

# **MENTOR MUNICIPAL COURT**

**8500 Civic Center Blvd.  
Mentor, Ohio 44060**

**JUDGE JOHN TREBETS**

**LOCAL RULES OF COURT**

**&**

**CASE MANAGEMENT**

Effective: January 1, 2017

Serving the cities of Mentor and Mentor-On-The-Lake

# **MENTOR MUNICIPAL COURT RULES**

## **LOCAL RULES OF COURT**

The Mentor Municipal Court, Lake County, Ohio, (hereinafter, “the Court”) hereby adopts the following Rules of Court for the handling of cases and management of the Court. These Rules are adopted pursuant to the authority of the Rules of Superintendence for the Courts of Ohio and are intended to:

- A. Supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Ohio Traffic Rules of Superintendence for Municipal and County Courts, and other controlling rules and statutes in the application and administration of proceedings within this court, and repeal all Rules of the Court previously enacted.
- B. Apply to all parties, counsel of record, and subject matter of all actions, civil, criminal, or traffic, filed on and after the effective date hereof.
- C. Be applied, construed, and enforced so as to avoid inconsistency with other rules of court and statues, governing proceedings, functions, and services of this Court. In their application and administration they shall be construed and employed so as to provide fairness and simplicity in procedure, to avoid technical and unjustifiable delay, and to secure just, expeditious, and inexpensive determination of all actions and proceedings.

### **RULE 1. HOURS OF REGULAR SESSION**

The offices of the Court shall be open between the hours of 8:00 a.m. and 4:00p.m. Monday, Tuesday, Thursday, and Friday. On Wednesday the hours will be between 8:00 a.m. and 6:00 p.m. The Court is closed for all legal holidays. These hours may be extended or diminished by Order of the Court from time to time.

### **RULE 2. FACSIMILE FILING**

Motions and Sheriff Fees may be filed with the Court by facsimile transmission. The Clerk of Court shall cause the facsimile transmission to be time-stamped forthwith upon its receipt. The filed facsimile shall have the same force and effect as any other paper filed with the Clerk of Court pursuant to Civ. R. 5 (E). A hard copy and any appropriate filing fee(s) shall be submitted to the Court within five (5) business days of the fax filing.

### **RULE 3. CONTINUANCES**

All motion for continuance shall be submitted to the Court in writing at least seven (7) days prior to scheduled hearing and must contain a brief in support setting forth the reasons requiring the continuance along with a proposed order for the Court’s review and approval. A continuance that has not been ruled on by the date of any hearing shall

be considered to be denied. When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for trial or hearing on the same date in another Court in the State the movant shall append to the motion a copy of the notice received from the other Court, along with a copy of the notice received from this Court.

Motions for continuance sought due to a conflict in hearing or trial schedules shall be decided in accordance with Rule 41(B) of the Rules of Superintendence for the Courts of Ohio.

Motions for continuance, when submitted within the required seven (7) days, will be granted only upon the showing of good cause constituting extreme hardship, unforeseen circumstances, or other unavoidable conditions.

#### **RULE 4. FILING FEES**

The schedule of filing fees in civil and criminal cases has been adopted by the Court and may be amended from time-to-time by Court Order. Copies of such schedules are available upon request.

Funds will be established by journal entry to aid in the efficiency of the court as deemed necessary per ORC 1901.26(B) (1).

#### **RULE 5. CASE MANAGEMENT IN CIVIL CASES**

- A. Purpose: The purpose of these rules is to establish, pursuant to the Rules of Superintendence for the Courts of Ohio, 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. Thereafter, the case is managed in five (5) clerical steps and four (4) judicial steps.
- 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 thirty (30) days of the notification date of "Failure of Service Notice" then the case will be dismissed without prejudice unless good cause is shown to the contrary.
  - 2. Upon perfection of service and the failure of defendant to respond in twenty-eight (28) days, the clerk shall notify counsel that a motion for Default Hearing and Judgment should be filed with the appropriate supporting evidence. The 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's secretary/assignment clerk so that the matter may be set for a hearing.
  - 4. If no action has been taken on a file for a three (3) month period and the case is not set for trial, then the clerk may notify the party that the matter will be dismissed within one (1) week unless good cause shown.

5. When a file has been marked “settlement entry to come” and the entry has not been received within seven (7) days, the court will file its own “settled and dismissed” entry.

D. Judicial Steps:

1. 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.
2. 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. 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 of this court. Notice of pretrial conference shall be given to all counsel of record by mail and/or by telephone from the assignment clerk not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Judge. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority of have client present. The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit. 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 shall, at that time, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed, as well as set any future discovery time limits. The Judge/Magistrate presiding at the pretrial conference of 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 a 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 defendant to appear in person or by counsel at any pretrial conference or 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, the case will be set for trial at the time agreeable to all parties.
3. No party shall be granted a continuance of trial or a hearing without a written motion from the party or his counsel stating the

reason for the continuance. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, such request must provide the other court's notice of such assignment, the date of the notice and the receipt thereof. 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.

4. The Court will prepare all judgment entries where determination was made at trial. Agreed entries may be filed at any time prior to trial or fourteen (14) days upon agreement by the parties. The journal entry shall state which party will pay the court cost.

## **RULE 6. FORCIBLE ENTRY & DETAINER HEARINGS**

- A. All forcible entry and detainer cases shall be set for hearing before the Judge or Magistrate pursuant to the time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied. The Magistrate shall, at the conclusion of the hearing, file his written findings within seven (7) days and cause a copy to be served on the plaintiff and defendant.
- B. The Magistrate shall, at the conclusion of each case, serve a copy of his findings upon the plaintiff and defendant and inform the parties that they may file objections to the Magistrate's findings within fourteen (14) days in writing. The objections to the Magistrate's finding should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion. The court shall, after consideration of the reasons in the objections to the magistrate's findings, rule on said objections to magistrate's finding within fourteen (14) days of the filing of the objections.
- C. If an answer or a jury demand is filed in a forcible entry and detainer case, then the clerk shall forward the case to a judge so the case can be scheduled for the appropriate hearing and set the required bond.
- D. Within seven (7) days of the journalization of any judgment entry or order, the Clerk of Court shall serve the entry or order upon every party who is not in default for failure to appear. Service shall be made in the manner provided in Civil Rule 5. In general, this will mean service via ordinary U.S. Mail upon the party's attorney or, if the party is a *pro se* litigant, upon the party.

## **RULE 7. SMALL CLAIMS**

- A. A small claim action is commenced by filing a small claims petition, pursuant to Ohio Revised Code Section 1925.04. All parties are required to be present at the
- B. time of the hearing. No defendant is required to file an answer or statement of defense. However, should the defendant fail to appear for the hearing, after being

- duly served, then a default judgment will be entered against said defendant. If the plaintiff fails to appear it may result in dismissal of the action for want of prosecution. All pleadings will be construed to accomplish substantial justice.
- C. Upon filing of motion and affidavit, as required by the Ohio Revised Section 1925.10, and upon payment of the required cost, the small claim will be transferred to the regular docket. No transfer will be granted until the filing costs are paid.
  - D. The hearing in small claims court may be conducted by a magistrate in lieu of a Judge. The Magistrate/Judge shall place all parties who plan to offer evidence under the oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure may be modified in small claims hearings to permit hearings consistent with the intent of O.R.C. 1925.
  - E. The magistrate shall, at the conclusion of each case, serve a copy of his finding upon the plaintiff and defendant and inform the parties that they may file objections to the magistrate's finding in writing within fourteen (14) days. The objections to the magistrate's findings should state, with specificity, the reason a new hearing is requested. No oral hearing will be granted on said motion. The court shall after consideration of the reasons in the objections to the magistrate's findings, rule on said objections to the magistrate's findings within fourteen (14) days of the filing of the objections.
  - F. The Judge shall review the findings of the magistrate and enter the appropriate judgment.
  - G. The Employees of the court shall assist the prevailing parties in collection of their judgment pursuant to Ohio Revised Code Section 1925.13.
  - H. Dismissals by telephone will be allowed with written notification to the court to follow with in seven (7) days.

## **RULE 8. CRIMINAL CASE MANAGEMENT**

- A. The purpose of these rules is to establish, pursuant to the Rules of Superintendence for the Courts of Ohio, 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. All defendants must appear for arraignment and the setting of bond. For minor misdemeanors defense attorneys may enter an appearance of representation including a not guilty plea and waiver of time. The defendant must appear for pretrial.
- C. Except as previously noted, the scheduling begins after arraignment. Thereafter, the case is managed in four judicial steps;
  - 1. Pretrials: After arraignment, all misdemeanors shall be set for pretrial by assignment commissioner within fourteen (14) days unless defendant enters a waiver of time. Preliminary hearings on all felonies shall be heard within fourteen (14) days, unless time is

waived, or within ten (10) days if defendant is unable to post bond. The pretrial shall be conducted in accordance with criminal rule 17.1, and where matters are agreed upon, a memorandum 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, and a warrant will be issued for any defendant who fails to appear without court's approval unless he appears at the court within a reasonable time as agreed by court, defense counsel, and defendant. If the parties cannot resolve the case, then the case will be set for trial to the court unless a jury is 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. Most motions shall be set for oral hearing. Any motion which by its nature is capable of determination without hearing shall be ruled on without hearing. Where continuances are sought, there must be an affidavit and if applicable, a copy of other court notice showing dates of previously scheduled conflicting case hearings.
3. Trials: Each case not resolved at pretrial shall be set for trial to court. If a jury demand is timely filed, then the case will be moved to the jury trial schedule. Dates of trials will be given to attorney and/or defendant at pretrial. 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 will occur at time of guilty finding unless a pre-sentencing report is requested or court deems it necessary in the interest of justice to sentence at later reasonable date. After the court receives the probation report, the court will set hearing for sentencing within seven (7) days.

## **RULE 9. NOTIFICATION TO VICTIMS OF CRIME**

In cases involving a charge under O.R.C. sections 2903.05, Negligent Homicide; 2903.07, Vehicular Homicide; 2903.13, Assault; 2903.21, Aggravated Menacing; 2903.211, Menacing by Stalking; 2903.22, Menacing; 2907.06, Sexual Imposition; 2919.25, Domestic Violence; 2921.04(A), Intimidation of Attorney, Victim or Witness in criminal case (or any successor statute); or a violation of any substantially equivalent municipal ordinance, it shall be the duty of the prosecutor and/or his designee in the case to provide the alleged victim of act that was the basis of the charge or a representative member of the alleged victim's family with the information required under O.R.C. 2930.06. The prosecutor and/or his designee shall provide the information, either orally or in writing, upon his earliest contact with the alleged victim after the charges have been filed.

The prosecutor and/or his designee shall notify the court of the date of such notice at the time of sentencing. In cases which are disposed of by plea, trial, reduction to another charge, or which are requested to be dismissed, it shall be the duty of the prosecutor or his designee to advise the court at the time of the disposition whether or not the alleged victim, or his/her representative in such case, is present in the courtroom so that they may be given an opportunity to address the court prior to court action pursuant to such statutes.

#### **RULE 10. MENTAL HEALTH COURT**

In order to facilitate efficient and effective treatment of defendants with mental illness the Mentor Municipal Court established the Court-Directed Mental Health Court effective April 26, 2004 and orders the reference of cases originating in Lake County and identified for this program to be directed to this court. The Court shall have the authority to accept or reject cases referred to the Mental Health Court program for supervision, guidance and treatment. The Court shall have the authority to conduct arraignments, accept pleas, and enter findings and dispositions including intervention in lieu of conviction and in the event of termination of an unsuccessful participant of the program to refer the defendant to the Municipal Judge where the case originated.

#### **RULE 11. DRUG COURT**

In order to facilitate efficient and effective treatment of defendants with drug abuse or addictions, the Mentor Municipal Court established the Court-Directed Drug Court effective April 6, 2010, to provide comprehensive support and monitoring services in collaboration with the cities of Lake County, and the Lake County Drug and Alcohol agencies. Effective March 9, 2015, the Court – directed Drug Court will accept references of cases originating in Lake County and identified for this program as directed to this Court. The Court shall have authority to accept and reject cases referred to the Drug Court program for supervision, guidance, and treatment.

#### **RULE 12. USE OF ELECTRONICALLY PRODUCED TICKETS**

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Mentor Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

#### **RULE 13. ELECTRONIC STATISTICAL REPORTING ( eStats)**

Pursuant to Superintendence Rule 37 (B) effective February 15, 2016 the Court will be required to submit reports online using eStats. The Court's Administrative Judge is responsible for ensuring the security of the Court's eStats login password. The Case Management Section will be able at any time to reset a Court's password upon the request of the Court's Administrative Judge. The Administrative Judge or their authorized staff, will upload the reports using standardized Excel file templates.

## **RULE 14. COURT-APPOINTED LAWYERS**

Pursuant to Ohio Administrative Code 120-1-10 and pursuant to Rule 8 of the Rules of Superintendence for Courts, the local rule for the appointment of counsel ensures the equitable distribution of appointments among persons on the list. The Court must take into account the following factors when making an appointment:

1. The complexity of the case.
2. Any language, educational, or other challenges facing the defendant.
3. The relevant experience of the attorney.
4. The avoidance of any conflicts of interest or other situations that could delay the case.
5. Intangible factors, including a potential appointee's commitment to providing timely, quality representation to the client.