

# RULES OF COURT

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## [Preamble: \(#TOC\)](#)[Rule No. 1 - Judges \(#TOC\)](#)

It is ordered that on and after July 1, 1991 the following be, and the same is hereby adopted as the [Rules of The Court of Lorain Municipal Court](#), regulating the practice and procedure of the Court until otherwise ordered. All other rules previously established are expressly revoked.

The Rules of the Superintendence of the Ohio Supreme Court and the Ohio Rules of Civil and Criminal Procedure, under which these local rules are promulgated shall also govern the practices and procedures of the Court. Nothing in these rules shall be interpreted to conflict with such Rules of the Superintendence.

Lorain Municipal Court Judges: [Honorable Mark Mihok](#) and [Honorable Thomas Elwell](#)

## [Rule No. 2 - General \(#TOC\)](#)

The session of the Lorain Municipal Court shall be from 9:00 a.m. to 12:00 noon, and from 1:00 p.m. until 4:00 p.m. The office of the Clerk of Court shall be open from 8:30 a.m. to 4:25 p.m. All times mentioned herein shall be the time in effect by Municipal authority.

## [Rule No. 3 - Administrative Judge \(#TOC\)](#)

In Lorain Municipal Court the Administrative Judge shall be governed by [Rule 2 of the Rules of Superintendence](http://www.sconet.state.oh.us/pdf/Rules/SUPER.pdf). (<http://www.sconet.state.oh.us/pdf/Rules/SUPER.pdf>)

#### **Rule No. 4 - Dockets and Records (#TOC)**

The Clerk shall prepare and keep all dockets, books and public records as required by law.

#### **Rule No. 5 - Journal Entries (#TOC)**

**(A)** Every final order made by a judge shall be evidenced by a journal entry, which journal entry shall be signed by the Judge. The journal entry may be by separate instrument, the journal card or by entry on the jacket, in accordance with the practice in the Municipal Court. The Journal Entry in all civil cases shall be by separate instrument.

**(B)** Counsel for the party in whose favor, or on whose request, any order, judgment or decree is rendered, shall at request of the Judge, within three (3) days thereafter, unless the time be extended by the Judge, prepare the Journal Entry and submit it to counsel for the opposite party or parties, if any, who shall approve or reject it within twenty-four (24) hours after such presentation. If rejected, counsel so rejecting shall, within twenty-four (24) hours after rejection, prepare an Entry. Both Entries shall be presented to the Judge forthwith. The Judge will thereupon approve one of the said tendered entries, or prepare an entry to the Court's satisfaction, duly noting exceptions, and file the same with the Journal Clerk.

**(C)** In any case not tried to a jury, any party may request a separate finding of law and fact any time before the decision of the Court is announced.

#### **Rule No. 6 - Satisfactions (#TOC)**

Satisfactions in whole or part of the Judgment may be entered on the docket by the attorney of record, attesting to by the Clerk or Deputy Clerk, or by Journal Entry signed by the party or the attorney of record and approved by the Judge.

#### **Rule No. 7 - Fees and Costs (#TOC)**

**(A)** No action or proceeding shall be accepted for filing by the Clerk of this Court unless there first shall be deposited the filing fee required by the Court in its latest revised schedule of costs, except that upon a representation of indigency, the Clerk shall investigate the accuracy of such presentation and upon finding that such indigency does exist, the security for costs shall be waived. The Court shall maintain a current schedule of fees for distribution to the public, not inconsistent with those of the Revised Code and the Court of Common Pleas.

**(B)** Deposits and advance payments of fees and costs shall be returned only by order of the Court and only when the same have been paid by the party against whom they are assessed by the Court.

**(C)** When a jury trial in a civil case is demanded, the party demanding same shall be forthwith required to make an advance deposit as security for costs in such sum as the Clerk determines to be reasonable. The cost of summoning jurors and the fees of jurors shall be apportioned to the respective proceeding and shall be taxed as part of the Court costs. The minimum deposit for jury trial shall be \$350.00.

#### **Rule No. 8 - Pleadings and Motions (#TOC)**

**(A)** Civil Rules 7 through 15 shall govern the form and manner of pleading.

**(B)** All pleadings, orders and entries must be presented and time stamped at the Clerk's office.

**(C)** No pleadings after being presented to the Clerk's office shall be amended or altered without consent of the Court. (Subject to Ohio Rules of Civil on Amendment to Pleadings.)

**(D)** The original copy of all pleadings shall be the Court's copy, possession of which shall not leave the Court's premise.

**(E)** Only copies or certified copies of the files shall be taken from the Court.

**(F)** Sufficient additional copies of all pleadings must be filed with the Clerk's Office to secure adequate coverage of all necessary parties.

**(G)** All requests shall be in writing or by written precipe signed by the requesting party in interest or their Attorney.

**(H)** Attorneys must subscribe legibly all pleadings, entries and motions or in the alternative print the spelling of their name beneath the signature. The address, telephone number, and Supreme Court Number of the respective trial counsel shall be placed on the pleading of the first instance.

**(I)** Where an assignment is part of a case and is expected to be offered in evidence, a true copy of the entire assignment in unconditional form shall be attached to the complaint. The assignment shall not be used as a ruse to prevent the action from being brought by the real party in interest. The assignment must be absolute and unconditional, in order to prevent duplicity of payment.

**(J)** In attachment and garnishment proceedings, a true copy of the affidavit shall be served with the summons and order of attachment and garnishment.

**(K)** In the action on an account, the account must show the name of the party charged and contain the following:

1. A beginning balance (zero, or a sum that can qualify as an account stated, or some other provable sum).
2. Listed items (or an item, dated and identifiable by number or otherwise, representing charges, of debits and credits).
3. Summarization by means of a running or developing balance, or an arrangement of beginning balance and items which permits the calculation of the amount claimed to be due.

**(L)** In actions on an account, interest shall be at the highest legal rate permitted upon the balance of the account as of the date of the last debit entry, unless otherwise pleaded.

**(M)** The filing of a Motion or Pleading subsequent to the complaint shall be accompanied by proof of service signed and dated. The copy served upon the opposite party or his attorney shall be signed and dated.

**(N)** All motions shall be accompanied by a brief or memorandum of authorities in support of said motion. In default thereof, such motions may be stricken from the files. Opposing counsel shall have seven (7) days to file an Answer Brief.

**(O)** Motions to advance cases out of numerical order must be accompanied by affidavit showing meritorious grounds for such advancement.

**(P)** All motions for continuance shall be made in writing and proof of service upon opposing counsel of a copy of such motion shall be filed not less than fourteen(14) days before trial date.

**(Q)** The grounds for continuance must be stated in such motion. Such motion may be set for hearing before the trial date and the Court shall give opposing counsel notice of the time of such hearing. No case will be continued on the trial date, except for good cause shown, which was not known to counsel prior to the date of trial and provided counsel had used due diligence to be ready for trial and has notified and made diligent effort to notify his opponent as soon as he became aware of his necessity to ask for a continuance. All continuances shall be to a date certain.

**(R)** The court shall give all parties not less than fourteen (14) days advance notice of any trial date, unless all parties waive such advance notice.

**(A)** Except in actions for forcible entry and detainer or in replevin, when a party in any case is not prepared to move or plead by answer day **ONE extension** of time may be had upon application to the Court and without notice for a period of not exceeding thirty (30) days. Consent of counsel may be filed as a journal entry in the case and shall be evidence of "good cause shown" for the first leave only. Any leave to move or plead thereafter may be had only with approval of the Court and upon application to the Court, with notice to the opposite party or counsel, and for good cause shown, consent of opposing party or counsel shall not in and of itself constitute good cause.

**(B)** Default Judgments shall be governed by Civil Rule 55.

**Rule No. 10 - Briefs Other Than Trial Briefs (#TOC)**

**(A)** Counsel filing any motion or exception shall file therewith a memorandum containing a short, concise statement of the points relied upon and the authorities supporting such contentions and a true copy of it shall be served forthwith upon each opposing counsel and each party not represented by counsel.

**(B)** Unless the time be extended by the court, a motion directed to any pleading shall be filed within the time allowed by the Rules of Civil Procedure for a responsive pleading.

**(C)** Any motion or exception to be heard upon evidence shall so state and shall be accompanied by requisite affidavits.

**(D)** Opposing counsel may, within fourteen (14) days after receiving a copy of such motion or exception, file an answer brief or memorandum of like character. Copies thereof, shall be furnished and delivered as provided in paragraph (A) of this rule.

**Rule No. 11 - Hearing and Submission of Motions: Objections to Interrogatories (#TOC)**

**(A)** Motions, in general, shall be submitted and determined upon the motion papers hereinafter referred to. Oral arguments of motions will be permitted on written request and proper showing, or by mutual written request of the parties.

**(B)** The moving party shall serve and file with his motion a brief written statement of reasons in support of the motion with supporting citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in support of the motion.

**(C)** Each party opposing the motion may serve and file within fourteen (14) days after filing of the motion, a brief written statement of reasons in opposition to the motion with supporting citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in opposition of the motion.

**(D)** Reply or additional briefs upon motions and submissions may be filed with leave of the court only upon showing of the necessity thereof.

**(E)** Objections to interrogatories. Objection to interrogatories shall include, immediately preceding any discussions and citation of authority, the interrogatory in full to which objection is made.

**(F)** All pleadings and briefs containing references to statutes or regulations shall have attached thereto a copy of the statute or regulation.

**Rule No. 12 - Dismissals (#TOC)**

**(A)** All cases pending for a period of sixty (60) days in the docket of this Municipal Court in which service of summons or service by publication has not been made shall be dismissed by the Court unless good cause is shown to the contrary.

**(B)** If a party fails to comply with an order or decision of the Court, said case may be dismissed, or judgment may be rendered as upon default as the case requires.

**(C)** Cases assigned for trial upon which no appearance is made on trial date shall be dismissed for want of prosecution, or otherwise disposed of by the judge.

**(D)** In forcible entry cases, if plaintiff fails to appear at the time set for hearing, the cause shall be dismissed at the Plaintiff's cost.

**Rule No. 13 - Term (#TOC)**

There shall be no term in this Municipal Court, but for the purpose of computing time, ninety (90) days following judgment shall be considered within term and time thereafter shall be considered after term.

**Rule No. 14 - Journal Entries (#TOC)**

**(A) When ordered or directed by the court, counsel for the party in whose favor an entry, order, judgment or decree is entered in civil cause shall, within ten (10) days thereafter unless the time be extended by the court, prepare a proper journal entry and submit same to counsel for the opposite party who shall approve or reject the same within three (3) days after its receipt by him and may, in case of rejection, file objections thereto in writing with the court.**

The judgment entry specified in Ohio Civil Rule 58 shall be journalized within thirty (30) days of the verdict, decree or decision. If such entry is not prepared and presented for journalization by counsel, then it shall be prepared and journalized by the court.

**(B) REQUEST FOR FINDINGS BY THE COURT**

When a request for finding of fact and conclusion of law is made, the judge shall direct the party making the written request to prepare, within five (5) days, proposed finding of fact and conclusion of law and submit them to opposing counsel. Within ten (10) days after its receipt by opposing counsel, the proposed findings shall be submitted to the Court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

**AMENDMENT** Upon motion of a party within ten (10) days after the filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend or a motion for judgment.

**Rule No. 15 - Court Files and Papers (#TOC)**

No person (except a judge of the court) without counsel of the Clerk of Courts shall remove any court papers, files of the court or parts thereof from custody of the Clerk.

**Rule No. 16 - Pretrial Procedure (#TOC)**

For purpose of insuring the readiness of cases for pretrial and trial the following procedure shall be in effect.

A pretrial conference shall be conducted in all contested civil cases prior to being scheduled for trial. In addition, the judge assigned the case may for good cause shown waive the pretrial requirements stated herein.

**(A)** For the purpose of this rule, "pretrial" shall mean a court supervised conference chiefly designated to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and/or his or their attorney or attorneys of record.

**(B)** Notice of the pretrial conference shall be given to all counsel of record by mail and/or telephone not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the judge to whom the case has been assigned.

**(C) Attendance Required:** The following are required to attend all pre-trial conferences unless excused by the judge to whom the case is assigned after prior notice to opposing counsel:

1. All parties in interest unless the claim for relief against the party is fully covered by insurance;
2. An insurance company representative in all cases in which the claim for relief is covered in whole or in part by insurance;
3. The attorney must have full authority to present and conclude all matters involved in the case.

**(D)** The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit. If the court concludes that the prospect of settlement does not warrant further court supervised negotiations, then the court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions and other matters which have come before it. 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. Subject to the provisions for arbitration hereinafter provided, the court shall also stipulate in writing whether the case shall be referred to arbitration.

**(E)** After the pretrial conference, counsel may engage in further discovery proceedings, provided they do not result in delay of trial of the case. In the event counsel request discovery proceedings that would cause a delay of trial, the right to such discovery shall be determined by the court. The court, however, reserves the right to set the case for trial before the completion of any further discovery and without additional pretrials.

**(G)** Any judge presiding at a pretrial conference shall have the authority:

1. To dismiss an action for want of prosecution on motion of defendant upon failure of plaintiff or his counsel to appear in person at any pretrial conference.
2. Upon failure of defendant or his counsel to appear at any pretrial conference, to order the plaintiff to proceed with the case and to the extent permitted by law to decide and determine all matters ex parte.

#### **Rule No. 17 - Trial Procedures (#TOC)**

**(A)** Subject to Ohio Supreme Court Rules of Superintendence the court may promote the use of any device or procedure which would tend to facilitate the earlier disposition of cases.

**(B)** The court may provide for the selection of the petit jury outside the courtroom and establish the procedure for the examination of the prospective jurors.

**(C)** On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the court.

#### **Rule No. 18 - Jury Trial (#TOC)**

All cases shall be tried by the court unless a jury trial has been demanded in writing pursuant to the appropriate statutes and Rules of Civil and Criminal Procedure.

In all civil cases said demand shall be accompanied by a deposit of **\$350.00** for all cases. This rule shall be subject to the Statutes regarding indigents.

#### **Rule No. 19 - Discovery (#TOC)**

**(A) In General:** Discovery shall be conducted in accordance with Civil Rules 26 through 37 (<http://www.sconet.state.oh.us/pdf/rules/civilproc.pdf>).

**(B) Pre-Trial Objectives:**

- (1) Settlement of the case;
- (2) Agreement upon and simplification of the issues;
- (3) Obtaining admission and stipulations of fact and making them part of the record;
- (4) The exchange, if necessary, of
  - (a) The names and address of witnesses;
  - (b) The names, addresses and specialties of expert witnesses;
  - (c) Reports of expert witnesses;
  - (d) Medical reports and hospital records.
- (5) Itemization of special damages and expenses;
- (6) Determination of the number of witnesses and exhibits to be introduced at trial and the probable length of trial;
- (7) Such other matters as may aid in the disposition of the case.

**(C) Further Assignments:** At the pre-trial conference, if no settlement has been reached, the judge may, by journal entry, assign further a pre-trial date or a firm trial date and shall give a copy of the entry to each attorney and party without counsel. Delivery of such copy shall constitute sufficient notice so that further notice under local Rule 8 (#Rule8) shall be unnecessary.

#### **Rule No. 20 - Continuances in Civil and Criminal Cases (#TOC)**

**(A) Continuances of Civil and Criminal cases:** shall be in accordance with Superintendence Rules, (<http://www.sconet.state.oh.us/pdf/Rules/SUPER.pdf>)

**(B) Requests for Continuances:** All requests for the continuance of a trial must be by written motion which complies with the Civil Rules. Continuances shall be granted only by the judge to whom the case is assigned.

**(C) Appearances at Trial Unprepared:** If a party or counsel appears for a trial but shows good cause as to why he is not ready for trial, the court shall make such order or orders as it deems proper. If a party or counsel appears for trial but indicates that he is not ready for trial without showing good cause for his unpreparedness, the court, if such party is one seeking affirmative relief, shall enter an order dismissing the claim for want of prosecution, or if a party defending a claim, shall order the party seeking relief to proceed with the case and shall determine all matters ex parte.

**(D) Failure to Appear at Trial:** If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the court shall enter an order dismissing the claim for want of prosecution. If a party defending a claim, either in person or by counsel, fails to appear for trial and the party seeking affirmative relief does appear, the court shall order such party to proceed with the case and shall determine all matters ex parte.

**(E) Settlements Prior to Trial:** If a case set for trial is settled, the trial counsel shall immediately notify the court and thereafter, as provided by these rules, file a stipulation of dismissal or other proper entry.

#### **Rule No. 21 – Proceedings in Aid (#TOC)**

**(A)** When utilizing foreign forms provided by the Court for purpose of Proceedings in Aid, unless the foreign forms are neatly and appropriately altered to indicate to the Garnishee the required mandate and order, said foreign forms will be returned to counsel by the Clerk with a copy of this Court rule.

**(B)** All personal examinations shall be before the Court or Referee. In the latter instance, the Referee shall see that examinations are held in a relevant legal manner and procedure.

**(D)** Unless a certified return receipt, United States Post Office form PS 3811 is received, or a properly completed and stamped certificate of mailing is received, together with a copy of the fifteen (15) day demand and a draft for \$1.00 payable to the Garnishee, the Proceedings in Aid shall be returned to the party filing the same.

**Rule No. 22 - Entries, Etc. Part of Regular File (#TOC)**

Stipulations, final entries, and other similar documents filed with the Clerk must be entered upon the regular docket as filed and become part of the regular files of the case.

**Rule No. 23 - Appointment of Jury Commission (#TOC)**

Jurors in this Municipal Court shall be chosen and summoned as follows

The Clerk shall provide a jury wheel and shall be the custodian thereof, similar to that in use for drawing jurors to serve in Common Pleas Court of Lorain County. (<http://www.loraincounty.com/clerk/>) The Presiding Judge of the Lorain Municipal Court shall, on or before the fifth day after receipt of the list of freehold electors, appoint two (2) freehold electors of the territorial jurisdiction of the Court neither of whom shall be an attorney at law, and who shall not be of the same political party, to serve as jury commissioners for the ensuing year. Before entering upon their duties said commissioners shall be duly sworn.

#### **Court Selects Key**

When ordered by the Court, the Jury Commissioners shall meet in the Court room or at such place as the judge shall designate, and shall select such number of judicious and discreet persons, having the qualifications of electors of the territorial jurisdiction of the Court, as the Court may direct, by the key number system, the key number to be fixed by the Court. When it shall become necessary, thereafter, the commissioners shall meet at such time and place as the Judge may appoint, and in like manner there select such additional number of persons as the Court, by its order entered on the journal, may direct. The names of all such persons selected shall be written and deposited in such jury wheel and a list thereof certified to the Clerk.

#### **Replacement of Commissioner**

If either of the jury commissioners is sick or absent from the city, the Presiding Judge may appoint a judicious and disinterested person to take the place of such commissioner to perform the duties herein provided for, also the Presiding Judge may by appointment, fill any vacancy that occurs in said commission caused by death, resignation or otherwise. The person so appointed shall be of the same political party as the commissioner whose place is to be filled.

#### **Clerk Draws Names**

The names of persons who are to serve as jurors shall be drawn from the jury wheel by the Clerk of Courts in the presence of the Judge, but need not be drawn in the presence of said jury commissions, or either of them.

#### **Fees of Jurors**

The fees to be paid to jurors shall be the same rate as paid by the Common Pleas Court of Lorain County.

#### **Procedure of Clerk**

When, by order of the Court or a Judge thereof, the Clerk is directed to cause the summoning of persons to serve as jurors he shall, in presence of the Judge, turn the jury wheel several times until the pieces of paper therein are thoroughly mixed, then draw from it the number of names specified in the order, and unless otherwise therein directed forthwith shall issue a venire facias to the bailiff commanding him to summon the persons whose names are drawn, to attend as jurors at the time and place in the order stated. Except as otherwise provided, all jurors shall be impaneled from persons so selected and summoned.

#### **Number of Jurors Drawn**

When a jury of six (6) is demanded, not less than fifteen (15) names shall be ordered drawn and when a jury of eight (8) is demanded, not less than twenty (20) names shall be ordered drawn.

#### **Challenge**

If by challenge or otherwise, there shall not be left upon said venire a sufficient number of persons to make up the panel, or if the array be challenged and set aside, the Court shall order additional names to be drawn from the jury wheel as above provided or the Court may order the Bailiff to serve the desired panel from bystanders on the street.

**Rule No. 24 - Trusteeships (#TOC)**

An application by a debtor for a trusteeship under Section 2329.70 of the [Ohio Revised Code](http://orc.avv.com/title-23/home.htm) (<http://orc.avv.com/title-23/home.htm>) must contain a full and complete statement, under oath, setting forth:

1. The names of the secured and unsecured creditors with the liquidated claims, their complete address, account numbers and amount due and owing to each. If account is being administered by someone other than the creditor list their name and complete address.
2. The disposable amount of money earned in a thirty (30) day period by the applicant, as set forth in Section 2329.62 of the [Ohio Revised Code](http://orc.avv.com/title-23/home.htm) (<http://orc.avv.com/title-23/home.htm>), the usual day or days applicant receives his pay, his place of residence, the number of dependents, their ages and relation to the applicant.
3. The name of the person who made a demand upon him or her in accordance with Section 1911.40 of the [Ohio Revised Code](http://orc.avv.com/title-23/home.htm) (<http://orc.avv.com/title-23/home.htm>) and date of such demand.

#### **Appointment**

An order shall be prepared appointing the Clerk of Court to act as Trustee and shall be approved by the Judge.

#### **Notice**

The applicant shall furnish a notice of appointment for each creditor showing the amount owed said creditor and the amount of the total indebtedness, together with addressed, stamped envelope. Notice to be mailed by the trustee with notice for the creditor to answer within ten (10) days of mailing, or they will be included in the Trusteeship in the amount stated.

If a debtor fails, through mistake or otherwise, to list a creditor, said creditor or debtor, upon motion to the Court, with notice to the other party, may be listed in the trusteeship. A creditor who becomes a creditor after the appointment of a trustee, shall participate in any distribution made by the trustee after the next ensuing distribution.

Upon filing of an application for trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any creditor listed.

#### **Terminations**

Any trusteeship that is in arrears for payment for sixty (60) days shall be dismissed. Any trusteeship that is inactive for six (6) months shall be dismissed.

#### **Attorney Fees Listed**

The attorney representing an applicant for trusteeship shall be permitted to include his claim for such service in the trusteeship and said claim for attorney fees shall be given priority over other creditors in the amount not to exceed two hundred dollars (\$200.00). Upon the first distribution of funds to creditors, the claim of such attorney shall be paid in accordance with this priority and shall not exceed an amount of two hundred dollars (\$200.00).

#### **Applicable**

Section 2329.62 thru 2329.69 of the [Ohio Revised Code](http://orc.avv.com/title-23/home.htm) (<http://orc.avv.com/title-23/home.htm>) provide for exemptions and are based upon disposable earnings. The trustee is hereby authorized to require proof of disposable earnings and eligibility for exemption of payment by affidavit or otherwise and at such times as he shall deem necessary.

#### **Rule No. 25 - Automatic Bankruptcy Stay (#TOC)**

Upon written notification to the Court of any pending bankruptcy proceeding and the bankruptcy case number effecting any litigant in this Court, there shall be a journal entry as follows:

"Defendant having filed a Petition in the U. S. Bankruptcy Court, The Bankruptcy Act establishes an automatic stay of proceedings against the debtor, in 11 U.S.C. 362(a). It is hereby ordered that the commencement or continuation of any action to obtain or enforce any judgment against the Defendant/Debtor or his property is hereby stayed until the bankruptcy case is closed, dismissed, or a discharge granted or denied, or until; Defendant/Debtor's property is no longer property of the bankruptcy estate or until the Bankruptcy Court grants relief from its stay. Clerk to send copy to counsel of record.

Unless motion to the contrary is filed, the pending action will be dismissed after one hundred eighty (180) days.

#### **Rule No. 26 - Notification Prior to Default Judgment for Appearing Parties (#TOC)**

Each party shall be charged with the responsibility of maintaining a correct mailing address. In the event a forcible entry and detainer entry is issued causing the defendant to be removed from their residence, it will be deemed sufficient service and adequate notice for the Clerk to mail, by regular mail to the defendant, date of hearing to last known address notwithstanding the fact that said litigant does not reside at that address.

**Rule No. 27 - Appearances and Withdrawals of Counsel (#TOC)**

An Attorney, having entered an appearance or being of record in a case, shall be deemed responsible to appear in all hearings pursuant to notices or calls thereof, unless a court entry of withdrawal is timely filed and approved by the Judge of the Court. If the subject case and time has been assigned for hearings, that fact and the hearing date shall be set forth in the entry. Proof of service on the client and opposing counsel shall be indicated on such entry when submitted to the court.

**Rule No. 28 - Non Appearance of Counsel at Pre-Trial (#TOC)**

In addition to Rule 13.05, counsel must provide substitute counsel as provided in M. C. Rule 16(c), if client appears and trial is set at a later time.

**Rule No. 29 - Video Tapes (#TOC)**

All video tapes of proceedings, trials, and hearings in the Court shall remain in the exclusive care and control of the Judges and Referee of this Court. A transcript of the video tape recording may be obtained by a certified court reporter obtaining permission of the Court to transcribe the video tape recording into typewritten transcript. Video transcription of original tape shall not be permitted without court approval.

**Rule No. 31 - Use of electronically produced ticket (#TOC)**

**(A) Authorization.** The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in The Lorain Municipal Court. The electronically produced ticket shall conform in all substantive respects to the "Ohio Uniform Traffic Ticket" set forth in the Ohio Traffic Rules' Appendix of Forms. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall serve the defendant with the defendant's paper copy of the ticket as required by Rule 3 (E) of the Ohio Traffic Rules.

**(B) Form of Affidavit.** In every case in which an electronically produced ticket is used and filed, the ticket shall use forms that are substantially similar to Form 29.01-A (Court Record) and Form 29.01-B (Abstract).

**(C) Applicability.** Purpose and scope of this rule is limited to the use and filing of an electronically generated paper ticket only and is not

intended to authorize an e-ticket or paperless ticket other than an e-ticket or paperless ticket.

These [Rules of Court \(#TOC\)](#) for the Lorain Municipal Court are effective, as amended, June 28, 1991.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37

The Lorain Municipal Court herewith adopts the following Rule 36 as a Local Rule of Court effective March 6th, 2023. A copy of this Rule will be filed with the Supreme Court of Ohio in accordance with Superintendence Rule 5. This Court shall afford notice and opportunity for comment hereafter.

The Court determines that there is an immediate need for rule adoption to expedite the use of an electronically filed cases in the City of Lorain, Lorain County, Ohio, the City of Sheffield Lake, Lorain County, Ohio, and the Township of Sheffield, Lorain County, Ohio.

### **RULE NO. 37: FILING BY ELECTRONIC TRANSMISSION (eFILING)**

#### **A. DEFINITIONS**

1. **Original document** - the electronic document received by the Court from the filer.
2. **PDF-Portable** Document Format - documents saved as this type have the [.pdf] extension.
3. **DOC** - Microsoft Word Documents - documents saved as this type have the [.doc] extension.
4. **Source Document** - the document created and maintained by the filer, which are electronically transmitted to the Court.
5. **Submission** - a document or other data sent to a system or sent as a court filing.
6. **Effective Date and Time of Filing of a New Complaint** - means the date and time the electronic filing was received and uploaded to the Clerk of Court as noted on the time stamp on the submitted document.
7. **Effective Date and Time of Filing of a Motion** - means the date and time the electronic filing was received and uploaded to the Clerk of Court as noted on the time stamp on the submitted document.
8. **Electronic Filing** (i.e., eFiling) - the process of transmitting a digitized source document electronically via the Internet to the Clerk's Office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted
9. **Electronic Mail** (i.e., eMail) - Messages sent by a user and received by another through an electronic service system utilizing the public Internet
10. **Network Outage** – any issue on the City of Lorain network that cause the public access portal for electronic filing to be unavailable.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

### B. ELECTRONIC FILING POLICY

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THOMAS J. ELWELL, JR.  
PRESIDING JUDGE

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1. In conformity with Ohio Revised Code, Ohio Civil Rule 5(E) and Criminal Rule 12(B) and, as approved (provisionally) by the Ohio Supreme Court on Technology and the Courts, complaints, pleadings and other documents may be filed with the Clerk of Court electronically via the Internet, subject to the provisions in this rule.
2. Application of Rules and Orders - Unless otherwise modified by approved stipulation or Court order, ALL Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the Court shall continue to apply to all documents electronically filed.
3. Accepted Filings:
  - a. All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or, by a party not represented by an attorney.
  - b. Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.
  - c. If it is established that the documents were transmitted without authority, upon motion, the court shall order the document stricken.
  - d. No attorney shall authorize any person to electronically file on that attorney's behalf, other than his or her employee or a service provider retained to assist in electronic filing.
  - e. The electronic filing of a document by an attorney, or by another under the authorization of the attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule
  - f. No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.
4. Account Assignment
  - a. Upon receipt of a properly executed and signed User Agreement Form, the Clerk of Court shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing document.

NOTE: Third party electronic filing providers are not acceptable except as otherwise provided in (B)(3) of this local rule.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

### 1. Hours of Operation

- b. The Clerk of Court shall receive electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open except in the event of a network outage at the City of Lorain.
- c. A document will be deemed timely when filed prior to 11:59 p.m. the evening of the due date, unless the assigned judge has ordered the document filed by a different time /date. Time at the Court (Eastern Standard) governs, rather than the time zone from which the filing is made.
- d. All accepted electronically filed documents shall receive a confirmation date and time acknowledgement.

### 2. Document Format.

- e. Documents must be submitted in PDF, TIFF, or DOC formats..

Note: Image types [such as jpg, tif and BPM] can be embedded within PDF or DOC formats and may be rejected

### 3. Fees

- f. The Clerk of Court shall assess normal filing fees and case deposits will be collected via user credit card at the time the filing is processed. Pursuant to §301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Court.
- g. No personal checks will be accepted.
- h. The Clerk's Office will document the receipt of fees on the docket with a text-only entry.
- i. The Court will not maintain electronic billing or debit accounts for lawyers or law firms.

### 5. Filing Acceptance or Rejection Cycle

- a. A confirmation number will be assigned to each filing when it is received in its entirety by the Clerk of Court's receiving device.
- b. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing.

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# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

MARK J. MIHOK,  
ADMINISTRATIVE JUDGE

THOMAS J. ELWELL, JR.  
PRESIDING JUDGE

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- a. Upon successful processing of the filing by the Clerk of Court, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer.
- b. Filers will be notified via electronic mail if the filing is rejected for any reason.
- c. A rejected filing may be resubmitted to the Clerk of Court in order to retain the original date and time of filing.
- d. Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Court within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Court in order to retain the original date and time of filing and confirmation number.
- e. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hour period expires, this filing will be considered a new filing and the prior confirmation number will have expired.
- f. If a document is rejected due to technical errors and the filer wishes to have the corrective filing relate back to the date and time of the rejected filing, the filer must file a motion with the Court seeking relief.
- g. The Clerk of Court shall not retain the rejected documents. Rejected documents must be corrected by the submitting party until they are accepted.
- h. Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the Clerk of Court as a result.
- i. The Clerk of Court shall not retain the rejected documents. Rejected documents must be corrected by the submitting party until they are accepted.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

MARK J. MIHOK,  
ADMINISTRATIVE JUDGE

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c. Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the Clerk of Court as a result.

### 6. Electronic File Stamping

- a. Upon successful completion of acceptance processing by the Clerk of Court, a document filed electronically will be electronically file stamped.
- b. This stamp will include the date the e-filing was submitted, the date and time that the Clerk of Courts accepted the e-filing, and the case number of the filing that is assigned.
- c. Upon recognition of a processing error, the Clerk's Office will contact the filer to remediate the issue.
- d. After a document is electronically file stamped, the document cannot be altered once it has been accepted into the system.

### 10. Disposition and Maintenance of Source Documents

- a. A document electronically filed shall be accepted as the original filing, consistent with Ohio Civil Rule 5(E) and Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule.
- b. The person filing electronically need not file a hard copy with the Clerk of Court but must maintain in his or her records, and have available for production upon request by the Court, the Clerk of Court or other counsel, the source document of any document electronically filed.
- c. The filer must maintain this source document until the final disposition of the case and through any Notice of Appeal, or, if appealed, appeal period.

### 11. Public Method of Access to Electronically Filed Public Documents

- a. Members of the public can obtain copies of or review electronically filed documents in the same manner as documents filed on paper via the Clerk of Court's website.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

MARK J. MIHOK,  
ADMINISTRATIVE JUDGE

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- b. If the internet website is unavailable or is not provided by the Clerk of Court or if the Clerk of Court is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available for review at the office of the Clerk of Court, either by computer terminal or in paper form in the case file.
- c. If a document or case record is sealed or expunged, it is unavailable for public disclosure.
- d. Documents filed electronically with the Clerk of Court shall be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49.
- e. Once a party has entered an appearance in the case, the party shall furnish his or her email address, and service thereafter shall be electronically, where possible.

### 12. Attachments and Exhibits

- a. Attachments and exhibits are to be filed electronically.
- b. Large attachments or exhibits over 30 megabytes cannot be filed electronically and must be submitted in hard copy and served on all other parties.

### 13. Signatures

- a. If an original document requires a signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document and, then electronically file it on the System.
- b. A pleading or other document requiring an attorney's signature shall be signed in the following manner if filed electronically: "/(attorney name)/." The correct format for an attorney signature is as follows:

(Signature)	(Signature)
attorney's name (typed)	John Smith
Ohio Supreme Court Number	895687456
Attorney for (Plaintiff/Defendant)	Attorney for Plaintiff
Telephone Number	Phone (440) 123-4567
Facsimile Number	Fax (440) 123-5678
Email Address	Email johnsmith123456@gmail.com



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

c. Any attorney or party challenging the authenticity of an electronically filed document or signature on that document must file an objection to that document within ten (10) days of receiving the notice of electronic filing.

d. For documents containing multiple signatures, such as stipulations or documents requiring two or more signatures, the following procedure applies:

(1) The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document.

(2) The filer will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.

e. If the filing party or attorney elects to file the document electronically the signatories shall be indicated as, e.g., /Jane Doe/, /John Smith/, etc.

(1) A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures themselves must file an objection to the document within ten days of receiving the notice of electronic filing.

### 14. Orders (Journal Entries)

a. A moving party, at the time of filing a motion, may submit with that motion a proposed journal entry granting the motion and setting forth the requested relief.

b. The motion shall be docketed prior to submitting the proposed journal entry to the judge, and the proposed journal entry shall contain, by reference, the case number of the case.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

### 15. Privacy

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a. Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise:

- Social security numbers except for the last four digits;
- Financial account numbers, including but not limited to debit card, charge card, and credit card numbers;
- Employer and Employee identification numbers;
- A juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV" for "child victim";
- Proprietary or trade secret information.

b. With permission of the Court, a party may file, under seal, a document containing the non-redacted personal data identifiers listed above.

(1) The party seeking to file a non-redacted document shall electronically file a motion to file the document under seal.

(2) In granting the motion or application to seal, the assigned judge may require the party to file a redacted copy for the public record.

c. The responsibility for redacting personal data identifiers (i.e., social security numbers and bank/credit card numbers) rests solely with the filing party.

(1) The Clerk's Office will not review the documents for compliance with this rule or redact documents, whether filed electronically or on paper.

### 16. Technical Failures

a. The Clerk of Court's Office may deem the internet web site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day.

b. Known system outages will be posted on the website, if possible.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

c. A filer who cannot file a document electronically due to problems on the filer's end, must file a hard copy of the document with the Clerk of Court.

d. A filing party whose filing is made untimely as a result of a technical failure of the Court's system or site, or as a result of the problems on the filer's end, may seek appropriate relief from the Court.

### 17. Correction of Docket Entries / Documents Filed in Error

a. Once a document is electronically submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk of Court's Office.

b. The System does not permit a filing party to make changes to the document(s) or docket entry once the transaction has been accepted.

c. If a document has been filed in error, the filing party should not attempt to re-file the document.

d. As soon as possible, after the error has been discovered, the filing party should contact the Clerk of Court's Office with the case number and document number for which the correction is being requested.

e. If appropriate, the Court will make an entry indicating that the document was filed in error and the filing party will be advised if the document needs to be refiled.

f. If a document is filed in error (e.g., a document is filed on the wrong case or the electronic file is corrupt or unreadable), upon motion, the judge may order the document stricken from the record.

g. The Clerk of Court shall immediately notify the filer of the error and inform the filer if the document needs to be re-filed.

h. The Clerk will not delete the relevant docket text, but will annotate the docket to show the deletion, the reason for the deletion and that the filer has been so notified.



# LORAIN MUNICIPAL COURT

Monday, February 6, 2023

## LOCAL RULE 37 (continued)

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### A. NONCONFORMANCE RULE

1. The Clerk of Court reserves the right to deny any party, firm, or agency the use of eFiling due to habitual nonconformance of these rules and/or equipment incompatibility issues that are not corrected.



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Administrative Judge  
Lorain Municipal Court



Thomas J. Elwell  
Presiding Judge  
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