

# **FAIRFIELD COUNTY COMMON PLEAS COURT**

## **RULES OF COURT**

**JUDGE CHRIS A. MARTIN  
JUDGE RICHARD E. BERENS**

**Common Pleas Court  
General Division  
Hall Of Justice  
224 E. Main Street  
Lancaster, OH 43130**

**Effective: SEPTEMBER 1, 2007**

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# **FORWARD**

THE RULES HEREINAFTER SET FORTH SHALL APPLY TO THE GENERAL DIVISION OF THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY. THE PURPOSE OF THESE RULES IS TO DEFINE LOCAL PRACTICES AND PROCEDURES OF THIS COURT, CONSISTENT WITH THE RULES OF SUPERINTENDENCE, THE RULES OF CIVIL AND CRIMINAL PROCEDURE, AND SUCH OTHER RULES AS MAY BE ADOPTED OR PROMULGATED BY THE SUPREME COURT OF OHIO PURSUANT TO SECTION 5 OF ARTICLE IV OF THE OHIO CONSTITUTION.

THESE RULES SHALL TAKE EFFECT ON

SEPTEMBER 1, 2007

## **GENERAL RULES**

- 1.1 **OFFICE HOURS OF THE GENERAL DIVISION OF THE COMMON PLEAS COURT** - Regular sessions of Court shall be from 8:00 a.m. to 4:00 p.m., Monday through Friday, except for holidays provided for by law and such other occasions designated by the County Commissioners and approved by the Court and further except for such other occasions as may be specifically ordered by the Court.
- 1.2 **PAPER** - All pleadings and papers filed with the Clerk of Courts shall be on 8 ½ x 11 inch white paper, single-sided and double-spaced unless otherwise permitted by the Court. All papers shall be securely bound in the upper left-hand corner by staple unless the size of said pleading makes such binding impractical. In such case, counsel shall contact the Court for further directions as to the binding of said pleading or papers. The foregoing shall not apply to Exhibits filed with the Court or attached to pleadings or to official court forms. All documents filed with the Court shall include counsel's Supreme Court registration number along with other identifying information including but not limited to office address, telephone number and fax number.
- 1.3 **FILES** – The Court will not preclude any member of the public from viewing court files but may regulate the manner in which said files are reviewed. No files shall be removed from the Offices of the Court or the Offices of the Clerk of Courts unless with permission of the Court.
- 1.4 **PREPARATION OF ENTRIES** - Unless as otherwise directed by the Court, the Court shall prepare its own Judgment Entry, Order or Decree. If the Court directs counsel for the party in whose favor an order, decree or judgment is rendered to prepare a proper entry, counsel shall within ten (10) days thereafter prepare said entry and submit it to counsel for all adverse parties who shall approve it or object thereto within five (5) days from receipt thereof. Said entry shall contain a provision as to which party shall bear the costs in the matter. Failure to prepare

said entry within the time ordered by the Court will result in the dismissal of the case.

- 1.5 SCHEDULE OF COSTS** – The schedule of costs for the Fairfield County Common Pleas Court may be found online at [www.fairfieldcountyclerk.com](http://www.fairfieldcountyclerk.com). Parties and/or counsel shall be responsible to verify the current court costs by contacting the Fairfield County Clerk of Courts at (740) 687-7030 or online at [www.fairfieldcountyclerk.com](http://www.fairfieldcountyclerk.com).

**[A] DEPOSIT FOR JURY** - Any party who has requested a jury in a civil case shall, on or before 4:00 p.m. on the Friday prior to the date set for trial, deposit the sum of \$500.00 with the Clerk of Court to cover the costs of jurors. Failure to do so will constitute a waiver of jury. Jury fees may be assessed as court costs. Under certain circumstances, the Court, in its discretion, may waive a jury deposit.

- 1.6 COSTS OF JURY VIEW** - Except for cases involving indigent criminal defendants, the party or parties requesting a jury view shall be responsible for the entire cost for transportation of jurors. When a view of the premises is had in a jury trial, a request for payment, in the form of an invoice or voucher, submitted to the Court by the transportation provider shall be paid as follows:

[A] In the case of a jury view in a civil trial, a deposit of \$250.00, or such additional amount as the Court may require shall be made not later than 12:00 Noon on the Friday before trial by depositing that sum with the Fairfield County Clerk of Courts. If both parties request the jury view, the deposit shall be divided evenly between or among the parties.

[B] In the case of a jury view in a criminal trial, a non-indigent defendant shall deposit \$250.00, or such additional amount as the Court may require not later than 12:00 Noon on the Friday before trial by depositing that sum with the Fairfield County Clerk of Courts.

[C] In the case of a jury view in a criminal trial, where the defendant is indigent, the government shall pay the expense of transporting the jurors to and from the scene. The Clerk of Courts shall assess as costs the expense of transporting the jurors to and from the scene.

- 1.7 STATEMENT AND EXECUTION FOR COSTS** - The Clerk shall keep a list of all unpaid and accrued costs in all proceedings where costs have been taxed and shall send statements to all persons against whom costs have been taxed, and the Clerk of Court shall do so at least once every two (2) months. If, after two (2) such notices the costs have not been paid, the Clerk shall issue a Certificate of Judgment for the amount of such costs without further order of the Court.

- 1.8 RECORDING OF PROCEEDINGS** - Unless otherwise ordered by the Court, all matters of record shall be preserved by digital recording.

As of 2001, the Court's audio record of criminal and civil proceedings will be digitally/electronically maintained indefinitely. Audio recordings of criminal

hearings prior to 2001 will be maintained indefinitely. Audio recordings that have been transcribed need not be preserved.

Custody of all audio recordings shall remain at all times with the Court Reporter, who shall be responsible for the transcription of the same.

**1.9 COSTS FOR TAPE RECORD TRANSCRIPTION** - The rates per page to be charged by the Court Reporter providing transcripts of court proceedings are set and established as follows:

Original to be filed with Court .....	\$3.25/page
Plus one (1) copy to ordering party	
Copy to opposing party .....	\$2.00/page

The Court reserves the right to adjust the page rate for complex, expedited transcripts, excerpts of proceedings, or as is deemed appropriate by the Court.

The Court reserves the right to require a deposit for the preparation of all transcripts, that deposit to be based on a reasonable estimate of the number of pages requested. The amount of the deposit shall be determined by the Court, but shall be at least one-half the estimated cost.

The transcript is considered ordered only after a signed request for transcript and the required deposit is made to the Court Reporter. Final payment is due within seven (7) days of notification of the completion of the transcript and before filing.

**1.10 JURY QUESTIONNAIRES** - Prior to the time of trial in all trials to a jury, counsel will acquaint themselves with the information contained in the questionnaires submitted to the Court by prospective jurors. At the close of voir dire, any jury questionnaires and any and all copies thereof in the possession of trial counsel or counsel's staff shall be returned to the Court.

## **CIVIL RULES**

- 2.1 CIVIL CASE MANAGEMENT PLAN** - The Court adopts the Civil Case Management Plan (Appendix A), as a part of these rules.
- 2.2 MOTIONS** - All motions shall be accompanied by a supporting memorandum citing authorities relied upon and any underlying operative facts. In the absence of such memorandum, such motion may be stricken from the files. Memoranda contra shall be filed within fourteen (14) days from the date the motion was served. Except in the case of a motion for summary judgment, no reply to a memorandum contra shall be filed. All motions shall be scheduled for a non-oral hearing unless the Court should otherwise direct.

Upon filing a motion which is agreed to by all the parties, the party filing the motion shall submit a proposed agreed entry containing the approval of all counsel and/or pro se litigants.

No pleading or motion subsequent to filing shall be amended by interlineation or obliteration except by leave of the Court and as shown by a journal entry.

Upon filing of an amended pleading or motion the original shall not be withdrawn from the files.

- 2.3 PLEADINGS - EXTENSIONS** - By agreement of counsel, and with the approval of the Court upon the filing of a Motion, additional time to move or plead may be granted to a party.
- 2.4 PRETRIAL PROCEDURE** - Pretrial procedure in civil cases will consist of two separate phases:

**(A) Initial Conference** – A telephonic initial conference will be scheduled within two to three months after the issues in the case are joined by the pleadings.

The purposes of the initial conference are to clarify the issues involved in a case and define what aspects of a case can be agreed upon; to facilitate constructive communications among the parties; to explore settlement possibilities; and to otherwise promote an economical, expeditious and mutually satisfactory conclusion of a given case.

**(B) Pretrial/Settlement Conference** - At the time set during the initial conference, a formal pretrial will be held. Unless excused by the Court trial counsel and all parties and persons with authority to settle are required to be present.

By the pretrial conference, all matters required to be completed by the Scheduling Order shall be completed.

Failure to comply with the above will result in any appropriate sanctions

provided by law or by court rules.

Prior to the time of pretrial, the parties shall file a pretrial statement, serving opposing counsel with a copy. This statement shall include:

1. A brief statement of the facts of the case.
2. A statement of those issues that are disputed.
3. A statement of those issues of law that are disputed.
4. All exhibits expected to be offered into evidence. The exhibits are to be labeled as though they were being offered into evidence at trial.
5. An itemization of all expenses, losses of income and other damages suffered by the complaining parties.
6. The names and addresses of expert witnesses to be called by the parties.
7. The names and addresses of lay witnesses to be called by the parties.
8. An estimate of the total time required for trial.
9. If a request for a jury view is to be made, a statement as to what items or objects are to be pointed out by the bailiff.
10. A summary of the efforts made to settle the case up to the date of the pretrial.

The pretrial statement shall be binding on the party submitting it. Amendments to the said statement are permitted only with leave of the Court and for good cause shown.

Counsel shall have all exhibits marked before trial time.

Written request for jury interrogatories are to be submitted no later than 12:00 Noon on the Friday prior to trial.

Jury instructions specific to the issues for trial are to be submitted no later than 12:00 Noon on the Friday prior to trial in the manner designated on the Scheduling Order.

Court staff will be available to instruct counsel on the operation of a VHS (½"), TV, and document camera for use at trial. Any other operator or equipment used without prior approval of the Court will be at the expense of the party presenting the evidence.

A typed transcript of a video to be played at trial shall be submitted to the

Court no later than 12:00 Noon on the Friday prior to trial with all objections marked for review and ruling.

- 2.5 MEDICAL MALPRACTICE ARBITRATION** - Upon filing of a medical malpractice case as set forth in R.C. Section 2305.113, if all of the parties to the medical, dental, optometric, or chiropractic claim agree to submit the issues to nonbinding arbitration, the arbitration shall be conducted in accordance with Sections 2711.06 to 2711.16 of the Revised Code.



## **CRIMINAL RULES**

- 3.1 CRIMINAL CASE MANAGEMENT PLAN** - Pursuant to Sup.R. 5(B)(1), the Court adopts the criminal case management plan, Appendix B, as a part of these rules.
- 3.2 GRAND JURY** - The Judges of the General Division of the Court of Common Pleas shall preside over the grand jury during alternating terms of Court.
- 3.3 ENTRIES** - It shall be the responsibility of the prosecuting attorney or the prosecutor's staff to timely prepare all entries and rulings of the Court for journalization. Such entries need not be submitted to defense counsel for approval prior to submission to the Court unless defense counsel requests, on the record, to be provided with a copy of the proposed entry for review.
- 3.4 COURT PROCEEDINGS** - In all cases in which a defendant intends to apply for community control, counsel for the defendant will obtain from the Court an application for community control and have the defendant complete it. The application is to be submitted to the Court at the pretrial or, for good cause shown, at a later time designated by the Court. The application is available by contacting the Fairfield County Community Control Department at (740) 687-7048 or at [www.co.fairfield.oh.us/Commonpleas/prob-app.pdf](http://www.co.fairfield.oh.us/Commonpleas/prob-app.pdf).
- 3.5 COURT DATES**
- (A) If a trial has not already been set in a case, the case will be scheduled for a trial at the time of the pretrial, unless the Court directs otherwise.
- (B) Plea hearings shall be conducted as soon as practicable after the defendant has notified the Court of the defendant's intention to enter a change of plea. Plea hearings are to be conducted no later than on or before the Friday preceding the scheduled trial date. For good cause shown, upon written motion and memorandum filed not later than the Friday preceding the scheduled trial date, the Court will conduct a plea hearing after the Friday preceding the scheduled trial date.
- 3.6 RELEASE OF EVIDENCE** - In all criminal cases no exhibit once placed in evidence may be withdrawn without the written order of the Court, designating to whom specifically which items are to be released.
- 3.7 ASSIGNED COUNSEL FEES** – In order to timely comply with the Ohio Public Defender compensation and reimbursement guidelines, counsel must submit their applications to the Judge to whom the case is assigned within forty-five (45) days from the date of filing of the Court order terminating the case. Failure to comply with this time guideline could cause part or all of the requested fees to be denied.

## **MISCELLANEOUS RULES**

- 4.1 THE BOX RULE** - Boxes in the Clerk of Courts office are provided for attorneys who wish to make and receive service thereby. Service on an attorney shall be considered complete on the day following placement therein. Availability of the boxes shall be designated by the Clerk of Courts.

Attorneys not wishing to accept service thereby should remove their names therefrom forthwith.

- 4.2 MEDIA** - The terms of Sup.R. 12 of the Rules of Superintendence for the Courts of Ohio shall be strictly complied with; the proposed use of any news media paraphernalia shall be in writing, detailing devices, locations, times, any distraction that would be caused thereby, etc. The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed.

All writings required by Sup.R. 12 and this Rule of Court shall be filed as early as possible prior to the date set for the relevant court proceeding.

- 4.3 FAX FILING** - The definition of "electronic filing" for the purpose of this rule of Court will be limited to fax. Pleadings or other papers may be filed by paper facsimile with the Clerk of Court only with prior approval of the Court. Any pleading being transmitted to the court by fax for filing shall be limited to no more than 10 pages unless permission is given by the Court. If approval is granted by the Court, any pleading or other papers shall be deemed filed with the Clerk of Courts upon receipt. Any pleading or other papers received for filing after 4:00 p.m., on the date due, shall be considered filed on the next business day of the Court.

- 4.4 MEDIATION** - The General Division of the Fairfield County Common Pleas Court does not have a mandatory mediation requirement but encourages the parties to engage in mediation if practicable. A list of individuals who have mediated cases before this Court is available upon request.

If any claim or claims are resolved at mediation, a notice of dismissal of all resolved claims or if applicable, the case, shall be filed with the Court within 14 days of the completion of the mediation.

- 4.5 MAGISTRATES** - Magistrates shall be appointed by the Court and serve as full-time employees of the Court as provided by Civ.R. 53, and Crim.R. 19, having all powers and duties as set forth therein and as ordered by the Court.

# APPENDIX A

## CIVIL CASE MANAGEMENT PLAN

### COMMON PLEAS COURT - GENERAL DIVISION FAIRFIELD COUNTY, OHIO

#### CASE PROCESSING GOALS -

Mortgage Foreclosure.....	12 months
Administrative Appeals.....	9 months
Injunction.....	12 months
All Other Civil.....	24 months
Worker's Compensation.....	12 months
Product Liability.....	24 months
Professional Tort.....	24 months
Other Torts.....	24 months
Complex Litigation.....	36 months

#### PURPOSE -

The purpose of this plan is to establish, pursuant to Rule 5(B)(1) of the Rules of Superintendence for Courts of Ohio, a system for civil case management that will achieve the prompt and fair disposition of civil cases and provide the Court with an efficient means of controlling the flow of civil cases.

#### STEP 1 -

Service of summons, in accordance with Rule 4.1 - 4.6 of the Ohio Rules of Civil Procedure, shall be checked 30 - 45 days after the action is filed.

- (A) If service is complete on all parties and the case is an administrative appeal, a briefing schedule shall be ordered as follows: appellant's assignment of errors brief due 15 days after the filing of the notice of briefing schedule; appellee's answer brief due 15 days after service of appellant's brief; appellant may file a reply brief due 15 days after service of appellee's answer brief. The case will then be submitted to the judge for final decision. Decision to be filed by assigned Judge.
- (B) All other cases other than administrative appeals go to Step 2 when service is complete.
- (C) If there is no return of service, the case will continue to be monitored every 14-30 days until all returns are filed.
- (D) If service of summons is incomplete, notice shall be served on plaintiff's attorney directing that unless service is obtained, the case will be dismissed for lack of prosecution. In 14 days thereafter, the action shall be dismissed if no effort has been made to obtain service. If service is completed at this

point, then the case shall continue to Step 2.

- (E) If service is being accomplished by publication, then after the last publication, the publisher or agent shall file with the Court an affidavit showing publication was made and a copy of the notice of publication. Both the affidavit and copy of the notice shall constitute proof of service. In 28 days after the last publication, the case shall go to Step 2.

## **STEP 2 –**

This step assumes that service upon all defendants is complete. The Court will re-examine the action more than 28 days after Step 1 has been completed.

- (A) After all party defendants have filed an answer, the parties will receive a notice of the date and time of the initial conference.
- (B) Any motion that requires a ruling shall be scheduled for a non-oral hearing unless the Court should otherwise direct.
- (C) For all other motions, if opposed, the opposing party shall file a memorandum in opposition within fourteen (14) days from the date the motion was served. No reply shall be filed by the moving party. Thereafter, the motion shall be decided forthwith.
- (D) Upon filing a motion which is agreed to by all the parties, the party filing the motion shall submit a proposed agreed entry containing the approval of all counsel and/or pro se litigants.

**INITIAL CONFERENCE** - At the initial conference the Judge or Magistrate will, among other inquiries, determine the status of the case with reference to settlement.

1. In each case that is reported settled, whether at the initial conference or later, counsel shall present a termination entry for approval within 14 days.
2. Every case that has not been reported as settled shall have served and journalized a scheduling order setting forth final dates to: join new parties, amend pleadings, disclose experts of plaintiff and defendant, complete discovery, and file dispositive motions. A date for pretrial will be established and a trial date may be established.
3. The Initial Conference shall take place within three (3) months after the case is filed, service is completed and answers are filed.

## **CONTINUANCES** -

1. Except in cases of emergency or by order of the court, a motion for continuance of a cause after it has been set for trial must be in writing and set forth the reason for the continuance, and unless the Court should otherwise direct, the motion for a continuance shall be decided forthwith after notice to opposing counsel. Counsel requesting the continuance shall note in the motion that counsel consulted or attempted to consult with

opposing counsel concerning the continuance and shall state the number of previous continuances requested.

2. All motions for continuance shall be accompanied by a proposed entry ordering the reassignment of the case with spaces for a day, date and time to be determined by Court.
3. Agreements of the parties to a continuance without the approval of the Court will not be honored.
4. Where a continuance of a cause is requested on the ground that an attorney in this case is already engaged in another court of record on the date assigned for trial or when said trial date conflicts with another matter on the attorney's schedule, the motion for continuance shall be filed within a reasonable time of receiving the notice of assignment. Said motion shall contain documentation reflecting the conflicting date in the other court. If the conflict is not with another court date, the attorney shall provide sufficient documentation to support the request for continuance. Failure to notify the Court of a conflict may result in the refusal of the Court to grant the continuance.

**FORECLOSURE ACTIONS** – In every foreclosure action, a Preliminary Title Report shall be filed with the Complaint in Foreclosure. Said Report shall contain the names of all appropriate lien holders and other persons or entities which may have an interest in the property upon which plaintiff seeks to foreclose. Where evidence of title indicates that necessary parties have not been made defendants, the attorney for the party filing the case shall proceed without delay to cause such new parties to be added and served.

**APPRAISERS' FEES** – Appraisers' fees in all judicial sales conducted through the Fairfield County Sheriff's Office are set as follows:

- (A) All appraiser's fees shall be \$150.00 per appraiser, except when the complexity of the appraisal is such that the \$150.00 fee is unreasonable for the amount of time and effort required to perform the appraisal. Whenever extraordinary fees are requested, the appraiser shall file an application with the Court for the additional fees showing good cause for the extraordinary fees. Any additional appraisal fee after the initial appraisal shall be \$75.00.

**FEES IN PARTITION SUITS** - The following schedule is established for attorney's fees in the handling of partition suits:

- (A) For any amount up to and including \$5,000.00 of the appraised value, if partitioned, or of the proceeds of sale if sold, the attorney's fee shall be 6%.
- (B) For all amounts over \$5,000.00 and up to \$20,000.00 the attorney's fee shall be at a rate of 6% of the first \$5,000.00 and 3% of the excess over that amount.
- (C) For all amounts over \$20,000.00 the attorney's fee shall be set at \$750 plus 2% of the excess over \$20,000.00.

## **APPENDIX B**

### **CRIMINAL CASE MANAGEMENT PLAN**

#### **COMMON PLEAS COURT – GENERAL DIVISION FAIRFIELD COUNTY, OHIO**

**CRIMINAL CASES FILED IN THE FAIRFIELD COUNTY COURT OF COMMON PLEAS, GENERAL DIVISION SHALL PROCEED ACCORDING TO THE LAW SET FORTH IN THE UNITED STATES CONSTITUTION, THE OHIO CONSTITUTION, THE OHIO RULES OF CRIMINAL PROCEDURE, THE OHIO REVISED CODE, THE SUPREME COURT OF OHIO RULES OF SUPERINTENDENCE, AND ALL OTHER APPLICABLE LAWS.**

#### **CASE PROCESSING GOALS**

All criminal cases-six (6) months from the date the Defendant is arrested or served with a summons.

#### **GRAND JURY**

Presentment to Grand Jury should be as soon as reasonably possible.

#### **ARRAIGNMENTS**

Arraignments shall be scheduled without unreasonable delay after the Court receives notice of the service of the indictment by warrant or summons.

#### **COURT DATES**

Defendants who have been released on bail shall personally appear at all scheduled Court proceedings.

If a trial has not already been set in a case, the case will be scheduled for a trial at the time of the pretrial, unless the Court otherwise directs

#### **PLEA HEARINGS**

Plea hearings shall be conducted as soon as practicable after the defendant has notified the Court of the defendant's intention to enter a change of plea. Plea hearings are to be conducted no later than on or before the Friday preceding the scheduled trial date. For good cause shown, upon written motion and memorandum filed not later than the Friday preceding the scheduled trial date, the Court will conduct a plea hearing after the Friday preceding the scheduled trial date.

#### **TRIALS**

A trial shall proceed according to all applicable laws.

## **APPENDIX C**

# **FAIRFIELD COUNTY COMMON PLEAS COURT JURY MANAGEMENT PLAN**

### **I. OPPORTUNITY FOR SERVICE**

- A. The opportunity for jury service shall not be denied nor limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Fairfield County, Ohio.

### **II. JURY SOURCE LIST**

- A. A cd-rom of all registered voters of Fairfield County, Ohio, obtained from the Ohio Secretary of State will be entered into the computer program Jury View, which was purchased from Crawford Consulting, Inc. nka Maximus.
- B. The jury manager will provide lists to the Fairfield County Municipal Court and the Fairfield County Probate Courts.
- C. The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- D. The Court shall annually review the jury source lists as to its representativeness and inclusiveness. Should the Court determine that improvement is needed, appropriate corrective action shall be taken.

### **III. RANDOM SELECTION PROCEDURES**

- A. A random selection program in use by this court is adequate to assure a random selection.
- B. Departures from the principle of random selection are appropriate only to comply with lawful exceptions and/or mandates.

### **IV. ELIGIBILITY FOR JURY SERVICE**

- A. All persons shall be eligible for jury service except those who:
  - 1. Are less than eighteen years of age;
  - 2. Are not citizens of the United States;
  - 3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Fairfield County.
  - 4. Are not able to communicate in the English language;

5. Have been convicted of a felony and have not had their civil rights restored.

## V. TERM OF AND AVAILABILITY FOR JURY SERVICE

Jurors shall be on call for a period of three weeks out of the four month term of court.

## VI. EXEMPTION, EXCUSE AND DEFERRAL

- A. All automatic excuses from jury service are eliminated.
- B. Prospective jurors may be excused for the following reasons:

financial hardship  
personal or family illness  
child care hardship  
employment responsibilities.

Prospective jurors are rescheduled for the following reasons:

vacation  
employer

- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.
- D. Requests for excuses and deferrals shall be in writing.

## VII. VOIR DIRE

- A. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's FAIRNESS AND IMPARTIALITY.
- B. To reduce the time required for voir dire, basic background information regarding each panel member is available to counsel in writing one week before jury selection is to begin. (**Appendix A** Jury Questionnaire)
- C. The judge should ensure that the privacy and personal security of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- D. In all cases, the voir dire process shall be held on the record.



#### **E. Rules on Voir Dire**

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning matters such as the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstance.
5. Questions are to be asked collectively of the entire panel whenever possible.

#### **VIII. REMOVAL FOR THE JURY PANEL FOR CAUSE**

- A. If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

#### **IX. PEREMPTORY CHALLENGES**

- A. Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

#### **X. ADMINISTRATION OF THE JURY SYSTEM**

- A. The responsibility for administration of the jury system shall be vested Exclusively in the Fairfield County Common Pleas Court through its JURY COMMISSIONER.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

#### **XI. NOTIFICATION AND SUMMONING PROCEDURES**

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:
  1. Phrased so as to be readily understood by an individual

unfamiliar with the legal and jury system; and,

2. Delivered by ordinary mail.
- B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
1. Determining whether a person meets the criteria for eligibility;
  2. Providing basic background information ordinarily sought during voir dire examination; and
  3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- D. See following example of notification letter (**Appendix B**) which is delivered to prospective jurors via ordinary mail, along with a summons.

## **XII. MONITORING THE JURY SYSTEM**

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualifications and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

## **XIII. JUROR USE**

- A. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

#### **XIV. JURY FACILITIES**

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict.
- E. Juror facilities shall be arranged to minimize contact between jurors and the parties, counsel and the public.

#### **XV. JUROR COMPENSATION**

- A. Persons called for jury service shall receive a reasonable fee for their service pursuant to statutory authority.
- B. Such fees shall be paid at the end of the term.
- B. Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work due to jury service.

#### **XVI. JUROR INSTRUCTION**

- A. The trial judge should:
  - 1. Give preliminary instructions to all prospective jurors.
  - 2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including note-taking, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
  - 3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberation. Such instructions may be made available to the jurors in writing during the deliberations;
  - 4. Before dismissing a jury at the conclusion of a case, the trial judge should:

- a. Release the jurors from the duty of confidentiality;
  - b. Explain their rights regarding inquiries from counsel or the press;
  - c. Either advise them that they are discharged from service or specify when they must call or report; and
  - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the verdict.
- C. All communication between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

## **XVII. JURY DELIBERATIONS**

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- C. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interests of justice.

## **XVIII. SEQUESTRATION OF JURORS**

- A. A jury may be sequestered only for good cause, including, but not limited to, insulating its members from improper information or influences.
- B. The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- D. Standard procedures should be promulgated to:
  - 1. Achieve the purpose of sequestration; and
  - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Training shall be provided to personnel who escort and assist jurors

during sequestration.