



# YOUNGSTOWN MUNICIPAL COURT

Youngstown, Ohio

## Local Rules of Practice

Revised 2014  
Effective August 6, 2014

The Hon. Elizabeth A. Kobly  
Administrative/Presiding Judge

The Hon. Robert P. Milich  
Judge

## Mission Statement

The mission of Youngstown Municipal Court is to ensure access to justice and serve our community by efficiently and respectfully resolving criminal, traffic and civil cases in a fair and impartial manner.

IN THE MUNICIPAL COURT OF YOUNGSTOWN  
YOUNGSTOWN, OHIO

IN RE: **Adoption of Revised** )  
**Local Rules of Practice** ) JOURNAL ENTRY

The Local Rules of Practice for the Youngstown Municipal Court have been revised and are, hereby, adopted.

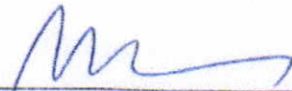
Copies of these Rules shall be distributed to members of the Mahoning County Bar Association and shall be made available to members of the public, upon request.

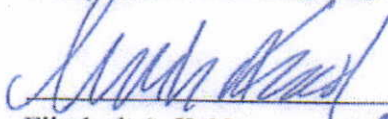
IT IS SO ORDERED.

MUNICIPAL COURT  
YOUNGSTOWN, OHIO

2015 JAN 20 PM 3:14

SARAH BROWN CLARK  
CLERK OF COURT

  
\_\_\_\_\_  
Hon. Robert P. Milich  
Administrative/Presiding Judge

  
\_\_\_\_\_  
Elizabeth A. Kobly  
Judge

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## **GENERAL AND ADMINISTRATIVE RULES**

### **RULE 1 – EFFECTIVE DATE, REPEAL, AMENDMENTS**

All former rules of this Court are repealed as of the effective date of this document.

### **RULE 2 – CITATION OF RULES**

These rules shall be known as the Youngstown Municipal Court Rules of Practice. In the event of a conflict between these Rules and the Rules of Superintendence, the Civil Rules, the Criminal Rules or Traffic Rules, the State Rules shall govern.

### **RULE 3 – HOURS OF OPERATION**

Court offices shall be open Monday through Friday from 8 a.m. to 4 p.m. except on legal holidays.

### **RULE 4 – DECORUM AND CONDUCT**

Upon opening of any Court session, all persons in the courtroom shall stand. All persons in the courtroom shall conduct themselves in a manner so as not to interfere with or obstruct proceedings, and appear before the Court in attire determined appropriate by the Court.

- A. Persons having business with the Court are not permitted to smoke, or carry food into the Court area.
- B. Cell phones and all other electronic media shall be turned off in the Court area.

### **RULE 5 – SECURITY**

All persons entering the Courthouse shall be screened with magnetometer and electronic wand equipment operated by Court security staff. The Court may designate exceptions.

### **RULE 6 – SESSIONS**

Youngstown Municipal Court's sessions are designated as "Arraignment," "Duty" and "General." The duration of each session is one week.

- A. Arraignment Session – When assigned to this session the Judge or Magistrate shall arraign all individuals charged with any offense, and shall make initial bail determinations.
- B. Duty Session – When assigned to this session the Judge or Magistrate shall preside over preliminary hearings as well as all other types of hearings, and Judges shall rule on civil judgments and proceedings.
- C. General Session – In addition to the regular criminal and civil docket, general session will be reserved for jury trials.

### **RULE 7 – JURY SESSIONS**

Jury sessions are scheduled six (6) times per year, every two months. The duration of each jury session is a period of two weeks with one week allotted to each judge. Individual jury trials are

scheduled by the courtroom bailiffs in conjunction with the Assignment office.

#### RULE 8 – JURY DEMAND DEPOSIT/ JUROR COSTS

A party making a demand for trial by jury shall be required to make an advance deposit of two hundred fifty dollars (\$250.00), unless upon affidavit or other evidence the Court concluded that such party is unable to make the required deposit. If a jury is sworn, the fees of a jury shall be taxed as costs.

- A. If a criminal or traffic case is settled after 3 p.m. on the day prior to a scheduled jury trial and it is not possible to notify the jurors of the cancellation, fifteen dollars (\$15.00) shall be assessed as costs for each juror who reports on the day of trial.

#### RULE 9 – ATTORNEYS

Attorneys appointed or retained to a case shall appear at or before the scheduled day and time, or request permission from the Court for a late arrival. Attorneys shall not seek assistance from Court staff for substitute counsel.

#### RULE 10 – RECORD OF PROCEEDINGS

Court proceedings shall be preserved by electronic recording. Persons requesting a copy of any proceeding shall file a request with the Clerk of Court. A fee of \$5 shall be charged for a blank CD, and the Clerk shall collect the fee.

#### RULE 11 – CASE ASSIGNMENT

The Court Case Assignment Office shall oversee all case assignments.

- A. Civil cases shall be assigned to individual judges by lot upon the filing of an answer or motion other than a motion for default judgment.
- B. Misdemeanor criminal and traffic cases shall be assigned to individual judges by lot when a plea of “not guilty” is entered.
- C. All cases heard by a visiting judge shall remain on the docket of the judge to whom they were originally assigned.

#### RULE NO. 12 – FILINGS: WRITTEN OR ELECTRONIC

All filings of pleadings with the Court shall be by paper or electronic transmission via the Clerk of Court.

- A. The person filing a document by facsimile (fax) shall also include a cover page containing the following information:
  - 1) The name of the Court
  - 2) The title and number of the case
  - 3) The assigned judge
  - 4) The title of the document being filed
  - 5) The date of transmission
  - 6) The transmitting fax number and a phone number

- 7) An indication of the number of pages in the transmission
  - 8) The name, address, telephone number, Supreme Court registration number if applicable and e-mail address of the person filing the fax document.
- B. An exhibit to a facsimile-produced document that cannot be accurately transmitted must be replaced by an insert page describing the exhibit and why it is missing.
  - C. A missing exhibit shall be filed with the court as a separate document no later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits may result in the court striking the document or exhibit.
  - D. Any exhibit filed in this manner shall be attached to a cover sheet as described in section A of this rule.
  - E. Fax filings shall NOT be sent directly to the Court for filing and shall only be transmitted directly to facsimile equipment operated by the Clerk of Court.

#### RULE 13 – COURT CALENDAR PUBLICATION

- A. The Daily Legal News circulated in Mahoning County, Ohio, shall publish all calendars of this Court which shall contain the numbers and titles of causes of action, the names of attorneys appearing therein together with the Motion dockets and notices as may be specified by this court. The Judges of this Court, upon application of a party to any pending litigation may designate an alternative newspaper in which such notice or notices shall be published, provided however in all cases where no designation is made by the Judges, publication shall be made in the Daily Legal News; and the Daily Legal News shall once a week and on the same day of each week publish an abstract of each such legal advertisement.

# CIVIL RULES

## RULE CV1 – CIVIL CASE MANAGEMENT

The Court shall maintain a civil case management system for prompt and fair disposition of civil cases.

- A. All civil actions are divided into the following classes:
  - 1) Civil cases filed on the regular docket of the Court.
  - 2) Small Claims cases.
- B. Summons shall be served in accordance with the *Ohio Rules of Civil Procedure*. In the event there is a failure of service, the Clerk shall notify counsel in writing immediately. If counsel fails to obtain service of summons within six (6) months from the date the cause of action has been filed, the Court shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.
- C. Motions to the Court shall be made in accordance with the *Ohio Rules of Civil Procedure*.
- D. The Court may at its discretion direct counsel for the parties to appear before it for any type of hearing, including but not limited to case management conferences.
  - 1) Judgment may be rendered against the Defendant in the event that neither Defendant nor Defendant's counsel participates in a hearing or conference.
  - 2) In the event the Plaintiff fails to participate in the hearing or conference, the Plaintiff's action may be dismissed and the costs assessed to the Plaintiff.
  - 3) Any party or attorney for a party to the action who fails to participate in a scheduled hearing or conference without just cause being shown may be charged with contempt of Court.
- E. Counsel attending a hearing or conference must have complete authority to stipulate on items of evidence and must have full settlement authority from the client.

## RULE CV2 – PLEADING REQUIREMENTS

All papers filed with the Court via the Clerk of Court, including but not limited to pleadings, Motions, applications, judgments and orders, shall be original copies neatly and legibly printed on 8 ½" by 11" paper.

## RULE CV3 – CIVIL CONTINUANCE

No party shall be granted a continuance without first having submitted a written motion to the assigned Judge stating the reason for such request.

- A. All motions for continuance shall contain specific information about the conflicting case including but not limited to case number, location and date case was scheduled.

## RULE CV4 – TRUSTEESHIPS

The Clerk of Court, as designated trustee, shall deposit all monies received and shall disburse the same by check only. The trustee shall disburse all funds placed in escrow to each and every entitled creditor biweekly, provided that the Court may order disbursement at a time prior thereto. Upon



dismissal of a trusteeship, any money that has been received shall be disbursed to each and every entitled creditor.

- A. Upon notice by mail from the judgment debtor or counsel, all creditors shall within fourteen (14) days from date of service file their claims with the Clerk of Court. Any such creditor shall have the right to be heard by the Court if the debtor incorrectly lists the amount of the debt.
- B. All persons having trusteeships, as provided by Section 2329.70 of the Ohio Revised Code, shall submit proof of their earnings for the previous thirty (30) days in the form of the pay stubs for that period and shall pay to the trustee the amount required by the statute.
- C. Upon the failure of the judgment debtor to make payment to the trustee according to law, for sixty (60) days, or to report to the trustee his or her earnings for said period, the trusteeship shall automatically terminate. 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 Court the next working day.
- D. The judgment debtor may request that the Trusteeship be “Terminated/Inactive” by filing an Affidavit setting forth a disability that prevents him or her from working or a lay off or termination of his or her employment. The Trustee shall then designate the Trusteeship as “Terminated/Inactive” until the judgment debtor requests that it be reinstated by filing an Affidavit setting forth that debtor is currently employed.

#### RULE CV5 – SMALL CLAIMS

The Court Assignment Office shall schedule all small claims actions for trial before the magistrate.

- A. The Clerk shall provide a memorandum of the time and place set for trial to the person making the claim. The time set for such trial shall not be less than ten (10) days, nor more than forty (40) days, after service of the action is perfected.
- B. Pleadings shall be written in concise non-technical form. Answers and other responsive pleadings are permitted but not required unless specifically ordered by a Judge or Magistrate.
- C. Transfers to the Court’s regular docket shall not occur until the party requesting the transfer pays the increased filing fee.

#### RULE CV6 – RESTITUTION

The Clerk shall not issue a writ of restitution, or an alias writ of restitution, more than sixty (60) days from the date restitution is ordered, without a Motion and Court approval.

## **CRIMINAL RULES**

### RULE CR1 –ARRAIGNMENTS AND PLEAS

Upon a plea of “not guilty,” the case shall be randomly assigned to a Judge. It shall be scheduled for a pretrial conference if it is an M1 or M2, or trial if it is an M3, M4 or below.

### RULE CR2 – PRETRIAL PROCEDURE

All misdemeanors of the 1<sup>st</sup> or 2<sup>nd</sup> degree shall be set for pre-trial within 20 to 40 days from the date of arraignment. Defendant and Counsel are required to appear at all pretrials, unless their presence is excused by written journal entry. The Defendant, Defense Counsel, Prosecuting Attorney and all witnesses under subpoena are expected to attend the pretrial on time. Any failure to adhere to this rule may result in sanctions, a finding of contempt and/or a *capias*.

- A. If not resolved at a pretrial conference, a case shall be set for trial except that the assigned Judge may for good cause continue the pretrial.
- B. All misdemeanors of the 3<sup>rd</sup> or 4<sup>th</sup> degree shall be set for trial within 45 days of arrest or service of Summons.
- C. All minor misdemeanors shall be set for trial before the Magistrate within 30 days of arrest and or service of summons.

### RULE CR3 – COURT APPEARANCE OF ARRESTEE

A person arrested and held in custody shall appear at the next day’s regularly scheduled Arraignment Session of the Court.

- A. The Clerk of Court shall fax a *Notice of Appearance* to the Mahoning County Justice Center for each defendant who has posted bail, directing that person to report to Court on a date certain and a time certain for arraignment.
- B. The appearance date for arraignment shall be set at the next earliest date the Court is in session.
- C. Persons charged with felonies who have posted bail shall be scheduled for Initial Appearance at the next earliest date designated for criminal arraignments. Notice to the defendant shall be provided as in paragraph A.
- D. Persons arrested on a “hold for Court” *capias* shall be brought before the Judge/Magistrate on Arraignment session on the next regular business day.

### RULE CR4 – MULTIPLE CHARGES

When a Defendant is charged with more than one violation, regardless of the levels of the offenses, all matters shall be assigned to the same Judge.

### RULE CR5 – CONTINUANCES

All requests for continuance must be filed with the Court in the form of a written motion prior to the date of the hearing for which the continuance is requested.

- A. The Motion shall contain procedural history of the case.
- B. If a continuance is requested due to a scheduling conflict, the motion must contain a

citation of the conflicting case, the court where it is scheduled and the date and time where it is to be heard.

- C. The granting or denial of a motion for continuance rests in the sound discretion of the Judge/Magistrate. If the cause of such motion is absence of a material witness, the applicant shall state the name of such person, the facts expected to be proved by such witness and what diligence the applicant has used to procure such testimony.


**IN THE YOUNGSTOWN MUNICIPAL COURT  
MAHONING COUNTY, OHIO**

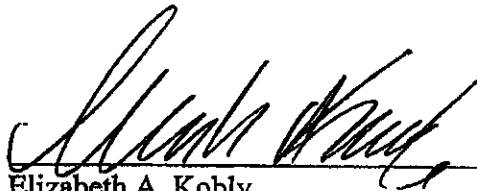
IN RE:      Adoption of Local      )                      JOURNAL ENTRY  
              Rule of Practice        )

Pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio, the Court determines that there is an immediate need to implement a new Local Rule of Practice as set forth in Exhibit "A", attached hereto and made a part hereof, to facilitate the expeditious disposition of cases in the Veterans Treatment court.

WHEREFORE, IT IS ORDERED, ADJUDGED and DECREED, THAT THE Court this day hereby adopts the Local Rule of Practice as set forth in Exhibit "A": the court further orders that a copy of this new Local Rule of Practice be immediately filed with the Clerk of this Court and the Clerk of the Supreme Court of Ohio.

The Youngstown Municipal Court Administrator is directed to serve a copy of the foregoing JUDGMENT ENTRY to be published once a week for three (3) consecutive weeks in the *DAILY LEGAL NEWS*, a newspaper of general circulation within Mahoning County, Ohio, thereby providing appropriate public notice and the opportunity for comment not to exceed fourteen(14) days beyond the last published notice.

  
\_\_\_\_\_  
Robert P. Milich  
Administrative & Presiding Judge

  
\_\_\_\_\_  
Elizabeth A. Koby  
Judge

26 JUNE 14  
\_\_\_\_\_  
Date

Municipal Court  
Youngstown Ohio  
Filed  
2014 JUN 26 PM 12:23  
Sarah Brown-Clark  
Clerk of Courts

**RECEIVED**  
JUN 30 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

**FILED**  
JUL 17 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

**Youngstown Municipal Court  
Veterans Treatment Court Rule**

Rule CR6 – Veterans Treatment Court

The Youngstown Municipal Veterans Treatment Court (YMVTC) was created to provide Veterans involved in the Youngstown Municipal Court the necessary treatment, services, and support so that they may lead stable, law-abiding, and healthy lives as positive and productive members of the community.

- A. **Establishment of the YMVTC** -- According to the requirements set forth in Sup.R 36.20 through 36.29 the Youngstown Municipal Court established the Veterans Treatment Court in January 2011 in order to increase the number of offenders with past military service that access available resources provided by the United States Department of Veterans Affairs and successfully complete the Youngstown Municipal Court requirements.
- B. **Placement in YMVTC** -- Identification of defendants for the YMVTC can occur initially when a defendant has been arrested and/or officially charged. The procedure is informal and may be employed at any stage of the proceedings. To be eligible for the YMVTC defendant must meet all legal and clinical criteria as stated below:

**Legal Eligibility Criteria**

1. Defendant must have misdemeanor charges pending in Youngstown Municipal Court.
2. Defendant must be a Veteran. The Youngstown Municipal Court considers the defendant to be a Veteran if the defendant has previously served or is currently serving in the United States Military.
3. Defendant must not be a violent offender. The YMC considers the defendant to be a violent offender if, as a result of the offense, serious injury occurred to the victim.
4. Defendant must plead guilty or be found guilty and agree to be placed on supervised probation through the YMVTC.
5. If the prosecutor decides to place the defendant in a diversion program, the defendant can plead no contest and must agree to be placed on supervised probation through the YMVTC.

**Clinical Eligibility Criteria**

6. Defendant must have a clinical diagnosis of substance dependence, mental illness, traumatic brain injury, or co-occurring disorder.
7. Defendant must not be a risk to court staff, family, or the community.
8. Defendant must be willing to go to treatment and agree to comply with the recommendations of his or her service providers based on the assessment reports.

Upon receipt of referrals, the Veterans Treatment Court Coordinator will provide the defendant with a copy of the participant handbook and an eligibility packet, which includes an Application for Veterans Treatment Court and Consent to Release Personal Information Form. These forms are to be completed and returned to the Veterans Treatment Court Coordinator. Upon filing the Application for Veterans Treatment Court, a copy of it goes to the prosecutor. After reviewing the application, the prosecutor makes a determination on legal eligibility for the program and how the defendant will be charged. The prosecutor then files a report of the results. If the prosecutor deems the defendant not eligible for the Veterans Treatment Court, the Veterans Assessment Treatment Monitor presents the information to the treatment team and the case is scheduled on the regular docket. If the prosecutor determines the defendant is eligible for the Veterans Treatment Court, the defendant is scheduled for clinical assessments. Assessment reports shall include treatment recommendations based on the appropriate level of care, confirm that the defendant meets the clinical eligibility criteria and is appropriate for inclusion in the Veterans Treatment Court. Based on all this information and in accordance with the written eligibility criteria, the YMVTC Judge has discretion to decide admission into the Veterans Treatment Court.

- C. **Case Assignment** -- Once the YMVTC Judge determines that the defendant is to be offered entry into the Veterans Treatment Court and the defendant accepts, a journal entry is signed transferring the case to the Veterans Treatment Court, a date for the defendant to plea is scheduled, and a notice to appear in Veterans Treatment Court is given to the defendant and his or her attorney. The YMVTC Judge shall have the primary responsibility for case management of cases in the Veterans Treatment Court.
- D. **YMVTC Case Management** -- Defendants accepted into the YMVTC will participate in appropriate treatment services. These services may also include but are not limited to obtaining stable housing and reliable transportation; completing high school or obtaining a GED; participating in vocational assessments and entering appropriate training; and obtaining and maintaining employment, as able. The requirements outlined in the YMVTC Program Description, Participant Handbook, and Participation Agreement are incorporated here by reference.
- E. **Termination from YMVTC** -- Upon successful completion of their case plan, the defendant is graduated from the YMVTC. If the defendant is unsuccessfully terminated from the YMVTC, a hearing is scheduled before the YMVTC Judge and a notice to appear is sent to the defendant and his or her attorney. At the conclusion of the hearing, if the YMVTC Judge finds that the defendant shall be unsuccessfully terminated from the Veterans Treatment Court, the jail sentence and fines suspended may be imposed. A defendant may be neutrally discharged from the Veterans Treatment Court if the defendant is no longer capable of completing the program.

Municipal Court  
Youngstown Ohio  
Filed  
2014 JUN 26 PM 12:23  
Sarah Brown-Clark  
Clerk of Courts