

Belmont County Court

(NORTHERN, EASTERN WESTERN DIVISIONS)

Court Rules

Adopted Effective July 1, 2013

By: Judge Frank A. Fregiato

Judge John A. Vavra

Judge Eric Costine

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Rule No. 1 JURISDICTION OF COURT

The territorial jurisdiction of the Belmont County Court includes all of Belmont County. There is one County Court with three divisions (Northern, Eastern, and Western) and no Municipal Court.

Rule No. 2 GEOGRAPHICAL JURISDICTION OF DIVISIONS

Each of the three County Court Judges shall have countywide jurisdiction and cases may be transferred freely between any divisions or among the three divisions at the discretion of the Judges. Belmont County is geographically divided for geographical convenience and not jurisdictional purposes. This geographical division is on file with each clerk of each of the three divisions and the Belmont County Clerk's Office. These divisions may be changed at any time and for any reason by agreement of any two of the three Judges after consultation among all three.

Rule No. 3 TIMES OF COURT

- A. The offices of the Clerks shall be open for the transaction of business from 8:00 o'clock A.M. to 4:00 o'clock P.M. Monday through Friday of each week, legal holidays excepted. The Clerks offices may be closed at such other times as the Court may designate.

- B. To facilitate the issuance of such papers as might be discovered necessary during a trial, after the conclusion of the Clerk's office day at 4:00 P.M., the Clerk is instructed to keep the Clerk's office facilities available, and should a trial be continuing after 4:00 P.M., the Clerk shall have himself, herself or at least one Deputy Clerk remain in the Clerk's office until the conclusion of the trial for that day.

- C. The Judges shall have full discretion in the disposition of the work of their office and shall have the right to make their own rules and regulations with respect to the time of the convening and adjourning.
- D. Each Judge shall schedule his or her own hours of actual Court.

Rule No. 4 REMOVAL AND FILING OF PAPERS

Original papers or depositions shall not be removed from the Clerk's office. Copies of all pleadings and other papers shall be filed with the Clerk and the number of copies shall be determined by the number of complainants or defendants, as the case may be.

Rule No. 5 COMPUTING TIME

The time within which an act is required to be done under these rules shall be computed in accordance with Ohio Civil Rule 6 and Ohio Criminal Rule 45.

Rule No. 6 JURY SELECTION

Selection of Jurors shall be done in accordance with the drawing of Jurors for the Court of Common Pleas of Belmont County, Ohio, and the procedure as directed by the Common Pleas Judges as prescribed by Chapter 2313 of the Ohio Revised Code.

Rule No. 7 RECORDS OF THE CLERK

The Clerk shall prepare and keep records, dockets and books as provided by the Ohio Revised Code.

Rule No. 8 SMALL CLAIMS DIVISION

All Small Claims Complaints filed in this Court shall be numbered consecutively. Claims filed shall be entered as numbered and indexed in the Civil Docket Index. Thereafter, on filing any papers therein or calling the attention of the Court to any case, its number must be given.

Rule No. 9 CASE MANAGEMENT

A. CRIMINAL CASES

1. **PRE-TRIALS:** After arraignment, all misdemeanors, except minor misdemeanors, shall be set for pretrial by the Trial Judge promptly. Minor misdemeanors shall be set for trial unless the Judge orders a pretrial in said case. If the parties cannot resolve the case, then the case will be set for trial to Court unless a Jury Trial is demanded.
2. **MOTIONS:** All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing, unless the Court deems that the matter can be resolved without an oral hearing.
3. **TRIALS:** Each case not resolved at pretrial shall be set for trial to Court. If a Jury demand is timely filed, then the case will be moved to the jury trial schedule. All attorneys shall notify the Court by 9:00 A.M. of the day preceding their trial of any changes in plea or jury costs **WILL BE ATTACHED** to their case.

B. CIVIL CASES

1. 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 immediately. If counsel fails to obtain service of summons within six (6) months from the date the cause of action has been filed, then the Clerk shall notify counsel that the case will be dismissed without prejudice in ten (10) days unless good cause is shown to the contrary.
2. If an answer is filed, the case shall be set for pretrial conference and/or the Court shall file a scheduling entry. Any motions to be filed must be in writing and accompanied by a written memorandum containing citations and/or the arguments of counsel. There will be no oral hearings granted in said motions unless the parties request an oral hearing in writing and the Court deems it necessary, or as ordered by the Court.
3. PRETRIALS: Pretrial shall mean a supervised conference chiefly designed to produce an amicable settlement, to resolve discovery disputes, and to move the case forward. Notice of pretrial conference shall be given to all counsel of record by mail not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Judge. Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority. 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. The Judge shall have the authority to dismiss the action of want of prosecution on motion on defendant upon failure of plaintiff and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon

failure of the defendant to appear in person or by counsel at any pretrial conference of trial as required; to make such other order as the Court may deem appropriate under all the circumstances. If the case cannot be settled at pretrial, then the case will be set for trial by the Court.

4. CONTINUANCES: No party shall be granted a continuance of a trial or a hearing without motion from the party or his counsel stating the reason for the continuance. 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 administrative Judge may require the trial attorney to provide a substitute trial attorney.
5. JUDGMENT ENTRIES: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That entry shall be submitted to opposing counsel within five (5) days. Within fifteen (15) days of the decision, the journal entry shall be submitted to the Judge, or, thereafter the court will prepare the journal entry. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution.

Rule No. 10 FILING OF PLEADINGS, MOTIONS, ETC.

A. AGREEMENTS OF COUNSEL

Stipulations of agreements of counsel or parties to a suit must be reduced to writing and signed by the parties or their

respective counsel, or made in open court and a memorandum made thereof or dictated to the court reporter or into the recording devise; otherwise, such stipulations or agreements shall not be recognized by the Court if disputed by any of the parties.

B. REMOVAL OF FILES, PLEADINGS OR OTHER DOCUMENTS

No files, pleadings or other documents on file in this court shall be removed from the office of the Clerk of this Court except with his or her permission and under such rules as he or she shall from time to time prescribe. Provided, however, that this rule shall not apply to:

1. The use of such files, pleadings or other documents in open Court or Judge's chambers during any arguments, hearing, trial or other proceedings in the case to which such files, pleadings or other documents belong, or in which they may be used.
2. Any removal made pursuant to law, or with express permission of the Court.

C. SECURITY FOR COSTS

1. Upon the filing of a civil action, an advance deposit for fees and costs shall be paid to the Clerk of Courts in accordance with a schedule of such fees and costs as may be fixed from time to time by the Court under the provisions of Section 1901.26 of the Ohio Revised Code.
2. If it is brought to the attention of the Judge that any

security as previously ordered is insufficient, he or she may require the said security to be increased at any time.

3. In cases filed wherein legal advertising is used, counsel shall cause publication costs to be arranged for and paid directly to the publisher.
4. Conforming to this Rule, the Clerk shall not accept for filing, and Court may sua sponte strike from the file, any complaint, counterclaim, petition, motion, application or other document not in compliance herewith. The necessity for the costs deposits herein required shall not be abrogated by anyone except upon Court order.

D. SUBMISSION OF BRIEFS

In all civil Jury cases, trial briefs must be submitted fifteen (15) days in advance of the day of trial unless the Court for good cause extends the time for submitting the same. Failure to file trial brief by counsel for plaintiff may result in dismissal by the Court.

E. TESTIMONY OF EXPERTS

No civil action that has been assigned a trial date will be removed from the assignment because of the inability of a medical or other expert witness to be present to testify. After a trial has commenced, reasonable effort will be made to accommodate the medical or their expert witness as to his appearance, but no unreasonable delay during trial will be granted for this reason. If video tape depositions are to be used during trial, counsel's attention is directed to Sup. R. 15 B-6(a)(b).

Rule No. 11 JURY TRIALS AND DEMANDS

- A. A demand for a civil jury trial shall be made as required by Civil Rule 38.
- B. In the event a civil case is settled or dismissed prior to trial and it is not possible to notify all jurors of said cancellations, the requesting party shall bear the costs of juror's fees of those jurors who report for the day of trial.

Rule No. 12 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 No. 13 GARNISHMENT PROCEEDINGS

All orders of garnishment shall be served on the garnishee by certified mail.

Rule No. 14 FORCIBLE ENTRY AND DETAINER

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. Any additional expenses shall be taxed as costs in the case.

Rule No. 15 JUDGMENT DEBTOR EXAMINATION

- A. All judgment debtor examinations will be held as assigned by the Judge handling the case.
- B. 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.

Rule No. 16 MAILING ADDRESSES

- A. It is the responsibility of the complaining witness to provide the Court with a proper mailing address and keep the Court informed of any change of address so that notice of trial may be mailed to him. Failure of the complaining witness to appear at trial due to the non-delivery of the trial notice because of improper address shall not be a defense to dismissal of the cause for failure to prosecute.

Rule No. 17 BAIL BOND, FINE AND COSTS SCHEDULE

- A. A bond schedule for misdemeanor cases and a fine and costs schedule for Traffic Violations shall be prepared by the Court and a copy shall be posted in the Clerk's office so that it is available to the public.
- B. It is the policy of the court that recognizance bonds shall be used for Belmont County residents whenever appropriate.

Rule No. 18 ARREST WARRANT FEES

An additional fee of \$50.00 shall be assessed for an arrest warrant or for a blanket arrest warrant for any particular defendant in a case or in

multiple cases in the same division. The \$50.00 shall be divided and allocated as follows:

- (1) \$5.00 to the issuing County Court Division for a processing fee.
- (2) \$25.00 to the Belmont County Sheriff's Department for a processing fee.
- (3) \$20.00 to the State Highway Patrol, Village Police Department, City Police Department, or Belmont County Sheriff's Department, as the case may be, as and for transporting costs of the defendant to the Belmont County Jail.

Rule No. 19 NOTIFICATION OF CASES SET FOR HEARING

The Court will notify the Prosecutor and the defendant at his last known address or his attorney of record of the hearing date.

Rule No. 20 APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

In felony cases and certain misdemeanor cases, if a defendant claims he is indigent, he may request of the Court that an attorney be appointed to represent him.

Rule No. 21 PRAECIPE FOR WITNESS

All requests for the issuance of subpoenas for witnesses in a criminal case must be made in writing to the Clerk no later than five (5) working days before trial. If this rule is not complied with, failure of a witness to appear shall not be grounds for a continuance.

Rule No. 22 JURY STANDARDS

- A. The names of potential jurors shall be drawn from a jury source list by the Jury Commissioners of Belmont County, as provided in Chapter 2313 of the Ohio Revised Code.
- B. Potential jurors drawn from the jury source list by the Jury Commissioners shall be available to be called for duty as jurors over a three month period.
- C. Prospective jurors who are summoned for service in a jury trial may be excused from jury service only if their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by the Judge, or the prospective jurors request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a Judge. Prospective jurors may also be excused from jury duty if such exemption is permitted by the Ohio Revised Code.
- D. The Court shall prepare and mail a questionnaire which is to be filled out by the prospective juror and returned to this Court. When a jury trial is to be held, the Court shall prepare a notice summoning a prospective juror to jury service. The jury questionnaires shall be forwarded from the Court to counsel scheduled for jury trial at the time the voir dire list is sent from the Court to counsel.
- E. Once a written demand for a jury has been filed, any subsequent waiver of the jury trial shall be made in writing at least five (5) working days prior to the trial date. Failure to abide by this rule shall result in the defendant paying all jury fees and expenses incurred by such jury demand.

Rule No. 23 RECORD DEMAND

Any party may demand a record of any proceeding provided they have filed in writing, not less than five (5) working days prior to a trial a demand therefore, and posted the estimated costs thereof.

Rule No. 24 PRESENCE OF WITNESSES

The presence of witnesses for any party is not required at the commencement of the cause in which they are to testify. However, their names and addresses shall be available and revealed to the Court and the jury prior to the commencement of the trial.

Rule No. 25 AMENDMENT

These rules may be amended at any time by agreement of two out of three of the divisional Judges, provided the three having jointly consulted regarding the same in advance or had the opportunity to do so.