MAHONING COUNTY COURT
AREA 4

2009 NOV -2 P 2:38

ANTHONY VIVO, CLERK

LOCAL RULES

MAHONING COUNTY AREA COURTS

MAHONING COUNTY, OHIO

Area Court #2 – Boardman
Area Court #3- Sebring
Area Court #4-Austintown
Area Court #5-Canfield

JOSEPH M. HOUSER.....JUDGE
SCOTT D. HUNTER.....JUDGE
DAVID A. D'APOLITO.....JUDGE
DIANE VETTORI.....JUDGE

Effective: November 2, 2009

LOCAL RULES OF THE MAHONING COUNTY AREA COURTS

Effective November 2, 2009

TABLE OF CONTENTS

RULE NUMBER	Subject
Rule 1:	Hours of Court
Rule 2:	Examination of Files
Rule 3:	Withdrawal of Files
Rule 4:	Pleadings and Motions
Rule 5:	Appearance and Withdrawal of Counsel
Rule 6:	Security of Costs
Rule 7:	Leave to Move or Plead
Rule 8:	Hearing and Submissions of Motions/Objections
Rule 9:	Failure to File Answer Brief
Rule 10:	Trial Briefs
Rule 11:	Assignment of Civil Cases
Rule 12:	Case Management
Rule 13:	Continuance for Trial or Hearing
Rule 14:	Jury Management Plan
Rule 15:	Journal Entries to be Furnished
Rule 16:	Defaults – Dismissal by Court
Rule 17:	Settlements; Notification to Court
Rule 18:	Record of Proceedings
Rule 19:	Satisfactions – Payment of Costs
Rule 20:	Unpaid Costs – New Cases Not to be Filed
Rule 21:	Statutory Demands
Rule 22:	Proceedings in Aid of Execution
Rule 23:	Fees for Additional Services
Rule 24:	Trusteeships
Rule 25:	Attorneys Not To Act As Sureties
Rule 26:	Employees Of The Court
Rule 27:	Media
Rule 28:	Conduct Of Attorneys
Rule 29:	Dress Appearance
Rule 30:	Use of Cell Phones
Rule 31:	Community Control Department

LOCAL RULES OF
THE MAHONING COUNTY AREA COURTS

These Local Rules of Court are being promulgated pursuant to Rule 18 of the Ohio Supreme Court Rules of Superintendence for Municipal Courts and County Courts and are effective, as hereby amended, November 2, 2009. The purpose of these Local Rules is to supplement the procedures set out in the Ohio Rules of Civil Procedure, The Ohio Rules of Criminal Procedure and the Ohio Revised Code to assist counsel and parties with cases pending in the Mahoning County Area Courts.

RULE 1: HOURS OF COURT SESSIONS, GENERAL PROCEDURES

(A) The Mahoning County Area Courts shall be open between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. Sessions in the Civil and Criminal branches of the Court shall be conducted Monday through Friday. These times may be extended or diminished by special order of the Court. Notwithstanding the hours for Clerk of Court, Court sessions may also be conducted during the evening hours by order of the Court. The Mahoning County Area Courts include:

Area Court No. 2	**Boardman Township;**
Area Court No. 3	**Smith, Ellsworth, Berlin, Green, Goshen Twps., and Sebring;**
Area Court No. 4	**Austintown, Jackson and Milton Townships; and**
Area Court No. 5	**Canfield and Beaver Townships**

(B) All traffic and criminal proceedings, except pretrial conferences, shall be held in open court, or in the case of a scheduling conflict, in other rooms in the court area that are generally accessible to the public.

RULE 2: EXAMINATION OF FILES

No person except authorized Court personnel, parties or their attorneys shall be permitted to examine the complaint filed in any case until after service of summons. Thereafter, such files are available to any person upon reasonable request, in writing, during regular business hours. Subject to the limitation of Criminal Rule 16 and privacy act laws, full disclosure of all public record information shall be made available upon reasonable request, in writing.

RULE 3: WITHDRAWAL OF FILES

No files, whether civil or criminal, may be removed from the office of the Clerk of Court without the written consent of the Judge, or Clerk of Court. Any person seeking to remove a file from either office must set out in writing the case name and number, the destination or office where the file is being taken, the reason for removal of the file, and the date and time the file is taken from the office. A file taken from the Clerk of

Court's office, pursuant to this rule, must be returned to the Clerk of Court within twenty-four (24) hours of removal.

RULE 4: PLEADINGS AND MOTIONS

(A) All pleadings and motions shall be legibly typewritten or printed on paper sized 8 1/2 inches by 11 inches. The caption of the complaint shall state the name and address, if known, of each party. Subsequent pleadings and motions shall state the case number, the name of the first party plaintiff and the first party defendant on each side. For all subsequent pleadings in which new parties are joined, the name and address, if known, of each new party shall be stated in the caption of such pleading. Every pleading, motion, brief or other paper filed in a case shall be identified by title, and shall bear the name of the individual attorney, his/her Supreme Court Registration number, the firm, if any, office address telephone number, fax telephone number and business e-mail, if any, of the attorney filing the same, or if there be no attorney, then the party filing the same. This requirement is also applicable to the names of notaries public.

(B) In all civil cases, except small claim matters, the plaintiff is responsible for providing copies of the complaint so that there are sufficient copies for service by the clerk for all named defendants. The complaint and all pleadings must be signed by the plaintiff, or counsel, and list an address, telephone number, facsimile number, if applicable, and e-mail address, if applicable. The name and address, including telephone number, and e-mail address, if applicable, must appear on all copies

(C) Failure to comply with the formal requirements as set out above may be grounds for striking the non-complying document from the Court's files. For good cause shown, the Clerk of Court is authorized to waive this requirement for cases involving Small Claims, Forcible Entry and Detainer or other types of cases or proceedings in the interest of justice when the party is not represented by counsel. The Clerk may also receive requests by letter in traffic and criminal cases regarding continuance, reinstatement of driving privileges, and other similar proceedings.

(D) Notwithstanding the exceptions to formalities of documents filed with the Clerk of Court, all documents must be served on the prosecutor or opposing party, in accordance with Civil Rule 5 and Criminal Rule 49. Failure to show proof of service on the document filed shall be grounds for striking the document from the Court's record.

RULE 5: APPEARANCE AND WITHDRAWAL OF COUNSEL

(A) Upon the entry of appearance of counsel, all documents filed with the Court and all Court orders and motions shall be served upon the designated counsel or the party's representative. Once an appearance is made, an attorney may only withdraw from a case by leave of Court.

(B) No person who is not admitted to the practice of law before the Ohio Supreme Court may appear on behalf of another individual or entity in Court, except as provided by Section 1925.17 of the Ohio Revised Code or Rule II of the Supreme Court Rules for the Government of the Bar of Ohio. An executed power of attorney does not confer, upon a person who is not an attorney, the right or ability to represent some other person in Court. Nothing in this Rule shall prohibit an employee or agent of a

party from appearance in a civil action to provide testimony on behalf of his or her employer regarding information within that employee's or agent's personal knowledge, providing however that any such employee or agent is prohibited from engaging in acts of advocacy on behalf of a corporation, limited liability company, joint venture or other type of entity if such individual is not an attorney authorized or licensed to practice law.

RULE 6: SECURITY OF COSTS

No action or proceeding shall be accepted for filing by the Clerk of this Court unless there first shall be deposited the filing fee required by this Court in its schedule of costs, except that upon representation of indigence, the Court shall investigate the accuracy of such representation and upon finding that such indigence does exist, the security for cost shall be waived.

In all civil cases where the Clerk is required to pay costs and charges to an outside source, the Clerk shall require an advance deposit in such amount as the Clerk or a Deputy Clerk may deem sufficient to secure payment thereof, such amount to be in accordance with amounts previously set by the Court, as subsequently modified from time to time.

Upon motion of any party, or upon request of the Clerk, an upon showing that the prospective costs of the action will exceed the security of the costs already deposited, the Court may order a further deposit to be made by any party before any further proceedings may be had at the party's instance or for the party's benefit. The Court shall notify a party in writing that costs will exceed such deposit.

The Clerk shall refuse to accept any filing any of the foregoing proceedings where a deposit as security for costs, as required herein, has not been made or where a judgment for costs appears against such party as unsatisfied. In the event the complaint is accepted for filing in such case, such a complaint may be stricken from the files upon motion.

The Clerk shall in all Clerk sales require an advance deposit to cover advertising costs. Upon presentation of proof of publication and a statement by the publisher of the Clerk's charges, Clerk shall pay to the publisher the amount of such statement not in excess of the deposit. Such advertising costs shall be taxed as part of the court costs. Any deficiency shall be borne by the plaintiff.

When a jury trial is demanded, the party requesting same shall be required to make an advance deposit as required by law and fixed by the Court, except upon a finding of indigency as above.

Deposits and advance payments of fees and costs shall be returned only by Order of Court, and only when the same have been paid by the party against whom they are assessed by the Court.

RULE 7: LEAVE TO MOVE OR PLEAD

Except in actions for Forcible Entry and Detainer or in Replevin, when a party in any case is not prepared to move or plead on the answer day one extension of time may be had upon application to the Court and without notice for a period not exceeding thirty (30) days. Consent of counsel may be filed as a Journal Entry in the case and shall be evidence of "good cause shown." Any leave to move or plead thereafter may be had only with the approval of the Court, with notice to opposing party or counsel, and for good cause shown. Consent of opposing party or counsel shall not, in and of itself, constitute good cause. Applications for extensions of time, regardless of consent of opposing counsel, must be filed at least one (1) day prior to the due date.

RULE 8: HEARING AND SUBMISSION OF MOTIONS; OBJECTIONS TO INTERROGATORIES

(A) Motions, in general, shall be submitted and determined upon the motion papers hereinafter designated. Oral arguments of motions will be permitted only on written application and proper showing to the Court, at the Court's discretion.

(B) The moving party shall serve and file with his or her motion a brief, written statement of reasons in support of the motion and a list of citations of the authorities on which he or she relies. If the motion requires the consideration of facts not appearing in the record, and consideration is permitted by the rules, he or she shall also serve and file copies of all affidavits, depositions, photographs or other documentary evidence which he or she desires to submit in support of the motion.

(C) Each party opposing the motion shall serve and file within fourteen (14) days thereafter a brief written statement of reasons in opposition to the motion and a list of citations of the authorities on which he or she relies. If the motion requires the consideration of facts not appearing of record, he or she shall also serve and file copies of all affidavits, depositions, photographs or other documentary evidence which he or she desires to submit in opposition to the motion.

(D) Reply or additional briefs upon motions and submissions may be filed with leave of the Court only upon a showing of the necessity therefore.

(E) Counsel are encouraged to participate in pretrial discovery conferences to reduce, in every way possible, the filing of unnecessary discovery procedures. To curtail undue delay in the administration of justice, no discovery procedure filed under Rule 26 through 37 of the Ohio Rules of Civil Procedure to which objection or opposition is made by the responding party shall be taken under consideration by the Court, unless the party seeking discovery shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences they are unable to reach an accord. This statement shall recite those matters which remain in dispute, and in addition, the date, time and place of such conference, and the names of all parties participating therein. It shall be the responsibility of counsel for the party seeking discovery to initiate such personal consultation.

(F) Sanctions. The presentation to the Court of unnecessary motions, and the unwarranted opposition of motions, which in either case unduly delay the course of

action through the courts, subject an offender to appropriate discipline including the imposition of costs.

(G) All motions and briefs containing references to statutes or regulations other than the Ohio Revised Code or the Ohio Rules of Court shall have attached to the motion or brief a copy of the statute or regulation. Copies of unreported court decisions cited or referred to in a motion or brief shall also be attached to the motion or brief.

(H) Summary Judgment. (1) Motions for summary judgment may be made in accordance with Civil Rule 56, without leave of Court, by any party prior to the matter being set for pretrial or trial. Otherwise, the moving party may move for summary judgment only with leave or Court. All motions shall be accompanied by briefs, affidavits and other materials authorized by Civil Rule 56(C).

(2) Upon the filing of a motion for summary judgment , the opposing party may file a response within fourteen (14) days of receipt thereof, together with any accompanying briefs, affidavits or other material pursuant to Civil Rule 56 (C), unless said time is extended by the Court.

(3) Unless otherwise ordered by the Court, the motion for summary judgment shall be ruled upon, without oral arguments, within forty-five (45) days of receipt of the motion and response. No reply briefs to the original motion or response shall be permitted without leave of Court.

RULE 9: FAILURE TO FILE ANSWER BRIEF

Unless otherwise provided in Ohio Civil Rules of Procedure, failure to file an answer memorandum or brief in accordance with these rules may be construed by the Court as an admission that the motion or exception should be granted.

RULE 10: TRIAL BRIEFS

(A) When a trial brief is required by order of Court, counsel for each party shall deliver a copy to the Court and all other counsel at least one weekday prior to commencement of trial unless otherwise ordered by Court. The briefs shall relate to the issues referred to in the order and contain authorities supporting the propositions which counsel intends asserting during trial. Delivery may be made by ordinary mail with a proof of service appended to each brief.

(B) In all civil jury cases, attorneys for all parties to the action shall, at least eight (8) days before date of trial, furnish to the Court a brief of the issues and the law they expect the Judge to present to and charge the jury. All trial briefs and proposed jury instructions are required to be exchanged with opposing counsel at the time of filing.

RULE 11: ASSIGNMENT OF CIVIL CASES

(A) Actions for replevin shall be set for hearing in accordance with the provisions of Chapter 2737 of the Ohio Revised Code. No continuance will be granted unless by Order of Court and written stipulation of all parties.

(B) Notice of any proceeding requiring personal appearance of parties or counsel except as noted herein, shall be mailed, communicated by facsimile transmission or as otherwise provided to the parties or counsel not less than seven (7) days prior to the date of the appearance.

(C) Motions for advancement of proceedings shall be submitted to the Court in writing and copies of the same shall be served upon opposing parties or counsel. The Court, in its discretion, may advance a pending case for trial or pretrial, upon motion of a party or on the Court's own motion.

RULE 12: CASE MANAGEMENT

The purpose of this rule is to establish, pursuant to M.C. Sup. R. 18, a system for case management which will provide the expeditious, fair and impartial administration of cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court justice system.

(A) Traffic and Criminal Cases:

(1) Pretrial Conferences: After initial appearance, all cases shall be set for pretrial by the Court within thirty (30) days of said initial appearance, or if a waiver of speedy trial document is executed, then at a longer time, at the discretion of the Court.

The pretrial shall be conducted in accordance with Criminal Rule 17.1. Any attorney who fails to appear for pretrial without just cause being shown may be subject to contempt of Court. Defendant's appearance shall be mandatory unless permission to waive appearance in advance from the Court has been granted. If the parties cannot resolve the case, then the case should be set for trial before the Court unless a jury is timely demanded.

(2) Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel, unless the Court orders otherwise. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. Motions shall not be set for oral hearing, unless otherwise required by the Ohio Rules of Criminal procedure or ordered by the Court.

(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 will be moved to the jury trial schedule. All attorneys shall notify the Court by 1:00 p.m. of the day proceeding their trial of any change in plea or jury cost may be assessed to their case.

(4) Sentencing: Sentencing hearings shall be set within a reasonable amount of time from trial if no pre-sentence report is requested. If the Court requests the pre-sentence report, the Court will set the hearing for sentencing within fourteen (14) days of receipt of that report unless additional time is warranted or required.

(B) General Civil Cases:

(1) The summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk of Court shall notify counsel immediately. If counsel fails to obtain service of summons within six (6) months from the date the case has been filed, then the Clerk of Court 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, and passing of answer due date, the Clerk of Court shall notify counsel of the default and that a failure to submit a motion for default within sixty (60) days may result in the case being dismissed. (See Local Rule 16.) In no instance shall any default judgment be filed prior to passing of answer due date.

(3) After any responsive pleading is filed, the Clerk of Court all 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 seven (7) days unless good cause is shown.

(5) The avoidance of trial by settlement shall be allowed without the filing of a journal entry provided, however, that notice has been received by the Court, prior to the trial or hearing, that the case has been settled and the settlement agreement and/or judgment entry is forthcoming. When a file has been marked to be held for settlement entry and the judgment entry has not been received within thirty (30) days, the Clerk of Court shall notify the party that his or her case will be dismissed unless the entry is received within fourteen (14) days.

(6) Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall respond in writing within fourteen (14) days of service of the motion. All motions will be considered submitted at the end of the said fourteen (14) day period unless time is extended by the Court, in accordance with Local Rule 8.

(7) Pretrial Conferences: For the purpose of this rule, "pretrial conference" shall mean a Court supervised conference chiefly designed to facilitate discovery and trial preparations and to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party of 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 at a scheduled pretrial conference, without just cause being shown, may be subject to contempt of Court. Notice of pretrial conference shall be given to all counsel on record by mail, facsimile transmission, or by telephone from the Court not less than ten (10) days prior to the conference. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority, or have their clients available to do so. The primary purpose of the pretrial conference shall be to discuss settlement and trial

preparation. Pretrial conferences may be in person or by telephone, as ordered by the Court. 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 the trial. The Court may file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the pretrial. 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. (See Local Rule 10.)

(8) Failure to Appear: The Judge presiding at 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 or her counsel to appear in person at any pretrial conference or trial; or 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 or trial as required; or 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.

(9) Continuances: No party shall be granted a continuance of a trial or hearing without a written motion from the party or his counsel stating the reason for the continuance. (See Local Rule 13.) 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, 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. 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 Judge may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.

(C) Forcible Entry and Detainer Proceedings:

(1) Hearing: All claims for Forcible Entry and Detainer shall be set for hearing before the Judge or Magistrate, pursuant to the time limits set forth in Chapters 1923 and 5321 of the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of Civil Procedure will be applied. The Judge or Magistrate shall, at the conclusion of the hearing, on the first cause of action file written findings within seven (7) days and cause a copy to be served on the plaintiff and defendant. If the plaintiff also files a second cause of action for money damages in the complaint, the hearing for that second cause shall be scheduled for hearing at a later date within sixty (60) days of the hearing on the first cause for eviction.

(2) Judgment Entries: The Court shall review the findings of the Magistrate weekly and enter the appropriate judgment entry.

(3) Objections to Magistrate's Findings: The Magistrate shall, at the conclusion of each case, serve a copy of his or her findings upon the plaintiff and defendant. Pursuant to Colonial American Development v. Griffith (Ohio 1993) 67 Ohio St. 3d 3 there shall be no right to object to Magistrate's findings, on a first cause of action in Forcible Entry and Detainer, and the judgment shall be final as if entered by a Judge. This Rule in no way prevents a party's access to the Court of Appeals.

(4) Answers and Jury Demands: If an Answer and Jury Demand is filed the Jury Demand must be filed, along with full payment of costs, in a Forcible Entry and Detainer action no later than the return day and as has been established by the Mahoning County Area Courts no later than one (1) day prior to the hearing date. In addition, the moving party must post bond in accordance with Ohio Revised Code Section 1923.08. The Clerk of Court shall then forward the case to the proper Judge so it may be scheduled for trial.

(5) With respect to a Second Cause of Action for money damages, the Defendant is required to provide the Court with a current address. Notwithstanding the Defendant's compliance with this rule, the Plaintiff is required to make a good faith attempt to serve the Defendant at his or her last known address. Failure to do so may be grounds for vacating a prior judgment.

(6) In all second cause hearings the Plaintiff, whether represented or not, has the burden of proof on all elements of damages and must provide copies of any documents in support thereof. Additionally, the Plaintiff must complete such forms as the court may from time to time promulgate and succinctly, clearly and legibly list such damages. Such damage worksheets will be made available from the Clerk.

(D) Small Claims Cases:

(1) A Small Claim action is commenced by filing a small Claims Complaint pursuant to Ohio Revised Code Section 1925.04. No Defendant is required to file an answer or statement of defense. Should the Defendant fail to appear for the hearing, however, after being duly served, then a default judgment will be entered against said Defendant. All pleadings will be constructed to accomplish substantial justice.

(2) Counterclaims, Cross-Claims and Requests for Transfers: All Counterclaims, Cross-Claims and Motions to Transfer shall be filed at least seven (7) days prior to the date set for trial, be in accordance with Sections 1925.02, 1925.05 and 1925.10 of the Ohio Revised Code and will not be considered timely unless all fees and costs are first paid. Requests to transfer which are made solely for the purpose of delay may result in sanctions, including dismissal and/or default judgment as well as attorney fees.

(3) Hearing: The hearing in Small Claims Court may be conducted by the Judge or Magistrate. The Judge or Magistrate shall place all parties who plan to offer evidence under 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 will not apply to a hearing in Small Claims Court unless provided by the Court. The Magistrate shall issue a Report and Recommendation within sixty (60) days of the hearing.

(4) Appeal from Hearing: The Magistrate shall, at the conclusion of each case, serve a copy of his or her 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 findings should state, with specificity, the reasons the objections are being filed and shall be accompanied by a transcript of the prior proceedings. No oral hearing will be granted on the objections unless specifically requested in writing, supported by sufficient grounds, and consented to by the Court. The Court shall, after consideration of the objections to the Magistrate's findings, rule on the objections and shall affirm, reverse or modify the decision, as is appropriate.

(5) When no objections are filed, the Judge shall review the findings of the Magistrate's and enter the appropriate judgment.

RULE 13: CONTINUANCE FOR TRIAL OR HEARING

No case assigned for trial or hearing may be continued except on written motion and for good cause shown. Such motion shall be presented to the Judge not less than two (2) days prior to the date of trial or hearing, except that in the case of unforeseen emergency this time requirement may be waived. In the event the motion is filed within two (2) days of the trial or hearing, the moving party is required to first discuss the continuance with all opposing counsel, or opposing parties if there is no counsel, and state specifically why the motion could not have been filed prior to the two (2) day time limit set out herein. A Judge may, for good cause shown, waive the requirement for a written motion for continuance. Small Claims Court shall be exempted from this Rule and Ohio Revised Code Section 1925.04 shall be followed.

RULE 14: JURY MANAGEMENT PLAN

This local rule of practice is being implemented in compliance with Sup. R. 5(B)(2), which required that each county court adopt a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Mahoning County Area Courts.

(A) Jury Eligibility: All persons shall be eligible for jury service except those who are less than 18 years of age, are not a citizen 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. All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

(B) PROCEDURE FOR JURY SELECTION: Potential jurors shall be drawn from a jury sources list, which shall constitute a list of all registered voters and others according to law,

in Mahoning County, by use of random selection procedures using automated data processing equipment in conformity with Ohio Revised Code Section 2313.08, and Ohio Revised Code Section 2313.21.

(1) Each year the Jury Commissioners, duly appointed pursuant to Ohio Revised Code Section 2313.01, shall convene and select jury panels to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from such list, in accordance with the powers provided by jury commissioners by Ohio Revised Code Section 2313.01.

(2) In the event the jury panels drawn are insufficient to meet the needs for the Court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jury panels, in accordance with Ohio Revised Code Section 2313.01.

(3) If in the opinion of the Court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.

(4) Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire.

(5) Departures from random selection shall be permitted only as follows:

1. **To exclude persons ineligible for service;**
2. **To excuse or defer prospective jurors;**
3. **To remove prospective jurors for cause or if challenged peremptorily;**
4. **To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel;**
5. **As otherwise provided by law.**

(6) All prospective jurors shall be notified by regular mail of their requirement of service by issuance of a summons directing them to appear on the date assigned. Further, all prospective jurors shall be required to complete a jury questionnaire, and if appropriate, a request for excuse, exemption or a deferral. Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequences of his failure to respond. Any person who fails to respond to a duly served summons may be served with a citation for a contempt of court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

(C) SUMMONING OF PROSPECTIVE JURORS:

Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, a jury deposit of Three Hundred Dollars ($300.00) shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, said deposit shall accompany said pleading. In the event either deposit is not made, no jury will be summoned, and the failure to make said deposit shall

be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the Court for a waiver of the jury deposit requirement.

(1) Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of fifty (50) persons per jury session shall be summoned for service unless the Court determines that a lesser or greater number is necessary for a particular jury session.

(2) Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall be not summoned unless it appears that there is a substantial likelihood of trial. The Clerk or Bailiff shall contact counsel, or the parties, which ever is appropriate, at least two weeks prior to the scheduled trial date. If it appears that trial is inevitable, a jury panel shall be summoned upon directive from the Administrative Clerk, at least thirty (30) days in advance of trial. Those costs associated with the summoning of a jury shall be assessed against the party requesting the trial unless otherwise ordered by the Court.

(3) Persons called for jury service shall receive a reasonable fee for their service.

(4) Any juror wishing to waive his/her fee for service shall be permitted to do so in writing in the Clerk's office. All waived fees shall be returned to the County Auditor, as appropriate.

(5) The time that persons are called upon perform jury duty service and to be available is the shortest period consistent with the needs of justice. Persons are not required to maintain a status of availability for jury service for longer than two (2) weeks.

<u>(D) EXEMPTION, EXCUSE AND DEFERRAL</u>

All persons except those who exercise their right to exemption are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, of that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excuse, exemption or deferral must be made in writing to the Court accompanied by appropriate documentation. These documents shall be retained by the Court.

(1) The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

(a) Any person who suffers from a substantial physiological or psychological impairment;

(b) Any person who has a scheduled vacation or business trip during potential jury service;

(c) Any person for whom jury service would constitute a substantial economic hardship;

(d) Any person for whom service on a jury would constitute substantial hardship on their family, clients, or members of the public affected by the prospective juror's occupation;

(e) Any person who has served on a jury within the last year;

(f) Any person for whom it may readily determined is unfit for jury service;

(g) Any person for whom it is readily apparent would be unable to perform their duty as a juror;

(h) Other valid excuse according to law;
(i) No person shall be excused from jury service, except by the Judge. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

(E) EXAMINATION OF PROSPECTIVE JURORS

(1) Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.
(2) All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.
(3) The Court may conduct a preliminary voir dire examination concerning basic and relevant matters and counsel shall be permitted a reasonable period of time to question panel members thereafter. Counsel or parties shall conform their voir dire questioning to the following rules:
    (a) Counsel may not examine prospective jurors concerning the laws or possible instructions;
    (b) Counsel may not ask jurors to base answers on hypothetical questions;
    (c) Counsel may not argue the case while questioning jurors;
    (d) Counsel may not engage in efforts to indoctrinate jurors;
    (e) Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors;
    (f) Questions are to be asked collectively of the panel whenever possible;
    (g) Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence;
    (h) In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions;
    (i) In all cases, voir dire shall be held on the records, but may be conducted outside the presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.
(4) If it is determined by the Court during the voir dire process that an individual is unable or unwilling to sit in a particular cause fairly and impartially, the individual shall be removed from the panel. Such motions for removal for cause may be made by counsel, a party, if unrepresented, or upon the motion of the Court. Further, Ohio Revised Code Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.
(5) Peremptory challenges shall be exercised alternatively as presently established by Ohio Revised Code Section 2945.23, and Civil Rule 47 and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open Court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall

be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

(6) Challenges to the jury array shall be made in accordance with established rules of procedure.

(7) In criminal cases, the jury shall consist of eight regular jurors and one alternate juror. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

(F) JURY PROCEDURE

(1) Jurors shall report for service no later than 8:30 AM unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion or orientation. No motions shall be entertained by the Court the day of trial, except those which the Court must consider by law or by rule of procedure.

(2) Upon completion of the case and prior to the jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury.

(3) A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation.

(4) Upon appearance for service, all prospective jurors shall be placed under the supervision of the Bailiff, and shall direct any questions or communications to the Bailiff for appropriate action.

(5) All communications between the Judge and the members of the jury panel, from the time of reporting to the Court, through dismissal, shall be committee to writing or placed on the record in open Court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

(6) All jury deliberation shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize conduct between juror, remain in the care court personnel and shall not be permitted to leave the Court without permission.

(7) Deliberations shall not continue after a reasonable hour, unless the trial judge determines that evening or weekend deliberations would not impose any undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision.

(8) If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the Courts shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

(9) Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open Court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

(G) CONCLUSION

The Court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool, the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors, the cost effectiveness of this plan and overall juror satisfaction.

RULE 15: JOURNAL ENTRIES TO BE FURNISHED:

(A) When ordered or directed by the Court, counsel for the party in whose favor an entry, order, judgment or decree is entered shall, within ten (10) days unless the time is extended by the Court, prepare a proper journal entry and submit it to opposing counsel who shall approve or reject it within five (5) days after its receipt and may file objections in writing with the Court. The Court shall approve a journal entry deemed by it to be proper, sign it and cause it to be filed with the Clerk, with notice to the parties.

(B)(1) When a request for findings of fact and conclusions of law is made, the Judge may direct the party making the written request to prepare, within ten (10) days, proposed findings of fact and conclusions of law and submit them to the opposing counsel. Within ten (10) days after receipt by the opposing counsel, the proposed findings shall be submitted to the Court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

(B)(2) Upon motion of a party made within ten (10) days after the filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the Court without a jury, the question of the sufficiency of the evidence to support the findings may be raised whether or not the party raising the question has made an objection in the trial Court to such findings or has made a motion to amend or a motion for judgment.

RULE 16: DEFAULTS - DISMISSAL BY COURT:

(A) In all cases in which default judgment is available to a party by reason of failure of defendant to answer or appear, failure, thereafter, of such party to make demand for judgment by default under Rule 55(A) of Ohio Rules of Civil Procedure within sixty (60) days from the time that plaintiff has notice of defendant's default, shall constitute cause for dismissal of the complaint by the Court for want of prosecution.

(B) A default by a defending party is an admission of all allegations in the complaints except damages, pursuant to Civil Rule 8(D). For cases based on an account, the plaintiff is required to show, in the complaint or otherwise, that there have been no

subsequent payments or credits on the account. For all other motion for default, proof of damages is required. Depending upon the specific nature of the case, proof may be provided to the Court by testimony or affidavit. Uncertified documents, not accompanied by an affidavit of testimony, may not be considered proof of damages. The affidavit must be executed by a person with personal knowledge of the contents of the affidavit. An attorney for the moving party may not be the affiant for an affidavit for proof of damages. If there are multiple damages, a listing of all damages and credits, if any, should be filed with the Court to expedite the default proceeding, either as part of the motion for default, exhibit, or by separate document.

RULE 17: SETTLEMENTS; NOTIFICATION TO COURT

After a case has been set for pretrial, trial or other proceedings requiring personal appearance, a request for dismissal by the plaintiff or by agreement of the parties due to settlement or some other reason, shall be communicated by telephone or facsimile to the Court and all parties at least one day prior to the scheduled hearing. In addition such dismissal shall be submitted in writing not more than thirty (30) days after the date of the scheduled hearing. Failure to give such written notice of settlement and non-appearance of the parties, shall subject the action to dismissal by the Court at plaintiff's costs.

RULE 18: RECORD OF PROCEEDINGS

A record of all traffic and criminal proceedings, including traffic arraignments, and all civil trial, hearings and other proceedings, including Small Claims and Forcible Entry and Detainers, shall be made. Unless otherwise noted the proceedings will be recorded by electric audio tape or compact disc. A party in any case may have a court reporter present to record the proceedings. No fees for court reporters will be taxed as costs or otherwise paid by anyone other than the party providing the court reporter, unless that party makes a timely motion, prior to trial or hearing, for the appointment of an official court reporter and requests, in advance, that such fees be taxed as costs. (See Civil Rule 54(D) and Ohio Revised Code Section 1901.33.) Pursuant to Civil Rule 53, however, all hearing before a Magistrate in this Court shall be recorded.

RULE 19: SATISFACTIONS - PAYMENT OF COSTS

(A) No satisfaction of judgment shall be entered by the Clerk of Court unless and until all court costs have been paid.

(B) No person other than the Clerk of Court or deputy clerk may enter satisfaction of judgment upon the records of the Court.

RULE 20: UNPAID COSTS - NEW CASES NOT TO BE FILED

When a judgment for costs appears against a party unsatisfied, the Clerk may refuse to accept for filing any new action or proceeding instituted by such party, unless otherwise ordered by the Court, without first making payments to the Clerk of such unpaid costs.

RULE 21: STATUTORY DEMANDS

(A) A person seeking an Order of Attachment against personal earnings or an Order in Aid of Execution against personal earnings in an action shall comply with the provisions of Section 2716.02 of the Revised Code of Ohio. A failure to comply with this provision will render the proceedings voidable.

(B) Where the statutory demand is served personally, or by leaving it at the debtor's usual place of residence, proof of such service shall be made by the affidavit of the person serving same.

(C) When such demand is served, or attempted to be served, by registered or certified mail, proof of such service shall be made by the affidavit of the person sending the demand by registered or certified mail, and shall be accompanied by the signed registered or certified mail receipt, or proof of refusal of service, or by a photocopy thereof, or the certified mail envelope endorsed "unclaimed."

(D) A copy of the statutory demand made on Defendant, together with proof by affidavit of service of the statutory demand, shall be filed with the affidavit.

(E) Failure to comply with the requirements of Subdivision (C) hereof shall not render the proceedings void; but shall effect the taxing of the cost only. Said cost shall be assessed against the party failing to comply with this Rule.

RULE 22: PROCEEDINGS IN AID OF EXECUTION

In all supplementary proceedings (debtor's examinations) the defendant will be served and a hearing scheduled in the same manner as other civil hearings. If service of summons is properly effected and the defendant fails to appear, the matter will be continued for a period of thirty (30) days for the movant to file a request for an order to show cause. In the event that a judgment debtor does not appear for an order to show cause hearing, and has been personally served in accordance with the Rules of Civil Procedure, the matter will be continued for an additional thirty (30) days for the movant to file a request for issuance of a capias for the arrest of the judgment debtor. No such capias will issue unless the defendant was personally served with a copy of the order to show cause and was further personally served with a copy of the order to show cause and was further personally served with a copy of the order to show cause.

RULE 23: FEES FOR ADDITIONAL SERVICES

In cases where it becomes necessary for the sheriff, police officer, or bailiff to perform services in connection with property, the Court shall require a deposit sufficient to secure the probable charge in each case. Writs shall not issue unless the Plaintiff pays all required deposits and fees, if any.

Any reasonable charge when approved by the Court shall be taxed as part of the costs of the action and any property seized under any writ or process of the Court need not be released until said charges are approved and paid.

RULE 24: TRUSTEESHIPS

(A) The Clerk of Courts, as Trustee, shall deposit all monies received and shall disburse the same by check only. The Clerk shall disburse dividends when $200.00 or 25% of the total listed indebtedness shall have been paid to the Trustee, to each and every creditor entitled thereto, provided, however, that the Court, for good cause shown, may order disbursement at a time prior thereto. Upon dismissal of a trusteeship, the money received, if any, shall be disbursed forthwith.

(B) Upon notice by mail from the debtor or his attorney, all creditors shall, within ten (10) days from the date of service, file their claims with the Clerk of this Court. Any such creditor shall have the right to be heard by the Court, if the debtor incorrectly lists the amount thereof.

(C) All persons having trusteeships, as provided by Ohio Revised Code 2329.70 shall submit proof of his/her earnings for the previous thirty (30) days and shall pay to the Trustee the amount required by the statute, provided that the above need not be carried out if regular monthly payments and statements are provided by the debtor's employer or Trustee.

(D) Upon failure of the debtor to make his payment according to law, for sixty (60) days, or to report to the Trustee his earnings for said period, the trusteeship shall be terminated by order of the Court. The Clerk shall notify the Court on the sixty-first (61) day of such inactions. If the sixty-first (61) day is on a weekend or holiday, the Clerk shall notify the judge the next working day.

(E) If a trusteeship is terminated because of non-compliance by the debtor, such debtor shall not again be permitted to apply for a trusteeship until after the expiration of six (6) months from the date of such termination, unless he proves to the satisfaction of the Court this failure was not due to willful neglect.

RULE 25: ATTORNEYS NOT TO ACT AS SURETYS

No practicing attorney shall be received as surety on any bond or recognizance in any action or proceeding, civil or criminal.

RULE 26: EMPLOYEES OF THE COURT

No employee of the Court shall at any time, whether by request or otherwise, refer or direct any person to an attorney or to a bail bondsman or bail bond company or agent. Nor shall any Court employee give legal advice to a litigant, witness, or other person. In Small Claim cases, assistance shall be limited to supplying such persons with the necessary forms and any explanation only to the portions thereof to be completed by the complainant on his or her own initiative.

RULE 27: MEDIA

(A) Definitions; Applications:

(1) For the purpose of these rules, the term "media recording" shall be understood to encompass broadcasting, televising, recording, or photographs. The term "trial" shall be understood to apply to any public hearing held by the Court.

(2) Application for media recording shall be made in writing (unless otherwise waived) to the assigned judge in the case prior to the commencement of the trial. No special form of application will be required, but the application must specify the type of equipment to be used, and must identify and be signed by the applicant. The "pooling" required by Superintendence Rule 9 for Municipal Courts and County Courts shall be accomplished prior to submission of the application. The positioning of the cameras shall be at a location to be determined by the trial judge.

(3) In the event the Judge approves the application, he or she shall prepare and sign a journal entry setting forth the conditions of media recording and such journal entry shall be made a part of the record of the case. Before preparing the journal entry, the Judge shall confer with media representatives regarding the positioning of the operators and equipment.

(4) The journal entry shall state whatever portions of the trial shall not be open to media recording. In the event that any time subsequent to the signing and filing of the journal entry the Judge shall decide to withhold media recording of any part of the trial, such decision and order shall be entered into the record of the case.

(5) In the event of a continuance of the trial for a period of more than thirty (30) days, a new application shall be required.

(6) At any arraignment room session, application in writing may be made anytime before the session. The Court may give permission for the reporting or recording of any portion of the session without a formal journal entry. Positioning of any equipment shall be at the complete discretion of the arraignment room Judge.

(B) <u>Limitations</u>:

(1) Any equipment which is non-portable shall be set up and ready for operation prior to the commencement of court sessions. In no event will persons be permitted to bring equipment into the courtroom during trial unless such equipment can be easily carried by a single person and without causing a distraction or disturbance.

(2) No media recording of proceedings in the Judge's chambers or accesses shall be permitted except with the express permission of the Judge. No media recording shall be permitted in jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors may be taken at any time.

(3) Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client, between counsel and the Judge at the bench, or between counsel and official court reporter as in the case of a proffer.

(4) The Judge, counsel, and witness shall not address any remark to the media when the Court is in session. In all respects, the trial shall proceed in exactly the same manner as though there was no media recording in process.

(5) No media recording shall be made of any document or exhibit before or after such document or exhibit is admitted into evidence, except those which are clearly visible to spectators, e.g., maps, charts, blackboards, etc.

(6) The Judge shall inform victims, witnesses and jurors of their right to object to being filmed, videotaped, recorded or photographed. Upon objection, the media are prohibited from employing any means to record the victim or witness.

(7) No photographic or electronic equipment may be used in the courtroom which causes distracting sound or light.

(C) Sanctions:

(1) Upon failure to comply with the orders of the Judge or with the Superintendence Rules for Municipal Courts and County Courts, the Judge may revoke any permission previously granted.

RULE 28: CONDUCT OF ATTORNEYS

All Counsel appearing in the Courts are expected to conduct themselves in a professional manner with due respect to the Court, staff, opposing counsel, and other present at all times. Counsel are expected to appear in Court with proper attire, on time and not disrupt any ongoing Court proceeding. Counsel are admonished that no ex parte communications with this Court are permitted regarding any pending case or decided case on appeal. Counsel are not afforded access to the Clerk's secure work area except upon permission for the sole purpose of making necessary copies.

RULE 29: DRESS APPEARANCE

Appropriate dress is required for all court hearings. Absolutely no tank tops, tube tops or shorts will be permitted in the courtroom. Individuals appearing in inappropriate dress will not be permitted to present their case and will be requested to leave. No continuance will be granted on the grounds that a litigant appeared for hearing in inappropriate dress.

RULE 30: USE OF CELL PHONES

No cell phone use is permitted in the courtroom. All cell phones are to be turned off prior to entering the courtroom. Any individual found violating this particular rule will have his/her cell phone confiscated and same will not be returned until the hearing for which the person is present is completed and such person has exited the courtroom. Absolutely no talking on a cell phone is permitted in a courtroom. Violation of this rule may be treated as a contempt of court with appropriate sanctions imposed.

Rule 31: COMMUNITY CONTROL DEPARTMENT

(A)The Clerk shall keep an accurate record of such receipts and disbursements and furnish bond in such an amount as may be determined by the Ohio Revised Code or other court order regarding restitution. Community Control Officers shall make sure records are properly maintained regarding restitution and shall be responsible to the Clerk regarding nonpayment of restitution and said community control. Community Control Officers shall make the same immediately brought to the attention of the ordering Judge.
(B)The Community Control Officers shall issue such regulations as are deemed advisable and proper for the operation of the Community Control Department, subject to the approval of the judges. Said regulations shall be kept current at all times. Any modifications of these regulations are subject to the approval of the judges.
(C)All offenders are subject to the rules of conduct prescribed by the Community Control Officer and approved by the Court in addition to such special conditions as may be imposed by the trial judge.

It is further ordered, adjudged and decreed that the foregoing Local Rules be spread upon the Journal of the Court and prominently posted in offices of the Clerk of Court of said Courts as well as the Mahoning County website; and that the same be made available through the Mahoning County Bar Association.

ATTEST:

HON. _____
JOSEPH M. HOUSER, JUDGE

HON. _____
SCOTT D. HUNTER, JUDGE

HON. _____
DAVID A. D'APOLITO, JUDGE

HON. _____
DIANE VETTORI, JUDGE