

# **PERRY COUNTY MUNICIPAL COURT**

PERRY COUNTY MUNICIPAL COURT

JUDGE DEAN L. WILSON

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## **LOCAL COURT RULES**

**DEAN L. WILSON  
JUDGE**

**ADOPTED: October 1, 2019**

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## **CRIMINAL, TRAFFIC, CIVIL AND SMALL CLAIM RULES**

### **Rule 1. SCOPE AND EFFECTIVE DATE:**

- (A) The Local Rules of Court are adopted for the governance of the practice and procedures in the Perry Municipal Court, pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio.
- (B) Except where otherwise noted herein, these rules are effective as of **October 1, 2019** and shall supersede and replace any local rules previously entered by this Court.

### **Rule 2. JURISDICTION OF COURT:**

The territorial jurisdiction of the Perry Municipal Court includes all of Perry County and the monetary jurisdiction shall be the amount as provided by the Ohio Revised Code.

### **Rule 3. COURT HOURS AND SESSIONS:**

The Court hours are from 8:00 A.M. to 4:00 P.M. Monday through Friday, except all days designated as legal holidays. The Clerk's office may be closed at such other times as the Court may designate. The Office is closed daily for lunch from 12:00 P.M to 1:00 P.M. 24-hour online payments can be accessed at [www.perrycountycourt.com](http://www.perrycountycourt.com).

### **Rule 4. FILE AND CASE MANAGEMENT:**

#### **(1) CASE MANAGEMENT CRIMINAL/TRAFFIC**

- (A) All criminal and traffic cases, where the defendant enters a plea of not guilty or not guilty for reason of insanity, is represent by counsel, and waives the right to speedy trial at the initial appearance may be set for a pretrial hearing at the request of the parties or at the Court's discretion. Written notice of the pretrial hearing date shall be provided to the defendant and counsel.
- (B) Defendant and counsel shall be required to personally attend the pretrial hearing as well as all other hearings. Failure of the defendant to appear will result in the issuance of an arrest warrant
- (C) Cases that are not disposed of at the conclusion of the pretrial conference will be set for trial unless the Court specifically indicates otherwise. The mandatory final pre-trials set prior to trial must be attended by counsel whom will be trying the case.

## **(2) CASE MANAGEMENT CIVIL DIVISION**

- (A) All contested matters, except forcible entry and detainer shall be set for a pretrial.**
- (B) Counsel and parties must appear before the Court at a pretrial. No appearances by telephone will be allowed unless requested and approved by the Court.**
- (C) Parties will be encouraged at the pretrial to review the possibility of settlement and to simplify and narrow the issues for trial, to reach stipulations of fact to shorten the time and expense of trial and to consider such other matters in the disposition of the case.**
- (D) Parties should be prepared for the pretrial to enter into a binding case management schedule setting forth a timetable for the amendment of the pleadings, the filing of motions, the exchange of witness reports and medical and hospital records, discovery and the trial of action. Such schedule shall therefore be adopted as an Order of the Court.**
- (E) At the time of the pretrial, the Court may consider other appropriate matters in accordance with Civil Rule 16, as well as the imposition of sanctions as authorized by Ohio Civil Rule 37, and such other matters as will aid in the disposition of the case.**

## **(3) FILE MANAGEMENT**

- (A) Parties should be prepared at the pretrial to enter into a binding case management**
- (B) The Clerk or Deputy Clerks shall prepare and maintain such dockets, books or records as provided by the Ohio Revised Code.**
- (C) Paper court files may be examined at the office of the Clerk of Courts under the supervision of court personnel.**
- (D) No document may be removed from a paper court file.**
- (E) The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Perry Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket. Said rule is effective as of July 7, 2014.**
- (F) Copies can be obtained at the clerks' office of scanned material' fees assessed as applicable.**

#### **Rule 5. COST AND FILING FEES:**

The Court has adopted a schedule of cost and filing fees in civil cases, as well as criminal and traffic cases, and may order amendment of these cost from time to time.

#### **Rule 6. PLEADINGS AND MOTIONS:**

- (A) All papers offered for filing with the Court shall be typed or legibly printed on 8 ½ inches by 11 inches in size.
- (B) The original complaint, along with attached documents, must be filed with the court along with the payment of all filing fees, cost deposits and any other cost and fees required.
- (C) Any and all motions filed are to be accompanied with an entry.
- (D) The caption of the complaint shall state the name and address, if known, of each party. The caption on any other pleading adding or naming new parties shall state names and addresses, if known of the new parties. All other pleadings and motions shall state the case number and the name of the first party plaintiff and the first party defendant. Every pleading, motion, or other document filed in a case shall be identifies by title and shall bear the name, address and telephone number of the individual filing the same. Documents filed by an attorney shall include the name of the attorney, his/her address, telephone number, fax number, his/her Ohio Supreme Court registration number and email address.
- (E) All pleadings and motions must be served upon the apposing counsel, or if a party is not represented, then upon the opposing party in accordance with the Ohio Rules of Civil Procedure.
- (F) Interrogatories, notices of deposition, request for admissions, and other discovery requests shall not be filed with court unless otherwise ordered.
- (G) Any pleading or motion filed in contravention of this rule may be stricken from the files at the courts' sole discretion.

#### **Rule 7. EMPLOYEES OF THIS COURT MAY NOT PREPARE PAPERS OR CHARGE FOR NOTARY SERVICES**

- (A) Employees of this Court shall not prepare or help to prepare any filings for this Court, except as provided under Section 1925.04 of the Ohio Revised Code.
- (B) No Fee shall be charged by any employee of this Court for notarizing affidavits or any other matters pertinent to the criminal and civil business of this Court.

## **Rule 8. PROOF OF SERVICE**

(A) All documents except the complaint offered for filing are required to be served on other parties shall contain proof of service in the form provided by Civil Rule 5(D) and Criminal Rule 498).

(B) No pleading shall be deemed served by leaving a copy with the Clerk or any Court personnel. Neither the Clerk nor any other Court personnel have any obligation to forward pleading left by counsel or any other person to the opposing party.

## **Rule 9. FACSIMILE FILING \*\*\***

(A) All pleadings, motions, or documents, other than the original complaint or any other pleading that join or adds a new party, may be transmitted to the court by facsimile transmission. The date and time of receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission. The facsimile machine is available to receive facsimile transmissions on the basis of 24 hours per day seven days a week at (740) 342-2188, subject to the conditions set forth in this rule.

(B) A document filed by fax **shall be accepted as the original filing.** The sender **shall not be required to file the source document with the clerk** but must maintain the same sender's records, and have the same available for production on request of the court with original signatures as otherwise required under these or other applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing. Moreover, the sender shall maintain the source document until the subject case is closed and all opportunities for appeal have been exhausted.

(C) The person filing a document by fax shall also provide a cover page containing the following information;

1. The name of the court;
2. The title of the case;
3. The case number;
4. The Judge;
5. The title of the document being filed;
6. The date of transmission;
7. The transmitting fax number;
8. How many pages are being transmitted including the coversheet;

(D) Subject to the provisions of these rules, all documents sent by fax and accepted by the clerk shall be considered filed as of the date and time the clerk time-stamps the documents received, rather than as of the date and time of the fax transmission. The clerks' office shall be deemed open to receive facsimile transmission of documents on the same day and time that the court is regularly open for business.

1. Fax filing may on be transmitted directly to the court for filing
2. The clerk shall not be required to acknowledge receipt of a facsimile transmission
3. The risks of transmitting a document by fax to the clerk shall be borne entirely upon the sender. Anyone using facsimile filing is urged to verify receipt of such filing with the court.

#### **Rule 10. REQUEST FOR CONTINUANCE**

(A) Every request for a continuance shall be by written motion unless made on the record in open court and must be requested at least twenty- four hours in advance. The motion shall set forth the date from which a continuance is requested and the reasons for continuance.

(B) Attorneys submitting motions for continuance shall accompany them with an entry providing blanks for the new trial or hearing time, date, and courtroom. If a continuance is requested due to a prior set hearing in another Court, a copy of the notice of such hearing shall accompany said motion.

(C) Motions for Continuance for Jury Trials due to a conflict from a case set prior to our Jury Trial being set must be filed with the Court within ten (10) days from the date of the Jury Trial hearing notice. Your failure to file the motion for continuance within the time prescribed will result in your Motion being denied.

(D) This rule does not restrict the Judge from exercising at the courts discretion in granting or denying continuances.

#### **Rule 11. ENTRIES**

(A) Entries on decision other than on the merits will be prepared and filed by the Court unless otherwise ordered.

(B) Counsel for the prevailing party shall prepare a judgment entry with five (5) days of an order of the court and submit the same to counsel for the adverse party who shall approve or reject the entry within five (5) days. If opposing counsel fails to return the entry within five (5) days, it shall be submitted to the trial judge, who shall approve the entry in the form he considers proper.

(C) No entry shall be accepted for filing unless signed by a judge.

(D) Nothing in this Rule precludes the assigned judge from preparing and filing a judgment entry sua sponte.

- (E) An entry must be drawn in language that is appropriate to the specific case in which it is to be filed.

**Rule 12. APPEARANCE AND WITHDRAWAL OF COUNSEL**

- (A) All documents filed on behalf of one or more parties represented by counsel shall be signed by one attorney in his individual name as trial attorney. All notices and communications from the court and all documents required to be served will be sent to the designated trial attorney. No attorney who has entered his or her appearance in a case may withdraw as trial attorney except upon written motion for good cause shown and after notice to the client.
- (B) Only the designated trial attorney will be permitted to participate in the final pretrial prior to the Jury Trial.
- (C) All trial attorneys must enter their notice of representation with the court in writing in order to receive notice of trial dates.
- (D) Appointed counsel in criminal/traffic cases shall not incur extra ordinary expenses in investigation or preparation of their case until they have disclosed the purpose of the expense and the amount to the court and secured the court's approval by way of an order. Application for attorney fees must be submitted to the court within thirty (30) days from the date of the termination of said case, or fees will not be approved by the court to be paid.

**Rule 13. RECORD OF PROCEEDINGS**

- (A) Method for recording court proceedings shall be by audio-electronic recording devices.
- (B) With the exception of jury trials which will be recorded by stenographic means with the losing party bearing the cost.
- (C) Any and all recording of proceedings shall be done only in accordance with Criminal Rule 22 and where a request is required by said rule, said request must be made at least fifteen (15) days prior to the commencement of the proceedings.
- (D) Either party to the cause of action may request the court proceedings be recorded by stenographic means if the court has received written notice of the request at least fifteen (15) days prior to the hearing. The cost for such stenographic recording shall be borne by the requesting party.

**Rule 14. TRANSCRIPTS**

- (A) Any party requesting a transcript of any recorded hearing shall bear the cost of said transcript except as otherwise ordered by the court and said request must be put in writing to the court bearing the style of the case, type of hearing and the date of said hearing.



- (B) The reporter shall not prepare a transcript of the evidence in any case for anyone not a party thereto unless all parties to the case shall have consented thereto in advance.
- (C) Every transcript filed in this Court shall bear the name, address and telephone number of the court reporter making the same.
- (D) A reporter shall not be required to prepare a transcript until satisfactory arrangements for payment have been concluded. Copies of a transcript shall be made only by the reporter with arrangements for payment thereof.

#### **Rule 15. JURY TRIALS\*\*\***

- (A) All Jury trials shall be set before the Court unless a party to action files a timely jury demand or is otherwise accorded a right to a jury trial pursuant to law.
- (B) Notice to the Court of the withdrawal of jury demand shall be made no later than seven days prior to the date of trial. In the event a panel of jurors appear for service and the trial is continued or postponed due to failure of a party or his counsel to comply with this rule or to appear, such party shall be assessed the per diem cost of the panel unless waived by the Court for good cause shown.
- (C) In all jury cases, all parties, or the attorneys for the same desiring specific jury instructions shall, at least seven days prior to the trial, file proposed jury instructions with the clerk of the court.
- (D) If there is evidence presented that tends to support that the accused party used the force in self-defense, defense of another, or defense of that person's residence, the attorney for the defense shall submit written notice of asserting self-defense to the Court seven (7) days prior to trial.
- (E) Exhibits are to be exchanged three days prior to trial and marked. You are required to have three copies and one original for the court.

#### **CIVIL AND SMALL CLAIMS RULES**

The monetary jurisdiction of the Civil Division is \$15,000.00

#### **Rule 16. COPIES OF THE COMPLAINT CIVIL/SMALL CLAIMS**

Complaints shall tender with the original complaint a sufficient number of service copies for all defendant's to be served.

#### **Rule 17. SMALL CLAIMS AUTHORITY**

The Small Claims Division is established and operated pursuant to Ohio Revised Code Chapter 1925. The monetary jurisdiction of Small Claim Division is \$3,000.00, interest and court cost.

- (A) The purpose of the Small Claims Division is to allow parties to resolve minor disputes quickly, inexpensively, and fairly, without requiring the service of an attorney. However, litigants are free to use an attorney if desired.
- (B) The small Claims Division of the Court is for monetary judgments only. Complaints seeking the return of property, or an order requiring a party to perform a certain act must be filed in the Civil Division.
- (C) In order to maintain a claim in the Small Claims Division, the court must have jurisdiction over the parties in on of the following manners;
  - (1) The transaction giving rise to the complaint occurred within the territorial jurisdiction of the Court;
  - (2) The defendant maintains his/her residence or maintains his/her business within the territorial jurisdiction of the court.

#### **Rule 18. FORCIBLE ENTRY AND DETAINER**

1. Once a judgment has been rendered ordering a defendant to vacate a house or other building the Sheriff shall not take action to remove the defendant until a request is filed with the Clerk, requesting that said action be taken and the Sheriff shall not proceed with said action until sufficient costs are deposited to cover the expense of accomplishing the move. There shall be additional expenses taxed as costs in the case.

#### **Rule 19. SALES AND PROCEEDINGS IN AID OF EXECUTION**

The Sheriff shall follow the rules prescribed by Section 2329.13, et seq of the Revised Code of Ohio in the advertising and conducting of all sales on attachments, execution or foreclosure of chattel mortgages.

#### **Rule 20. JUDGMENT DEBTOR EXAMINATION**

If a judgment debtor fails to appear at the scheduled examination, and it appears the debtor was served with notice, the attorney for the creditor may request of the Court that a bench warrant be issued for the arrest of the debtor. The request for a bench warrant shall be made in writing to the court along with the debtor's date of birth and social security number.

#### **Rule 21. DEMAND AND DEPOSIT FOR CIVIL/SMALL CLAIM JURY TRIALS**

A demand for a jury trial shall be made in accordance with Civil Rule 38. The Court orders the party that is requesting the jury trial to pay a deposit of \$250.00 when the jury demand is filed, as security for costs; unless an affidavit of hardship, approved by the Court, is filed in lieu of the deposit.

#### **Rule 22. CANCELLATIONS AND RELEASES**

Releases and assignments of judgements or certificates of judgment shall be in writing and signed by a person authorized to execute the instrument.

### **Rule 23. TRUSTEESHIPS**

Application for appointment of trustee shall be in accordance with the Ohio Revised Code Section 2329.70 and any demand made in accordance with Ohio Revised Code Section 2716.02.

### **Rule 24. SUBPOENAS FOR WITNESSES**

The return for subpoenas of witnesses shall be filed with the Clerk before the date of trial. The failure to appear of a witness for whom the return was not filed in accordance with the rule will not be grounds for a continuance of the case.

### **Rule 25. PRE-TRIAL PROCEDURE**

A pre-trial conference may be ordered by the Court. Upon notice of the scheduling of a pre-trial conference, it shall be the duty of counsel to make a sincere effort to dispose of the matter by settlement, and agree on any matters of evidence about which there is no genuine dispute. Prior to the date of the pre-trial conference, counsel shall exchange reports of expert witnesses expected to be called by each party, as well as medical reports and hospital records if such are involved. All pre-trials shall be held at the Perry County Courthouse. There shall be no telephone pre-trials. Failure of counsel to be prepared for pre-trial conference may result in dismissal of the case for want of prosecution or in a default judgment or such other action to enforce compliance

as the trial judge deems appropriate. It shall be the duty of counsel to do the following at the pre-trial hearing:

- (1) The counsel who will be trial counsel and who is fully authorized to act and negotiate on behalf of the party must be present.
- (2) All parties in interest must be present at the pre-trial unless such presence is excused by the trial Judge.

### **Rule 26. MOTION PRACTICE**

- (A) All motions and entries shall be made in conformity with the Ohio Revised Code Civil Procedure.
- (B) Each motion shall include a certificate of service attesting to service upon the opposing party or, if represented by counsel, upon counsel for such party.
- (C) Motions shall be supported by a brief citing applicable case and statutory law.
- (D) Any motion, which, by its nature, is capable of being determined without a hearing shall be ruled upon without a hearing.

### **Rule 27. DISPOSITION OF MOTIONS**

- (A) Unless otherwise provided in the Ohio Rule of Civil Procedure or these Local Rules, a party opposing a motion shall have fourteen (14) days from the date of service to file a brief in opposition citing applicable case and statutory law, with

the exception of motion for summary judgment. A party shall have thirty (30) days to file a brief in opposition to a motion for summary judgment.

- (B) A motion to extend time for filing the brief in opposition may be request prior to the expiration of the fourteen (14) days.
- (C) The failure of a party to file a brief in opposition to a motion may be construed as consent to granting said motion
- (D) All motions not heard or decided prior to trial will be disposed of at the time of the trial.

#### **Rule 28. DEFAULT JUDGMENT**

- (A) Motions and entries for default judgment shall be in writing and clearly state the date the complaint was filed, the manner in which service was perfected, proof of service and answer date.
- (B) In the event the motion is accompanied by a current affidavit setting forth the claim for relief and amount of damages, it will be ruled upon without oral hearing.
- (C) In the event the defendant fails to appear or otherwise answer and no motion of default is filed, the court will set the matter for an oral hearing. In the event the plaintiff files an affidavit setting forth the claim for relief and amount of damages prior to the hearing, the matter will be ruled upon on the basis of the affidavit. In the even an affidavit is not filed and the plaintiff fails to appear or produce evidence at the hearing in support of the claim and amount of damages, the matter will be dismissed without prejudice at plaintiff's cost.
- (D) Interest will be awarded in accordance with the law.

#### **Rule 29. SATISFACTION OF JUDGMENT**

- (A) No satisfaction of judgment shall be entered by the clerk unless all court cost has been paid.
- (B) No person other then the clerk or deputy clerk may enter satisfaction of judgment upon the records of the court.

### **CRIMINAL AND TRAFFIC RULES**

#### **Rule 30. BAILIFF**

The bailiff, clerk, deputy clerk or probation officer selected by the Judge shall formally open sessions in the traffic and criminal division of the Court.

### **Rule 31. APPEARANCE OF THE DEFENDANT**

Persons charged with traffic and/or criminal offenses must be present at the initial appearance as well as all subsequent hearings set forth herein. Failure to appear will result in an arrest warrant being issued.

### **Rule 32. MOTION PRACTICE**

- (A) All motions shall be made in conformity with Criminal Rule 12 Civil Rule 20 & 21.
- (B) Any motion which, by its nature, is capable of being determined without a hearing shall be ruled on without a hearing.
- (C) All motions not heard or decided prior to trial will be disposed of at trial.
- (D) In any case where a party or counsel anticipates that a motion hearing will require more than one hour, it is the responsibility of the party or counsel to notify the court so that adequate time can be scheduled.

### **Rule 33. WITNESSES**

1. Failure of any witnesses to appear in court may subject them to prosecution for contempt of court.
2. It will be the policy and the procedure of the Perry County Prosecutors Office to file a praecipe or a subpoena with the Perry County Court Office and a subpoena being issued for service upon the named Police Officer or Officers. Failure to appear for such court hearing will result in a Direct Contempt Citation being issued for that person.

### **Rule 34. WITHDRAWAL OF CHARGES**

1. All recommendations for withdraw, reduction, amendment or dismissal of charges and the reasons therefor shall be made in open court by the prosecuting attorney, and or shall be specifically set forth in writing upon the case file.
2. No reductions of charges shall be allowed after jury notices have been sent to the prospective jurors.

### **Rule 35. BOND FORFEITURE**

1. Where bond or bail has been posted and the defendant fails to appear as scheduled, the court may issue a warrant for the arrest of the defendant and the defendant shall suffer the forfeiture of the bond or bail as so posted.

### **Rule 36. BAIL**

Officers in charge shall release any person arrested and charged with any of the offenses, who gives bail or executes bond according to law and satisfactory to the Clerk

in the amount indicated in the bond schedule for appearance in the Perry Municipal Court.

### **Rule 37. PRE-TRIAL PROCEDURE**

(A) After entering a plea of not guilty to a criminal or traffic offense, the Court will automatically set a pretrial if a jury demand has been filed in the time prescribed by law. The court will also at its discretion set a pre-trial conference. The following persons are required to attend the pre-trial conference: the prosecutor, trial counsel and the defendant.

(B) Prior to the date of pre-trial conference, counsel shall exchange report of expert witnesses expected to be called by each party, as well as medical reports and hospital records if such is involved.

(C) All pre-trials are held at the courthouse, there shall be no telephone pre-trial conferences.

**Local Rules of Court  
Perry County Municipal Court  
Perry County, Ohio  
Rule 14. Specialized Dockets- Drug Court**

**Establishment of Drug docket.** The Court hereby states its intent to create a Drug Specialized Docket in accordance with the requirements set forth in the Superintendence Rules 36.20 through 36.29.

The goal of the Perry County New Direction Court is to improve offender's self-respect, to diminish substance abuse dependency, and improve the overall quality of life for both offender and family. Said Program is authorized as of the date of this entry and shall commence on the date of receipt of initial certification by the Ohio Supreme Court.

**Placement in Drug Docket.** In order for an individual to be admitted into the Perry County New Direction Drug Court they must meet the following legal and clinical criteria: be charged with a misdemeanor, have a drug and or alcohol dependency diagnosis as assessed by a licensed treatment agency; and must enter voluntarily. Violent offenses will be considered on a case by case basis. Individuals already participating in other Court programs in another county will be excluded as to not duplicate services. All participants enter the program post adjudication. The individual will be referred by the Judge for initial assessment as agreed upon by defense counsel and prosecution, or the probation officer. Individuals will complete a risk assessment, drug and alcohol assessment, and mental health assessment prior to entry into the program. The Judge has the discretion on who can participate in the Perry County New Direction Drug Court program. Meeting legal and clinical criteria for the Perry County New Direction Drug Court program does not create a right to participate. Individuals accepted must agree to comply with the programs requirements and not pose an unacceptable risk to program staff, family, or the community.

**Drug Docket Case Management.** The individuals accepted into the Perry County New Direction Drug Court will participate in drug and alcohol and mental health counseling as indicated in their individualized treatment plans, which can included, but is not limited to individual, group, or family sessions. The participants will be required to comply with all Court orders and requirements as indicated in their individualized case plans. This can include, but is not limited to obtaining housing, obtaining reliable transportation, completing high school, or earning a GED, participating in other vocational opportunities, obtaining and maintaining full or part time employment. Referenced in the Perry County New Direction Drug Court Program Description, Participant Handbook, and Participation Agreement.

**Termination from Drug Docket.** When the participant completes the Perry County New Direction Drug Court, they will report to probation for an aftercare period of six months. After that period, if the defendant has all court obligations met, the individual is eligible for successful early termination of probation. If the defendant is unsuccessful in completing the Perry County New Direction Drug Court, a probation violation may be filed and the remaining sentence may be imposed. The defendant may also be neutrally discharged if they are no longer capable of meeting the requirements of the program.