

Rules of Court

Hillsboro Municipal Court

Effective July 1, 1985
revised October 24, 1988
revised July 15, 1993
revised February 15, 1994
revised June 1, 1994
revised September 27, 2002
revised March 30, 2012
revised January 20, 2017

Rule 1

- (A) Except where otherwise provided, these rules are applicable to all proceedings in the Hillsboro Municipal Court.
- (B) These rules are adopted pursuant to the Ohio Constitution; Section 1901.14 Ohio Revised Code; the Rules of Superintendence of the Supreme Court of Ohio and the inherent authority as set forth in the Ohio Rules of Civil Procedure and the Ohio Rules of Criminal Procedure. These rules shall be known as the "Hillsboro Municipal Court Local Rules" and shall be cited as "HMCLR ____".

Rule 1.01 **Hours and Sessions**

The hours for the Clerk of Courts Office shall be from 7:00am until 3:30pm Monday through Friday, unless ordered by the judge or said day is a legal holiday.

Court sessions shall be from 8:00am until the conclusion of the daily docket Monday through Friday. Jury trials shall begin on Tuesdays at 9:00am.

Rule 1.03 **Forms and Papers filed**

- (A) All papers offered for filing with the Court shall be typewritten or printed on 8.5 inch x 11 inch paper, or on pre-printed forms approved by the Rules of Superintendence. Original documents attached or offered as exhibits are exempt from the requirements of the rule. Only legible copies of the document will be accepted.
- (B) Original files and papers shall remain in the possession of the Clerk. None shall be removed except by the Judge. Copies of pleadings and papers may be made upon request at costs to be determined by statute or actual cost.
- (C) Form entries are available from the Clerk. However, officers and employees of the court shall not prepare or help to prepare any pleading, affidavit, complaint, entry or order in any civil or criminal matter, except as provided under Section 1925.04 of the Ohio Revised Code or at the direction of the Judge.

1.04 Conduct in the Courtroom

No food or drinks shall be permitted in the courtroom unless expressly permitted by the Presiding Judge. All persons entering the courtroom must be properly attired. All electronic communication devices must be turned off upon entering the courtroom or placed in a noiseless mode. Such devices may be ordered confiscated and held at the discretion of the Presiding Judge if they disrupt courtroom proceedings. All persons entering the court facility are subject to search. Any person creating any distraction or disturbance in the court facility, at any time, may be asked to leave the facility or be escorted out of the facility by any means necessary. No person is permitted to tamper with any court equipment, furnishings or public restroom facilities.

No person, except court personnel, law enforcement officers or attorneys, may approach any prisoner within five (5) feet of the courtroom railing nor shall any such person give to any prisoner any objects, notes or papers of any type, unless expressly permitted by the Presiding Judge.

2.0 Case Management

2 (A) Case Management-Civil

2(A)(1) **Small Claims** shall have hearing date set upon filing. Claimant shall at that time be notified of hearing date and date and time of hearing shall be set forth in the summons. Small Claims shall normally be set for hearing on Wednesdays at 10:00am.

2(A)(2) **Evictions** shall have hearing date set on filing at 9:00am on the first Wednesday that will allow minimum times required after service. Notice of time and date of hearing shall be included with the summons. Service of eviction summons shall be by bailiff or at request of plaintiff by process server as provided in Civil Rule 4.1 which is incorporated herein by reference. No continuance will be had in eviction cases unless proper surety for rent is deposited. Amount of surety will be determined ex parte upon granting continuance.

2(A)(3) **Miscellaneous civil proceedings**, such as garnishment hearings, attachments and replevin initial hearings will also be set for hearings on the next available Wednesday at 9:00am. Cases will be called in order of filing, uncontested matters will be disposed of before contested matters are heard.

2(A)(4) **Normal civil actions** will be considered as provided in this subsection. If no answer or appearance is made and plaintiff does not initiate default proceedings; six weeks after answer date notice of intention to dismiss for failure to prosecute will be mailed to plaintiff's counsel or plaintiff if unrepresented. Fifteen days thereafter dismissal without prejudice at plaintiff's cost will be entered pursuant to Civil Rule 41(A)(2), unless plaintiff shows cause for maintaining action on docket.

If answer, counterclaim, cross claim etc are filed; either party may request pre-trial 28 days or more after pleadings are closed. If no pre-trial request is received within 90 days of close of pleadings, the Court may issue a pre-trial setting or a notice of intent to dismiss for failure to prosecute.

Pre-trials are intended to narrow the issues and make arrangements for a trial, it is not the responsibility of the Court to enforce a settlement. If Alternate Dispute Resolution is requested by all parties the Court will facilitate the same.

Parties are entitled to have their cases heard by a judge and/or jury and arbitrations, ADR, references and mediation are voluntary and can only be entered into if all parties agree in writing or stipulation in open court.

Jury demands will be accompanied by a deposit of \$400 required by the clerk adequate to pay the jurors to be summoned. Failure to make the deposit may cause the Court to sua sponte dismiss the jury demand. The Court may waive the deposit upon an affidavit of indigency subject to examination. The costs of the jurors will be taxed to the losing party; if that party is the one demanding the jury, jury fees will be paid upon entry of judgement; otherwise at the time of payment of costs or at the end of the month in which judgment is rendered, whichever is earlier. If the prevailing party requested the jury, his deposit will be applied to the jury fees if not paid by the losing party within that time.

If a defendant files a third-party claim clerk shall require deposit upon filing, the same as the original action.

Civil jury trial will normally be assigned on Tuesdays the same as criminal jury trials; they may be continued by Court if necessary for trial of a jailed defendant or a criminal defendant whose time limits have not been waived. Civil trials to Court may be set on Wednesdays or Thursdays at convenience of Court and Counsel.

2(B) Case Management-Criminal

2(B)(1) **Arraignments** will be held daily following apprehension of defendants held in confinement or on day set in summons at 8:00am. Unless defendant requests a pre-plea continuance, pleas will be had at that time. Unrepresented defendants pleading not-guilty may enter any motions or pleas in bar normally made before pleas within ten days after appointment of counsel or date of arraignment if private counsel are retained. Counsel will normally be appointed for indigent defendants after plea of not guilty at arraignment. Sentence will normally be passed at arraignment upon defendants pleading guilty, sentencing may be reserved if other parties are involved in same offense, or if extraordinary conditions prevail.

Upon pleas of no contest, if no testimony is immediately available, the Court with consent of the defendant may determine the case upon officer's written statement accompanying charge or affidavit of fact supporting the warrant. All facts in these statements are accepted as true, but if the facts stated are insufficient to support the charge, defendant will be acquitted. If defendant request testimony, the cause will be continued as if it were a minor misdemeanor.

2(B)(2) **Minor misdemeanors** to which pleas of not guilty are entered will normally be tried within 20 days. No appearance bond is required for minor misdemeanors.

2(B)(3) **Petty offenses** charged against defendants at liberty will be set for pre-trial after arraignment. All discovery requests shall be served before that time and any objections to request will be considered at pre-trial. If no objections are made to discovery requests or if made after the same are resolved discovery will be had as provided by rule. Failure to make discovery will result in appropriate sanctions as a matter of course. All motions directed against the complaint and for bill of particulars will be made prior to pre-trial as provided by rule and will be decided at pre-trial. Motions to suppress shall be made within rule or within seven days of compliance with discovery whichever is later. **PRE-TRIALS SHALL NOT BE HELD UP OR DELAYED BY PLEA NEGOTIATIONS.** Jury requests should be made by pre-trial if possible;

however a demand made within rule will be proper. Any requests for a jury view must be made at least seven days before trial.

2(B)(4) **Jury trials** normally will be on Tuesdays beginning at 9:00am. Two cases will be set for each jury day. The first case is the primary case and the second case the back-up. Each jury case will receive two assignments, the first will be as a backup and the second as primary. If possible the back-up case will be one with the same counsel as the primary case. The primary case will be tried unless the defendant enters a plea or the state nolle it; in either case then the back-up becomes primary. If a jury trial results in a finding of guilty sentence will be passed immediately. Pursuant to Criminal Rule 30 and Section 2945.10 O.R.C., proposed written jury instructions shall be submitted to the Court twenty-four hours after the final pre-trial, where parties have announced "ready for trial."

2(B)(5) **Trials to the Court** will be set at dates convenient to the Court and Counsel. Bench trials will be set for 10:30am. Judgment will normally be rendered from the bench on bench trials. If unusual legal issues exist, the Court shall announce its factual determinations and take the legal issues under advisement.

2(B)(6) **Preliminary hearings, Rendition hearings, etc.** may be held after arraignment on any morning, except Wednesday unless time limits require. These hearings will be set for 9:30am.

2(C) **Purpose of Rule** It is the purpose of this rule to provide for a prompt disposition of cases coming before this Court. Needless to say promptness while a worthwhile objective cannot override fairness. It is the purpose to apply the law to the individual civil and criminal matters before this Court fairly and promptly without favor or prejudice. However the law applied will be the law as this Court sees it exists not as some parties might wish it to be. This is not a legislative chamber and it is not the province of this Court to render some abstract idea of justice but to do justice as the law requires. This is a sufficient task and will require the efforts and co-operation not only of the judge, and court personnel but also the counsel who appear before it as officers of the Court.

3.0 **Reserved (Arbitration)**

4.0 **Reserved**

5.0 **Misdemeanor and Criminal**

Rule 5.01 The Rules of Practice for civil cases will apply to criminal procedure, except where clearly inapplicable.

Rule 5.02 **Bail** Bail and waiver for the violations bureau, shall be set forth in Appendix B. Should a citation issue, or change be filed that is not on the various schedules in the appendix, bail will be set as follows:

Murder: NO BOND
Methamphetamine cases: \$70,000.00

1st degree Felony \$20,000.00
2nd degree Felony \$15,000.00
3rd degree Felony \$10,000.00
4th degree Felony \$5,000.00
5th degree Felony \$2,500.00

1st degree Misdemeanor \$1,000.00
2nd degree Misdemeanor \$750.00
3rd degree Misdemeanor \$500.00
4th degree Misdemeanor \$250.00

Rule 5.03 Appointed Counsel

- A. All attorney appointments shall be effective upon the filing of the journal entry.
- B. At the time of the appointment, the Clerk shall send or deliver a copy of the file stamped journal entry appointing the attorney together with an attorney expense form to the named attorney.
- C. The attorney is solely responsible for the completion of the form and the submission to the Court for approval, and it shall be submitted no later than (50) days after the sentencing of the defendant, or the day of the discharge of the defendant from the proceedings.
- D. Failure to submit the form within the fifty day period will result in a complete denial of fees earned in the cause by the appointed attorney.
- E. Upon the receipt of the expense fee form, the Clerk shall present the form and the file to the Court for approval. After signature by the judge, the Clerk shall forward the same to the auditor/commissioners for approval within one business day.

5.04 Minor Misdemeanors Violations Bureau

There is hereby established in accordance with Rule 4.1, Ohio Rules of Criminal Procedure a Minor Misdemeanor Violation Bureau with authority to process and dispose of minor misdemeanors other than offenses covered by the Uniform Traffic Rules. The Clerk of Court is appointed in the violation's bureau to collect fines, give receipts therefore and render accounts of the bureau.

6.0 Traffic Violations Bureau

There is hereby established a Traffic Violations Bureau in accordance with Ohio Traffic Rule 13 with authority to process and dispose of those traffic offenses for which no Court appearance is required. The Clerk of Court is appointed as the Traffic Violations Clerk to accept appearances, waivers of trial, pleas of guilty and payment of fines and costs for offenses within its authority. The schedule of fines and costs which shall be charged by the Traffic Violations Bureau shall be posted in a conspicuous place in the clerk's office and shall be provided upon request at no costs to any party.

6.1 Disposition of Case Files

(A) Pursuant to Section 1901.41, Ohio Revised Code, the Court hereby authorizes the Clerk of Court to destroy from time to time all files of court cases that have been finally disposed of by this court for at

least fifteen years. "Finally disposed of by the Court" shall be interpreted to mean that the case file has been closed and there exists no pending matters in the case file for resolution by the Court.

(B) The Clerk of Court is further authorized to destroy from time to time all court case files which have been finally disposed of by this Court for at least five (5) years provided said files are copied or reproduced prior to their destruction consistent with Section 9.01 of the Ohio Revised Code. The copies or reproductions made consistent with this Rule shall be retained and preserved by the Court for 10 years after which the copies or reproductions themselves may be destroyed.

(C) The Clerk of Court is further authorized to destroy from time to time all court case files which are solely concerned with criminal prosecutions for minor misdemeanor offense or with traffic prosecutions which have been finally disposed of by this Court for at least five (5) years, paragraph (b) herein, notwithstanding.

7. Jury Resources Management

For the purpose of granting opportunity to serve as a juror, jury service in the Hillsboro Municipal Court shall be available to all qualified citizens. The primary purpose of this rule is to provide a pool of qualified jurors from which a panel of unbiased able citizens may be selected to give a fair trial to the parties. Jury service is an obligation of citizenship.

7(A) Selection of Pool of Prospective Jurors

The adoption of Ohio Trial Court Jury Use and Management Standards by the Ohio Supreme Court appears to have repealed the existing statutes on jury selection by implication; however, so long as the Common Pleas Court of Highland County continues to implement the statutory procedure for selection by jury commissioners this Court shall annually request an allotment of qualified citizens from the jurisdiction of the Court for our jury wheel, and will have the commissioners draw jurors therefrom as provided by statute.

7(B)(1) Jury Commissioners

If the Common Pleas Court adopts new procedures for jury pool selection the following procedure will be implemented for the Municipal Court. The Municipal Judge will appoint two jury commissioners. They will receive such compensation as the Court sets. Annually between December 15 and December 31 they will select a number between 5 and 20 as a selection factor. They will apply that to the list of registered voters within the 16 townships who voted in the November election of that year in such a fashion that three hundred names are selected and each township and precinct is represented. These names shall be inserted within the jury wheel after the existing names are removed.

7(B)(2) Additional Names

Recognizing that all citizens do not register and vote, any eligible citizen may make a request that his name be added to the jury wheel. Upon making such request the Clerk shall forthwith enter his name and address on the jury list and place it in the wheel. Whenever nine panels have been drawn from the wheel the commissioners shall add from said voting list an additional hundred names utilizing the procedure set forth herein.

7(C) Drawing of Panels

After filling the wheel the commissioners shall draw three panels the first of thirty names and the later two of twenty-four names each. The first panel will be used for the first trial. Jurors and alternates who actually serve will be excused from further call; the remainder of the panel, except for any who are permanently excused, will go to the start of the next panel. Any venireman will be permanently excused after he is called three times but not chosen or after 60 days have elapsed from

his first appearance, unless he request his name be placed back in the wheel. In summoning veniresmen the clerk will summon the first 24 to 30 names from a panel. When the clerk is summoning veniresmen from the third panel she will request the commissioners to draw three additional panels of twenty-four names each. When a panel is drawn notification will be sent to the names drawn accompanied with a jury questionnaire. The questionnaire shall be prepared by the clerk and reproduced by a process rendering the same legible. Failure to return the questionnaire shall not relieve the prospective juror from service. At the same time prospective jurors will receive a form letter from the Court explaining the fundamentals of jury service. Panels shall be called in for service by postcard mailed six days prior to trial.

7(D) Excuses and Deferrals

Only the judge may excuse prospective jurors. Grounds for excuse will include:

1. Prior service as a juror or alternate in any Court within last two years;
2. Prior selection as a veniresman in this Court within last 18 months;
3. Infirmities of age or health that render jury service an unreasonable burden;
4. Conflict with important activity already pre-arranged—this excuse will be for one appearance only;
5. Other circumstances in the discretion of the judge.

7(E) Voir Dire and Challenges

Voir Dire shall be conducted as provided in Standard 7. Counsel will remember that neither voir dire nor opening statement are appropriate times to argue their case. Peremptory challenges will be taken as provided in the Rules of Civil and Criminal Procedure. Challenges for cause shall be made as allowed in Standard 8; however, this Court will presume that the statutory challenges for cause make a prospective juror unable or unwilling to hear the particular case fairly and impartially.

In the event that excuses and challenges exhaust a panel before a jury is selected, the judge, with the assistance of the clerk will prepare a list of talesmen at least twice in number the remaining spots to be filled; each side shall have the opportunity to strike names alternatively from this list until all names are stricken. Then the talesman will be summoned in reverse order of being stricken until the jury is complete. No peremptory challenges will be allowed to these selections.

7(D) Conclusion of the Service

At the conclusion of the trial the Court shall accept the jury verdict; thank the jurors for their service and discharge them. Counsel and parties shall not address the jury or jurors until the proceedings end. The Court will retain the parties until the jurors have had opportunity to clear the area. In criminal cases vouchers for their service should be ready. Compensation for appearance shall be for a half days service. Compensation for service shall be for a full day times the number of days involved. Compensation is hereby set at the rate of \$10.00 if excused and \$20.00 per day if seated.

Highland County Municipal Court Rules Small Claims Division

(A) Establishment of Small Claims Division

The Small Claims Division of the Hillsboro Municipal Court is established pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Hillsboro Municipal Court.

(B) Purposes of Small Claims Court

The purpose of the Small Claims Court is to allow the public to resolve minor money disputes quickly, inexpensively and fairly without requiring an attorney's involvement. If an attorney enters their appearance at hearing for a party, the court shall grant the other party a reasonable continuance to obtain legal counsel.

(C) Types of Cases

The Small Claims Division handles all types of cases involving amounts not exceeding \$6,000.00. (Such amounts as amended from time to time by the ORC) These include but are not limited to landlord/tenant, unpaid accounts, defective merchandise, minor traffic accident repair costs, overcharge of services, and minor property damages.

(D) Procedure and Limitations

A complaint is filed by plaintiff along with an information sheet. It must be for money only and not to exceed \$6,000.00. (Such amounts as amended from time to time by the ORC) Jurisdiction must be proper under the law. Plaintiff must bring with them (2) copies of any documents supporting their claim and plaintiff must have the current address of defendant. The Clerk shall also have plaintiff sign a request for regular mail service in the event of failure of certified mail service.

(E) Filing Fees

Filing deposit is pursuant to the Schedule of Fees and Court Costs.

(F) Failure of Service on Defendants

Upon failure of service on defendant, the Clerk shall notify the plaintiff that the case will be dismissed within (60) days unless plaintiff provides the Clerk a new address for defendant. Any pending case wherein service is not obtained within six months shall be dismissed by the Court sua sponte without prejudice.

(G) Counterclaims

Counterclaims are claims filed by the defendant against the plaintiff for a sum arising out of the same incident not to exceed the small claims jurisdictional limit prescribed by the Ohio Revised Code. Any counterclaim filed shall be accompanied by such filing deposit as is prescribed in the Schedule of Fees and Court Costs. If a counterclaim exceeds the small claims jurisdiction limit, and the party asserting the counterclaim in excess of the small claims jurisdiction limit fail to post the appropriate filing deposit, the Clerk shall not accept the claim for filing.

(H) Duties of Clerk and Administrator

In addition to the duties as set forth in these rules, the administrator and Clerk shall provide the public with proper explanation of procedures. The Clerk will not assist in completing forms, and will not engage in the practice of law. Any person needing legal advice should seek it from a licensed attorney.

(I)Continuances

A request for continuance of a case set for trial should be directed to the Small Claims Division at least three (3) days prior to the trial date. Requests for continuances shall be in writing which must include (1) reasons for the request, and (2) the date and time of the current assignment. No continuance shall be granted for more than thirty days, nor shall any party be entitled to more than one continuance except for good cause shown and with the express approval of the court. Failure of the plaintiff to appear at trial unless otherwise excused shall result in a dismissal of the case without prejudice.

(J)Trial

The court or magistrate shall administer an oath to witnesses, and proceed to a trial on the merits. Unless all parties are represented by counsel, trial shall be conducted in an informal manner with the purpose of accomplishing substantial justice. The Ohio Rules of evidence do not apply in small claims court. [Evidence Rule 101 (C) (8)] (Effective 03-01-2002)

(K)Collection of Judgments

Any party obtaining judgment in a small claims case shall collect in the same manner as any other party obtaining a civil judgment.

Appendix “1”

Rule of Court

Pursuant to revised code Section 1901.26, and in view of fees recently passed by the Ohio General Assembly, by rule, the following are hereby established effective April 1, 2012.

CIVIL CASES

SMALL CLAIMS	\$75.00
CIVIL ACTION FOR MONEY	\$95.00 (PLUS \$10.00 FOR EACH ADDITIONAL DEFENDANT, \$10.00 REISSUE OF CERTIFIED MAIL, \$2.00 REISSUE FOR ORDINARY MAIL)
FORCIBLE DETENTION	\$95.00
REPLEVIN	\$95.00 (PLUS ANY ADDITIONAL AMOUNT NECESSARY FOR TRANSPORTATION & STORAGE
BANK GARNISHMENT	\$50.00 PLUS \$1.00 FOR BANK
WAGE GARNISHMENT	\$95.00

THIRD PARTY ACTION	\$30.00
TRANSFER OF JUDGMENT	\$10.00
CERTIFICATE OF JUDGMENT	\$10.00
COGNOVIT NOTE PROCEEDINGS	\$95.00
EXECUTION/PROPERTY	\$95.00 PLUS ANY AMOUNT NECESSARY TO HOLD IN IN STORAGE AS DEEMED NECESSARY BY COURT-SEE 2 ND SHEET UNDER LOCAL RULE
TRUSTEESHIP	\$95.00 (PLUS \$5.00 PER CREDITOR)
SERVICE BY PUBLICATION	\$125.00 (PLUS BASIC COSTS)
WITNESS FEE	\$15.00 (REQUIRED AT TIME OF SERVICE PLUS COSTS OF SERVICE)
JUDGMENT DEBTOR EXAM	\$30.00
FINANCIAL STATEMENT	\$15.00
CROSS CLAIM	\$95.00
SHOW CAUSE HEARING	\$25.00

LOCAL RULE

DEPOSIT ON EXECUTION BY BAILIFF	\$300.00
-IF LOCKSMITH REQUIRED ADDITIONAL	\$100.00
-IF APPRAISAL REQUIRED ADDITIONAL	\$150.00/APPRAISAL
-STORAGE FEE FOR RENTAL UNIT/PARKING MINIMUM 3 MONTHS AT \$50.00 PER MONTH	\$150.00

