attorney to file with a complaint as many copies thereof as there are defendants to be served with the summons in said action.

RULE 4.02 FILING- GENERAL DOCUMENTS -FORMALITIES

A. Form of Pleadings:

1. All pleadings, motions, interrogatories and all other papers filed in an action shall state in the caption the general nature of the pleading, e.g., "Complaint", "Answer", "Motion", "Interrogatories" or other appropriate designation.

2. It shall not be necessary to furnish a cover sheet for any document to be filed where the office address and telephone number of counsel filing the same appears upon the document.

3. Any pleading, motion or leave filed not in compliance with this rule shall be reported by the Clerk of this Court to the Judge and may be stricken from the files on the Court's own motion.

#### RULE 4.03 RELEASES AND ASSIGNMENTS

The assignment, cancellation or release of judgment shall be in writing and filed as other papers in the case.

#### RULE 5.00 CIVIL PROCEDURES

##### A. Summons and Return:

1. Upon the filing of a complaint, summons shall be forthwith issued, signed by the Clerk of deputy and shall bear the seal of the court.

2. Service of summons shall be as required by Civ R. 4 except for Small Claims (Chapter 1925 O.R.C.) and forcible entry and detainer (Chapter 123. O.R.C.) and such other statutory proceedings for which specific process requirements are established.

3. The above provisions shall not apply to praecipes or proceedings after judgment to enforce collections.

4. Filings which do not comply with this rule shall be refused by the clerk and, if filed, will be presumed to have been irregularly obtained and shall be stricken on motion by a party or by the court.

##### B. Appearance Date:

1. At 2:00 P.M. on Monday for civil matters, and Small Claims. Forcible entry and detainer cases, shall be held on the first court date scheduled after the statutory period required has expired. (See 1923.06 O.R.C.)

2. On all other civil cases, the first date and starting time after at least 28 days have elapsed from the date of service.

3. All such summons to appear shall be served at least three days before the time of appearance and shall be returned as soon as possible, but never later than two days before the defendant is commanded to appear.

##### C. Answer Date:

The answer date shall be as required by the Civ. Rule 12.

D. Service by mail: The service of writs or processing service on person summoned for jury duty may be made by mail, registered or otherwise. The manner of making such service and the return thereof by the bailiff shall conform to the Ohio Rules of Civil Procedure.

E. Service by Publication: (See Rule 4.4, Civil Rules of Procedure)

F. Extension to plead and defaults:

1. For good cause shown, the time for filing pleadings may be extended for such reasonable time that the court may provide by written order. The period of extension shall not exceed 20 days and counsel shall be permitted but one waiver or extension to plead. Civ. Rules 6(B), 54 and 55.

2. Where a party is represented by counsel, default judgment may be granted against said party forthwith only after the expiration of one request to plead within seven days has been filed and the seven days has passed without response from counsel. In all other cases default judgment may be taken before the Judge at any time after the default occurs.

G. General Rules Covering Motions and Court Actions:

1. All motions, orders, rules to plead, briefs, memoranda, and all other filings or demands shall contain a written notation signed by the attorney filing same, indicating that a copy has been mailed to or received by opposing counsel. This requirement shall not apply to proceedings after judgment to enforce collection. Any motion other than a motion for continuance shall be accompanied by a memorandum indicating the questions and authorities in support thereof. In the event of non-compliance, the motion will be stricken from the file.

2. The opposing memoranda shall be filed not later than fourteen days from service of the motion after which time the motion will be deemed submitted to the court.

3. Assignment of any motion for court oral hearing shall be at the discretion of the court. Failure of counsel to appear for oral hearing may be deemed an abandonment of said motion.

4. A motion shall be noted in the docket and submitted to the Judge. When oral argument or testimony is desired the motion shall contain a request for special assignment.

5. Motions, forcible entry and detention cases shall be disposed of at the commencement of the trial, or prior thereto as may be appropriate.

6. A case shall be submitted to the court for decision unless arrangements for briefs are made at the conclusion of the trial. When requested by a party or by the court, briefs shall be submitted to the Judge by the plaintiff or moving party within ten days, and within twenty days by the opposing party after the last day of trial. Upon failure of either party to file a brief within time, the cause may be disposed of at the discretion of the court.

H. Entries:

Counsel for the party in whose favor a decision, order or judgment, is rendered shall prepare an entry within five days and submit the same to counsel for the adverse party who shall approve or reject the entry within five days. If opposing counsel fails to provide and return the entry within three days, it shall be submitted to the Judge who will approve the entry in the form he considers proper.

I. Rule day:

The rule day for filing a pleading after a decision or motion shall be the tenth day after the entry is filed, unless for good cause shown a longer time is granted by court.

J. Common Pleas Practice:

The rules of practice of the Common Pleas Court of Warren County may be followed when a situation arises for which no provision has been made herein.

K. Pre-trial:

Upon the receipt of an answer filed in a civil case, the court will set the matter for pre-trial conference. At a pre-trial conference the opposing counsel will attempt to complete all discovery and notify the court as to the approximate time required in the event a trial is necessary.

L. Subpoena of Witnesses:

1. The praecipe for the subpoena of witnesses shall be filed not later than five days, excluding intervening Saturdays, Sundays and holidays before the trial date.

2. Failure of a witness to appear for whom the praecipe was not filed in accordance with the above rules will not be grounds for a continuance of the case.

M. Continuances:

1. Requests for continuance shall be made in writing three days prior to the trial date. No cases shall be continued on the day of trial, except for good cause shown, which cause was not known to counsel prior to the day of trial, and provided that counsel has used diligence to be ready for trial and has notified or made diligent effort to notify his opponent as soon as he became aware of his necessity to ask for a postponement.

2. All trial continuances, whether by agreement of the parties or otherwise shall be made by entry approved by the Judge and delivered to the clerk before the time assigned for trial.

3. When a party or his counsel fails to comply with this rule or opposing counsel is present, the court, after a reasonable period, shall upon demand of the opposing counsel present, dismiss the case, enter a default finding, or proceed to hear evidence and render a final judgment.

4. Once a case has been removed from the docket as a result of a motion for continuance, the case shall be reassigned for trial at the earliest time available as determined by the Court.

5. The entry granting the continuance will recite the fact that no new trial date will be set unless either party requests same.

N. Unused Court Costs:

Unused court costs still on hand with the Clerk of Courts at the end of one year will be returned to the respective attorneys filing those cases.

O. Dismissal for Failure to Prosecute:

Civil cases in which nothing has been done for six months to bring them to issue, or which, being at issue six months or more, remain on the docket untried and without a trial request will be dismissed for want of prosecution, unless continued on the docket by entry, for good cause shown and upon such terms as the court shall prescribe. Before a cause is dismissed, the Clerk of Courts shall, by ordinary mail, notify all counsel of record or parties at the addresses shown on the papers in the case, of the dismissal date which shall be not sooner than thirty days from the date of the mailing of said notice. At that time, the Clerk shall distribute or refund according to law, the balance of any security deposit or other funds on hand, or bill for any outstanding amounts due.

P. Orders of, and in Aid of Execution:

1. Orders issued in aid of Execution shall be served and scheduled in the same manner as appearance cases.

2. No Order of Execution shall be accepted by the Clerk unless the name of the attorney filing same appears at the bottom of each copy.

3. The Clerk shall not accept such orders unless one copy is furnished for each party to be served and one copy for the Clerk.

4. In the event the plaintiff or his attorney fails to appear for the examination of the debtor, the presence of the party shall be noted on docket and the party excused.

5. A debtor may obtain a release of wages upon delivery to the court of a signed statement to the court from his employer as to his set earnings for the past thirty days and upon payment to the clerk of the amount required by law to be held. This provision shall not relieve the debtor of his duty to appear at the time assigned if he has been ordered to appear for examination.

6. Except for good cause, made known to the court, no citation for contempt for failure to appear may be issued where more than thirty days has elapsed from the date on which the debtor was ordered to appear.

Q. Contempt of Court:

1. The failure of any person to appear for an examination or hold funds, as directed under proceedings in Aid of Execution shall be grounds for issuance of a citation in contempt against said person. Such citation shall be issued on forms prescribed by the court and shall be heard at appearance call set by the court.

2. On motion reciting that personal service proceedings and Aid of Execution was made on the person who failed to appear or hold funds as directed thereon, an order may be issued for the appearance forthwith of said person to show cause why he should not be punished as and for contempt of court.

R. Jury Demand and Deposit:

1. A party desiring a jury shall file a demand in writing. In appearance cases, the demand for a jury shall be filed on appearance day, or within 10 days thereafter. In answer cases, the demand for jury shall preferably be filed with the pleadings or in any event shall be filed not later than seven days after the original answer is filed. If an answer requests affirmative relief, the opposing party may file a demand at the time the reply is filed, provided such reply is filed within the time required by the rule of this Court.

2. The party making a demand for a trial by jury in a civil case shall forthwith deposit the sum of Two Hundred Dollars (\$200.00). The jury, shall not be drawn unless the deposit herein required has been made.

3. Upon representation by any party of indigency, the clerk shall investigate the accuracy of such representation and upon finding that such indigency does exist; the security for costs shall be waived.

4. In the event that a jury demand is made and then timely withdrawn, the deposit for such demand shall be returnable to the depositor. If the withdrawal of jury demand is made following the summoning of jurors, the Party requesting the withdrawal shall be assessed the costs of notifying such jurors that their services will not be required. If the request for withdrawal of jury is agreed upon by more than one party, all consenting parties shall equally share such cost irrespective of the party prevailing at trial. Any juror who appears for service because of the inability of the clerk's office, after diligent effort, to notify such juror, shall be paid the per diem fee for one day's service and such fee shall be chargeable as indicated heretofore.

5. In the event a panel of jurors appears for service and the trial is continued or postponed due to the failure of a party or his counsel to appear, such party shall be assessed the per diem cost of the panel, unless such failure to appear is as the result of extreme emergency or conditions beyond the control of the party or counsel as the same may be determined by the Court.

6. The failure of the party demanding the jury to comply with any of the provisions of this rule shall constitute a waiver of the jury and the matter shall be submitted to and decided by the Court.

7. Every person summoned as a regular juror shall be served at least forty-eight (48) hours before the time he or she is to appear in court to answer summons.

8. At least four (4) weeks before the time assigned for a jury trial in a civil case, the clerk shall arrange and schedule a pre-trial conference. This requirement may be waived by the Judge. Counsel desiring to submit briefs on the issues to be raised at trial, may do so on or before two (2) days prior to trial.

S. Penalty-Failure to Timely Rescind a Jury Demand:

After a jury has been demanded, unless said jury is waived in writing not less than seven (7) days prior to the date set for trial, the

party who requested that jury shall pay all jury fees and expenses incurred as a result of such demand.

T. Juror Compensation:

Each person summoned who appears for service shall be compensated at Twelve Dollars (\$12.00) for said appearance. Each person actually impaneled on a jury shall be compensated at the rate of Twenty-Five Dollars (\$25.00) per day. These rates are subject to change so that at all times jurors in the Franklin Municipal Court will be compensated at the same rate as are jurors called and/or serving in the Common Pleas Court of this county. (See 2313.34 O.R.C.).

U. Preparation of Documents:

Any party applying for orders in aid of execution, attachments replevin of personal property, or other relief in special proceedings, shall prepare all documents which may be required in such special proceedings by the Ohio Revised Code, or the Ohio Rules of Civil Procedure, and provide such documents to the Court in proper form. In the event the party requesting relief has failed to provide the required completed documents, the action shall be dismissed, unless the Court determines other Orders should be issued.

RULE 5.01 SMALL CLAIMS DIVISION (Chapter 1925 O.R.C.)

A. Title:

This division shall be entitled Franklin Municipal court, Small Claims Division.

B. Petitions:

1. Small Claims petitions shall be filed any day of the week during the normal business hours.

2. The action, or other proper method of service is commenced. In instances where the Plaintiff is a corporation, the signatory of the Plaintiff's complaint may be an attorney representing the plaintiff. In instances of partnership the affiant must be one of the partners. Upon the filing of the complaint the complaint shall be immediately set for a trial date. The Small Claims complaint will be set for one-half hour of trial unless notified by the plaintiff that more time is required. Upon receipt of a costs and filing fee for a Small Claims complaint will be \$50.00. This filing fee includes cost of serving the notice and summons.

3. Fees for service other than those set forth above shall be the same as the fees set by the regular civil court division. All or any part of the costs may be waived by the court in the event a party is found to be indigent.

4. The address of all party's must be full, complete and current. The Small Claims Division will not accept a partial address. If the defendant cannot be located at the address given to the court by the plaintiff, the court will notify the plaintiff by mail of its inability to serve the defendant and the claim will be dismissed unless a proper address is provided within ten days. If no new address is provided the

matter will be dismissed for want of prosecution, unless service by public judgment, the Clerk of Courts will instruct the plaintiff of various courses of action available to effectuate the judgment.

RULE 5.02 TRUSTEESHIP DIVISION (2329.70 O.R.C.)

A. Form:

The application for the appointment of a trustee shall include a complete and accurate statement, under oath, of the following:

1. The debtor's names, address and marital status.
2. The name and address of his employer or employers.
3. The amount of his gross earnings for a period of thirty days.
4. A statement indicating the name of the creditor from whom the fifteen-day written notice of proceeding against his earnings was received.

B. Application:

1. Upon the filing of an application, the clerk shall immediately become the trustee without formal order of the court. Objections of interested parties to the application shall be heard at the appearance call set by the court.

2. The filing of the application shall stay all proceedings against personal earnings of the applicant, provided that, if the order of attachment or the Order in Aid of Execution is served upon the employer or garnishee prior to the time of filing of the application, the personal earnings subject to the order of the court shall be paid to the Clerk of Courts for distribution in the case in which said order was made. In the event the application is filed prior to the time the order of attachment or order in aid of execution is served upon the employer or garnishee, the personal earnings subject to the order of the court shall be ordered paid to the trustee.

3. Additional creditors may be listed in the trusteeship upon application and service of a notice to each additional creditor as heretofore provided. If such application is made by a creditor, a similar notice must be given to the debtor, unless the creditor has obtained a judgment in a court of record.

C. Distribution:

1. The trustee shall make no distribution to anyone except a creditor or an attorney for the creditor. Credit Bureaus or Credit Collections Services are not to receive, unless it is a valid claim of the collection service and not that of an agent.

2. The clerk or deputy appointed by her shall supervise payments of debtors and distribute the funds in each case at least every three months unless the amount available does not equal 25% of the claims listed. Where a debtor pays directly, the Clerk shall require the debtor to produce payroll stubs or similar records and the clerk may refuse to

accept payments, or installments thereof which do not equal the amount required by law. If the payments are not made for thirty days, the trusteeship shall be dismissed and the proceeds distributed. The clerk may not accept payments into a trusteeship where the debtor pays direct, unless the tender of payments is made by the debtor, his agent or attorney within four days after the receipt of the personal earnings by the debtor. This requirement may be waived only by the judge of the court.

D. Dismissal:

The dismissal of a trusteeship by rule of court, or upon motion of counsel for one of the creditors listed therein, shall make the debtor filing the trusteeship ineligible for reinstatement for a period of six months from the date of the dismissal. Provided, however, that such trusteeship may be reinstated upon the tender and payment to the Clerk of Courts, as trustee, the amount of money required by law to make such trusteeship current to the date of such tender, if the approval of the court is first obtained

RULE 5.03 THIRD PARTY CLAIMS OR EXEMPTIONS

A. Requirements as to Form:

When a property attached or levied upon by the bailiff is claimed by anyone other than the party against whom the writ was issued, the claimant shall file in the same case a pleading designated Third Party Claim which shall be verified as in other cases. The claimant shall properly notify the bailiff and give at least three days notice to the attorney for plaintiff, or to the plaintiff, of the time fixed for the trial of the right to such property. Proof of notice shall be made as required by this court. Exemptions: When a demand is made for exemptions from executions or attachment, the same procedure shall be followed except the affidavit shall be designated "Demand for Exemption" and shall also state the reasons under the statute for state Exemptions.

RULE 5.04 SALES AND CONFORMATIONS (1901.118 (E) O.R.C.)

A copy of a notice of the sale of personal property shall be mailed by the bailiff to the parties and to attorneys of record in the case; however, a failure to mail such notice shall not invalidate a sale. Entries of confirmation of distribution shall be prepared by the party who requested the sale and shall contain a statement that the sale was regular and proper in every respect unless otherwise directed by the court and also a statement of the balance, if any, still due on the Judgment.

RULE 5.05 CANCELLATION AND RELEASES:

Releases and assignments of judgment or Certificates of judgment shall be in writing and signed by a person authorized to execute the judgment. No release, assignment or similar matter shall be written directly upon the appearance or execution dockets.

RULE 5.06 DEPOSITS

A. Witness: (Civil Rule Procedure 45)

No subpoena for a witness in a civil proceeding shall be issued until a witness fee cost of \$12.00 is deposited with the clerk. A witness who testifies, or who is available for that purpose, shall receive this fee upon presentation of the subpoena to the Clerk of Courts. (See Civ R. 45(c) .

**B. Executions, Replevin, Attachment:**

1. Before any writ or attachment, execution, replevin or any other process may be issued, against chattel property other than personal earnings, a sum of money sufficient to pay the cost of moving, storage, advertising and the care for any custody of such property, must be deposited with the clerk to secure such expenses. The amount of such deposit shall not be less than Three Hundred Dollars (\$300.00)

2. In any case where an appraisal is required, a fee shall be deposited by the plaintiff with the Clerk of Courts, for the cost of such appraisal.

**RULE 6.00 CRIMINAL DIVISION 1901.32 O.R.C.**

**A. Bailiff:** The bailiff or deputy selected by the judge shall formally open sessions of traffic and criminal court and shall enforce and maintain order.

**B. Continuances:** The court is opposed to delay in the handling of its business. In cases where continuance is necessary, the limit of time allowed will be one month, unless good cause is shown why a longer time is required.

**C. Withdrawal Charge:** All recommendations for withdrawal or dismissal of a case and the reason therefore shall be made in open court by the prosecuting attorney or his principal witness. Defendant must also be present unless his presence has been waived by the court.

**D. Non-Departmental Complaint:** A filing fee shall be paid by the complainant before filing any non-departmental complaint. This fee may be waived by the court.

**E. Bail:** Officers in charge shall release any person arrested or charged with any misdemeanors who give bail, or execute a bond, according to law and the satisfaction of the clerk in the amount indicated in the bail or bond schedule. If an O.R. (own recognizance) bond is permitted by the officer in charge, the basis for O.R. release is to be noted on the separate court form and submitted to the Clerk of Courts. The court shall set bond in all felony cases.

**F. Arraignments:**

1. In the disposition of its daily business, new cases will be called first for pleas and motions.

2. Misdemeanor arraignments will be held at 1:00 P.M. each Friday afternoon and Tuesday at 5:00 P.M.

3. Traffic arraignments will be held each Friday at 1:00 P.M. and Tuesday at 5:00 P.M.

4. The court may hold special arraignments at any time during the normal duty day.

5. Felony cases will be called for initial appearance on regular court days unless otherwise scheduled by the Judge.

6. All defendants are to report to the office of the Clerk of Courts.

7. The traffic docket will be held on the same times as the criminal misdemeanor docket.

8. In all traffic and misdemeanor cases where a citation has been issued, except where the defendant is incarcerated, the affidavit shall be filed with the Clerk of Courts at least twenty-four hours prior to the time for appearance.

9. Where the defendant has bond money on file with the court and fails to make a scheduled appearance, the bond may be forfeited by the court and warrant may be issued for the arrest of the defendant. The bond forfeiture shall not be treated as a final disposition of the case.

10. Video arraignments are held at 12:00 p.m. on Fridays and 3:00 p.m. on Tuesdays.

#### G. JURY (CRIM. R. 23)

1. Demand for a jury trial must be made in accordance with Crim. R. 23. The Clerk of Courts shall summon the jury to appear on the date assigned for trial. If a trial date is assigned before notice of a jury trial, the trial date may be changed to accommodate the request.

2. The jury shall be selected in the same manner as provided in the section set forth above, specifying jury selection in a civil case.

3. If a jury trial is cancelled by the defendant and there is insufficient time to permit the Clerk of Court to notify all jurors that they are not to appear for jury duty, the defendant is responsible for the costs incurred.

#### H. Unpaid Fines:

1. Motor vehicle operators licenses will be held by the court to insure the payment of all fines.

2. The Clerk of Courts is directed to interview and require each defendant who wishes to pay an unpaid fine in installments to sign a written contract with the court to pay installments within a reasonable period of time, as determined by the court.

3. The Clerk of Courts is directed to permit only reasonable payment plans, which shall not be less than \$5.00 per payment.

4. If the defendant fails to pay the unpaid fine within a reasonable

period of time, as established by his contract with the court, a warrant for his arrest may be issued and the defendant may be ordered to serve a sentence in the Warren County Jail for failure to comply, if the court determines that the defendant was financially able to make such payments, but has failed to do so.

I. Jail Procedure:

1. When a defendant is sentenced to jail time, a commitment is typed with the number of days of the sentence indicated on it. The prisoner is personally taken to the jail by the Arresting Agency.

2. Only court personnel and attorneys, when summoned by a confined defendant, are permitted in or near the jail. All others must obtain permission from the court.

J. Judgment Orders and Entries: All criminal traffic judgments and orders of this court shall be shown as entered on the journals of the court as of the date said judgment and orders were announced by the court. All persons, regardless of residence, must appear in court other than on a minor misdemeanor. (See 2935.26- 2935.27 O.R.C.)

K. Probation Department: 1901.32 O.R.C.

1. The probation officer shall have all powers of regular police officers and shall perform such duties as designated by the Judge of this court. The probation officer shall be designated as a deputy bailiff.

2. Individuals are to be counseled and given advice concerning their specific violation to impress upon the individual the importance of responsibility, employment, job security and to avoid any future violations.

RULE 7.00 RULES OF CONDUCT AND PRACTICE

A. Referral Prohibited: No employee of the court shall at any time, whether by request or otherwise, refer or direct any person to an attorney or a bail bondsmen or bail bond company or agent. Any violation of this order shall subject the violator to suspension or dismissal by the court.

B. Appearance at Court:

1. Only attorneys regularly admitted to the practice of law shall be permitted to practice in this court. No official of this court shall be permitted to prepare or assist in preparing any pleading in any case to be filed or pending in this court, except the office of the Clerk of Courts may assist plaintiffs in the Small Claims Division pursuant to law.

2. Legal interns properly certified by the Ohio Supreme Court, who have filed a copy of their certification with the court may appear before the court only in accordance with the rules provided by the Ohio Supreme Court.

C. View of Scene: Any attorney in any case, civil or criminal, shall be authorized to request a view of the scene; however, such request must be made in writing at least three working days before trial, unless there is good cause shown for not doing so and same is approved by the court. Suitable vehicles for conveying the jury to the scene will be employed by

the Bailiff of the Court and the expenses thereof will be taxed as costs in said case.

D. Employees and Attaches:

1. No employee or attaché of the court and no other person (excepting practicing attorneys regularly and properly engaged in the representation of their clients) shall practice law or perform legal services of any character for hire in or about the court, or any office in any manner connected with the court, except duly qualified legal interns.
2. Violation of this rule on the part of any person shall be considered contempt of court and grounds for dismissal of any offending employee.

E. Bond-Sureties: (Sec. 2937.22 O.R.C.)

1. No attorney, officer or attaché of the court, nor any member of his or her immediate family shall furnish bail or surety, or be received as such bail or surety by the clerk of this court, or by any member of the police department of the City of Franklin, Village of Carlisle, or the Warren County Sheriff's Department. The above restriction concerning attorneys shall apply in those cases where the bond is to be furnished for clients or prospective clients of the attorney or associates of the attorney.
2. No person shall be accepted as surety, nor shall bond be posted by anyone who does not qualify under the provisions of Rule 46(L) of the Ohio Rules of Criminal Procedure.
3. A court officer must determine the financial responsibility of the person attempting to act as surety before accepting surety or bond commitment. The officer must obtain from him an affidavit setting forth the property which he proposes as security together with all encumbrances thereon, the number and amount of other bonds and undertakings outstanding, and all his other liabilities. He shall provide such other evidence of his responsibility as the court or person accepting the bond may require and no one shall be permitted to post bond for himself or another person unless he appears to be financially responsible in at least the amount of the bond attempted to be posed.
4. Variations of this rule must be approved by the Judge.
5. The amount of bond to be posted shall be determined in accordance with the bond schedule in Appendix I, attached hereto, unless otherwise ordered by the Court.

RULE 8.00 VOIR DIRE OF JURIES

The court will conduct that portion of Voir Dire which relates to the general attitude and to the legal qualifications of the prospective jurors. Thereafter, counsel for all parties will be permitted to ask the questions they deem necessary to seat a fair and impartial jury. Questions which are general in nature must be directed to the entire panel and not to individual jurors, unless fairness requires otherwise. Only questions which seek to elicit personal information shall be asked of individual jurors.

RULE 9.00 PRE-TRIAL HEARING

A. Scheduling:

1. The Court may order any case, civil or criminal, except forcible entry and detainer or replevin, to be set for pre-trial hearing at any time after the case is at issued. Notice of the pre-trial hearing in a civil case shall be given to all counsel (or parties, if not represented by counsel) by mail. Counsel must appear before the Court at the time designated in the notice. Counsel must have complete authority to stipulate on items of evidence and admissions and must have full settlement authority.

2. The primary purpose of the pre-trial hearing shall be to achieve a settlement. If the court concludes that settlement is unattainable then the court may attempt to narrow the legal issues, to reach stipulations as to facts not in controversy and to shorten the time and expense of trial.

3. A memorandum may be prepared by the court reciting actions taken at the conference, which may be made an order of the court and which shall govern the subsequent course of the action. Parties and counsel may be required to produce or reveal any and all evidence, witnesses, documents or other matters intended to be relied upon at the trial pursuant to Rule(16) of the Ohio Rules of Civil Procedure, and in case of failure to do so, the court may impose sanctions in accordance with Rule(37).

4. The court, in its discretion, may advance a pending case for pre-trial at any time.

B. Trial Assignments: Every effort shall be made to assign all cases for trial in the order in which they stand on the docket. Cases requiring less than a half-day may be advanced in their proper order to complete the daily docket. The cases shall be removed from the docket on the day of the trial unless an entry authorizing a continuance and providing for reassignment is delivered to the Clerk before the time set for trial. Once removed from the docket, a case shall not be reassigned until a written request for re-assignment is filed.

RULE 10.00 GENERAL CRIMINAL PROCEDURE

A. Civil Rules Applicable: All rules set forth above with reference to civil proceedings shall, where applicable, be enforced in criminal proceedings before this court. In addition, the following rules shall prevail.

B. Filing Criminal Action: The Clerk of Courts and all Deputies may refuse to accept criminal filings from any person except a duly authorized police officer having jurisdiction within the territorial jurisdiction of this Court, unless such filing has been approved by the Prosecutor.

C. Pleading-Appearance Required: No pleas will be accepted over the telephone. It is necessary for every attorney of record to enter his appearance in writing or to appear personally with the defendant to enter his plea, although the client need not be present for preliminary matters except pre-trial conferences and the final disposition of the case.

D. Witnesses: Failure of prosecuting witnesses to appear in court will subject them to prosecution and a fine.

E. Judgments, Orders and Entries: All criminal and traffic judgments and orders of this court shall be shown as entered on the Journals of the Court as of the date the said judgments were announced by the Court.

F. Motions to Suppress and Dismiss: It shall be the procedure of this court that all Motions to Suppress Evidence or Motions to Dismiss shall be handled in the following manner: Rule 12(a) of the Ohio Rules of Criminal Procedure

1. All motions shall set forth clearly and specifically the grounds for such motion and the acts complained of which are the basis for said motion. Said motions shall further clearly and specifically state the items which the movant wishes to have suppressed or quashed. Any motions filed which are not in compliance with this rule shall be summarily overruled.

2. All such motions filed in this court shall be set for oral hearing within fifteen (15) days of the date of such filing and it shall be the responsibility of the movant to secure the attendance of all witnesses necessary to establish his position in the motion to that level of proof required.

3. The hearings on such motions shall be conducted first with a sufficient amount of evidence being presented by the prosecution to establish the legality of the acts complained of and these witnesses shall then be subject to cross-examination by the moving party.

4. The moving party shall then present the witnesses to establish his position with regard to the illegality of the acts complained of and his witnesses to show those items which he wishes to have suppressed. These witnesses shall then be subject to cross-examination by the prosecution.

5. The moving party shall then present rebuttal witnesses as he chooses.

6. Any unresolved questions of procedure at such hearings, and the levels of proof required, shall be in accordance with the Ohio Rules of Criminal Procedure

#### RULE 11.00 PRE-TRIALS

##### A. Procedure:

1. After entering a plea of not guilty to a criminal or traffic offense, the Defendant, or his attorney, may request a prosecutor's pre-trial conference. Upon receipt of such request, the prosecutor or judge shall set said cause for a pre-trial conference. When a pre-trial conference is ordered, the following persons are required to attend: the prosecutor, trial counsel, complainant if other than a police officer, and the Defendant if requested by the prosecutor. It is the duty of trial counsel to enforce the appearance of the Defendant.

2. The prosecutor shall have available at pre-trial conference all of the following material relevant to the case under consideration:

- a. Any written or recorded statement of the Defendant Co-Defendant or summary of any such oral statement.
- b. Any prior criminal record of the Defendant, and in a traffic case, the prior record of the Defendant. A statewide record summary or printout is preferred.
- c. Documents or tangible objects which may be material to the defense or used at the trial, or which were obtained from or belong to the Defendant.
- d. Reports of test or examinations made in connection with the case, accident reports and in DWI cases alcohol influence report forms and DWI test results.
- e. A written list of the names and addresses of all known witnesses intended to be called at trial together with any record of prior felony convictions of any such witnesses.
- f. A written statement of all known evidence favorable to the Defendant and material either to guilt or punishment.

3. Upon conclusion of a prosecutor's pre-trial conference, the prosecutor therein involved shall complete the appropriate form indicating the name of the Defendant, the case number, the type of offenses charged, the defense attorney's name, if any, and the proposed settlement agreement. This agreement shall be signed by the prosecutor and the defense attorney. The completed pre-trial form and complaint shall be returned upon completion to the assignment office to be set for plea and disposition

B. Additional Pre-trial: The prosecutor's pre-trial procedure does not restrict or prevent the assigned Judge of any criminal or traffic case from conducting additional pre-trial conferences. No provision of this rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Rule 16 of the Ohio Rules of Criminal Procedure

#### RULE 12.00 MEDIA COVERAGE OF TRIALS

A. TRIAL COVERAGE: Effective June 1, 1979, broadcasting, television, recording and photographing by news media during courtroom sessions, including recesses between sessions, shall be permitted under appropriate Court Orders, as set forth hereafter.

#### B. ADMINISTRATION PROCEDURES:

1. Request for permission to broadcast, televise, record or photograph in the courtroom shall be in writing to the Clerk of Courts as far in advance as reasonably practical, but in no event later than four hours prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the trial judge.

2. The Clerk shall immediately inform the judge of the request. The Judge shall grant the request in writing consistent with Canon 3 (A)(C), Code of Judicial Conduct, Superintendence Rule 11, and this local rule. Written permission shall be made a part of the record of the proceeding

C. POOLING BY MEDIA: Arrangements shall be made between or among media for "pooling" equipment and personnel authorized by this rule to cover the court sessions. Such arrangements are to be made outside the courtroom and without imposing on the trial judge or court personnel to mediate any dispute as to the appropriate media "pool" representative or equipment authorized to cover a particular session.

D. EQUIPMENT AND PERSONNEL:

1. Not more than one portable camera (television, videotape or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the Judge.

2. Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the Judge.

3. Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the Judge.

4. If audio arrangements cannot be reasonably made in advance, the Judge may permit one audio portable tape recorder at the bench which will be activated prior to commencement of the courtroom session.

5. Visible audio portable tape recorders may not be used by the new media without prior permission of the Judge.

E. LIGHT AND SOUND CRITERIA:

1. Only professional quality telephonic, photographic and audio equipment which does not produce distracting sound or light shall be employed to cover courtroom sessions. No motor driven still cameras shall be permitted.

2. No artificial lighting device other than that normally used in the courtroom shall be employed. However, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification, upon request.

3. Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. Microphones shall be located only at the Judge's bench, witness stand and jury rail. Microphones shall be visible, secured, but unobtrusive. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for all media purposes shall be unobtrusive and located in places designated by this rule, or the Judge, in advance of any session.

F. LOCATION OF EQUIPMENT AND PERSONNEL:

1. One television camera shall be positioned on a tripod adjacent to the side conference room door in each courtroom and shall remain fixed in the position. This designated area shall provide reasonable access to coverage. Videotape recording equipment or other technical equipment which is not a component or a part of, an in-court television or broadcasting unit shall be located in a room adjacent to, or outside of the courtroom.

2. The television, broadcast and still camera operators shall position themselves in a location in the courtroom, either standing or sitting, and shall assume a fixed position within that area. Having established them in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.

3. Television, camera, microphones and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session (the Judge has not gavelled the proceeding to order or adjournment), or during a recess. Television film magazines, rolls, lenses, still camera film, or audio portable tape cassettes shall not be changed within a courtroom except during a recess.

G: MISCELLANEOUS REQUIREMENTS:

1. Proper courtroom decorum shall be maintained by all media pool participants.

2. All media representatives shall be properly attired, in a manner which reflects positively upon the journalistic profession.

H. LIMITATIONS ON COVERAGE:

1. There shall be no audio pickup or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the Judge and counsel.

2. The Judge shall prohibit photographing or televising by any means victims of sexual assaults and undercover police officers. The Judge shall retain discretion to limit or prohibit photography or televising of any juror, victim, witness or counsel or his work product, upon objection.

I. REVOCATION OF PERMISSION:

Upon the failure of any media representative to comply with the conditions prescribed by the Judge, the Rules of Superintendence of the Supreme Court, or this Rule, the Judge may revoke the permission to broadcast, photograph or record the trial or hearing.

RULE 13.00 LOCAL RULE

A. COMPUTERIZED LEGAL RESEARCH FEE:

The Court hereby establishes this rule for the purpose of establishing a research fee and to amend the Bond and Waiver Schedules.

1. Pursuant to R.C.1901.26 (A) and R.C. 2303.201, the Court authorizes and directs the Clerk of this court to charge a fee of \$1.50 on the filing of each cause or appeal under divisions (A), (R), and (V) of Section 2303.20 of the Ohio Revised Code.
2. For any criminal or traffic cause that results in a bond forfeiture or waiver payment, such fee shall be included as part of the costs. The bail and waiver schedules are hereby modified to provide for that event, without being retyped and republished.
3. In any case that result in a conviction and payment of fine and/or costs, the fee shall be added to the other costs.
4. In any cases that results in a dismissal, at the defendant's or the complainant's costs, the fee shall be added to the other costs.
5. For any civil case in any division of the court, the fee shall be added to the other costs.
6. All moneys collected shall be paid to the treasurer of the City of Franklin. They are to be disbursed upon an Order of this court, at the end of each month along with other Court disbursements.

B. EFFECTIVE DATE:

This Order is effective when filed and made a part of the Local Rules of Court, filed with the Supreme Court of Ohio, and applies to all cases pending. Additionally, it applies to any case mentioned in paragraph A.2. for which bond forfeiture or waiver payment was made.

RULE 14.00 CASE MANAGEMENT IN CRIMINAL CASES

A. PURPOSE: The purpose of this rule is to establish, pursuant to Municipal Court Rules of Superintendent, Rule 18, a system for criminal case management which 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:

1. Pretrials:

- a. After arraignment, all first degree and second degree misdemeanors shall be set for pretrial. All other misdemeanors shall be set for trial unless the judge orders a pretrial in said case.
- b. The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a memorandum of the matters agreed upon should

be filed in said case. Any attorney who fails to appear for pretrial without just cause being shown may be punished for contempt of court.

c. If the parties cannot resolve the case, then the case should be set for trial to the court unless a jury has been demanded.

2. Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing.

3. Trials: Each case not resolved at pretrial shall be set for trial to the court. If a jury demand is timely filed, then the case shall be moved to the jury trial schedule. All attorneys shall notify the court by 3:00 P.M. of the day preceding their trial of any change in plea or jury costs will be attached to their case.

4. Sentencing: Sentencing hearings shall be set within seven (7) days after trial if no pre-sentence report is ordered. After the court receives the probation report, the court will set the hearing for sentencing within seven (7) days.

#### RULE 15:00 CASE MANAGEMENT IN CIVIL CASES

A. Purpose: The purpose of this rule is to establish, pursuant to Municipal Court Rules of Superintendent, Rule 18, a system for civil case management which will achieve the prompt and fair disposal of civil cases.

B. Scheduling of Events: The scheduling of a case begins when a civil case is filed.

C. Clerical steps:

1. 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 cause of action has been filed, then the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

2. Upon perfection of service, the clerk shall notify counsel of the default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.

3. After any responsive pleading is filed, the clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.

4. If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the clerk shall notify the party that the matter will be dismissed within one (1) week unless good cause is shown.

5. When a file has been marked "settlement entry to come" and the entry has not been received within thirty (30) days, then the clerk shall notify the party that his case will be dismissed unless the entry is received within ten (10) days.

D. Judicial steps:

1. Status Hearing: After an answer is filed, the case will be assigned to the judge and the clerk will forward the file to said judge. The Court will then set a status hearing which may be heard in court or by phone. The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set

2. Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the court. There will be no oral hearings granted in said motions unless the parties request an oral hearing in writing and the court deems it necessary.

3. Pretrials:

a. For the purpose of this rule, "pretrial" shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record

b. Any attorney for a party to the action who fails to attend a scheduled pretrial conference, without just cause being shown, may be punished for contempt.

c. Notice of pretrial conference shall be given to all counsel of record by mail not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the judge.

d. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.

e. The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in<sub>†</sub>, suit.

f. The Court shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court will file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before the pretrial. The court shall, at the time, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.

g. Any judge presiding at the pretrial conference, or trial, shall have the authority to dismiss the action for want of prosecution on

motion of defendant upon failure of plaintiff, and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any pretrial conference of trial as required; to make such other order as the court may deem appropriate under all the circumstances. If the case cannot be %‡settled at pretrial, then the case will be set for trial at a time agreeable to all parties.

4. Continuances:

a. No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance.

b. When a continuance is requested for the reason that counsel is scheduled to appear in another case, assigned for trial on the same date, or the same date in the same or another trial court of this 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.

c. If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the administrative judge may require the appearance of some other trial attorney. If the trial attorney was appointed by the court, the court shall appoint a substitute trial attorney.

5. Judgment entries:

a. Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That entry shall be submitted to opposing counsel within five (5) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days. Within fifteen (15) days of the decision, the journal entry shall be submitted to the judge, or, thereafter, the court will prepare the journal entry.

b. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution.

c. Upon notification from the clerk that the case has defaulted, prevailing counsel shall submit an application for default. Prevailing counsel shall submit the application for default judgment within fifteen (15) days or the case will be dismissed for want prosecution.

d. The journal entry shall state which party will pay the court costs.

THE COURT HEREBY ADOPTS AND APPROVES THESE RULES OF THE FRANKLIN MUNICIPAL COURT, EFFECTIVE ON MAY 1, 1992. ALL PREVIOUS RULES OF THIS COURT ARE HEREBY CANCELLED, AND SHALL BE OF NO EFFECT HEREAFTER.

DATE

JAMES D. RUPPERT, JUDGE