

Shelby
Municipal
Court
Local Rules

RULE 1

TERMS OF COURT AND HOURS OF SESSION

The Shelby Municipal Court shall sit continuously and not be divided into terms. The Court shall be open Monday through Friday. All sessions shall begin **promptly** at 9:00 a.m. unless otherwise directed by the Municipal Judge. The Court shall be closed on and observe all City of Shelby legal holidays or other designated days.

Original rule established August 28, 1986.

RULE 2

DUTIES OF COUNSEL

A. DESIGNATION OF TRIAL COUNSEL. Attorneys and not parties will designate their capacity as trial counsel on all pleadings in civil and criminal cases and shall include their office address, zip codes, and telephone number and Supreme Court Registration number. Normally, a law firm should not be named as trial attorney. However, substitution of counsel within the same law firm at hearings is authorized.

B. WITHDRAWAL OF COUNSEL. Counsel shall be allowed to withdraw from trial counsel responsibilities for good cause shown in cases where counsel had been designated with the consent of the Municipal Judge. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel, and time and date of trial, if set. Withdrawal of counsel will not be approved if application is made within five (5) working days of the trial except by formal hearing with all parties present. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to his client's last known address.

C. MOTIONS PRACTICE. All motions, except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Civil and Criminal Procedure. Motions will be supported by memoranda of law containing applicable statutory and case law citations. Unless the following statement appears prominently upon the first page of the motion, no oral hearing will be allowed:

“Counsel requests an oral hearing of approximately _____ minutes at which _____ witnesses will be called.”

A date and time for oral hearing upon motions must be obtained from the Assignment Commissioner. Parties wishing to respond in writing to such actions shall do so not later than the tenth day following service of the motion or three days prior to the oral hearing date, if an oral hearing has been requested. All motions not heard or decided prior to trial will be disposed of at trial.

D. WAIVER OF JURY TRIAL. It is the responsibility of counsel demanding trial by jury in civil and criminal cases to notify the Assignment Commissioner at least five (5) working days prior to trial date, if jury trial is to be waived or the case has been settled. Failure to abide by this rule will result in a refusal by the Court to honor requests on the day of trial for which a jury has been called to waive the jury and proceed with trial by Judge alone, or shall result in the assessment of additional costs to pay for jury and the calling of the same.

E. ENTRIES. Shall conform to Civil Rules.

F. COURT REPORTERS. Until further order of this Court, the basic mode of recording and preserving all proceedings in the Shelby Municipal Court shall be by audio electronic recording device. Any party desiring a certified court reporter, in lieu of a recording device, shall make such a request at least fourteen (14) days prior to the trial and deposit \$50.00 with the Court toward the court reporter's fee. The costs of a court reporter shall be allocated by agreement of the parties or absent agreement by order of the Municipal Judge.

RULE 3
CONTINUANCES

Requests for continuances shall be granted only upon a showing of good cause. All requests for continuances shall be in writing stating the reason with documentation of any alleged conflict and served on opposing counsel or if the opposing party is unrepresented, on the party. No requests for continuance will be considered if made less than five (5) working days before trial except for extreme cause. All requests for continuances shall be signed by the moving party and the attorney for the moving party.

Original rule established August 28, 1986.

RULE 4

PRE-TRIAL CONFERENCES

A. CRIMINAL CASES. All criminal cases in which a not guilty plea has been entered, other than minor misdemeanor cases, will be set down for a pre-trial conference. The presence of the defendant and if represented, his counsel, the prosecuting attorney, and the complaining witness are required, unless excused prior to pre-trial by the Judge. If the complaining witness is a member of a law enforcement agency, then a representative of that agency with full knowledge of the case may attend.

B. CIVIL CASES. A pre-trial conference shall be held in all civil cases other than small claims and forcible entry and detainer actions. Upon notice of scheduling of a pre-trial conference, it shall be the duty of counsel to contact each other, and make a sincere effort to dispose of the matter by settlement, and to agree on any matters of evidence about which there is not genuine dispute.

It shall be the duty of counsel to do the following at the pre-trial hearing and failure to be prepared may result in dismissal of the case for want of prosecution or in a default judgment or other such action to enforce compliance as the Municipal Judge deems appropriate:

1. All parties and counsel must be present at pre-trial unless such presence is excused by the Judge.
2. Each counsel shall present to the Court, in writing, a statement of the issues involved, of matters stipulated, and of all questions of law which are expected to be involved in the case.
3. Each counsel shall bring to the pre-trial all available exhibits which are to be offered in evidence at the trial.

4. Each counsel, claiming same, shall present in writing to the Court, an itemization of all special damages claims.

5. Each counsel shall present to the Court, in writing, a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at the trial; whether or not a jury trial previously demanded will now be waived and if not, the number of jurors demanded and whether the case is one where the issue of liability should be tried separately which a subsequent trial on the issue of damages, if liability be found.

6. Each counsel shall come to pre-trial fully prepared and authorized to negotiate towards settlement of the case.

7. The text of and citations of authority for instructions requested by counsel, if available.

8. Counsel's best estimate of the time required to try the case. The written statement referred to in this rule shall be filed at or before the pre-trial hearing.

The Court may, and on the request of either party, shall make a written order which recites the action taken at the conference. The Court shall enter the order and submit copies to the parties. The order, subject to Civil Rule 60 (A), shall control subsequent course of the action unless modified at the trial to prevent manifest injustice.

RULE 5

ASSIGNMENT OF CASES

The Clerk is hereby appointed Assignment Commissioner of Shelby Municipal Court. Cases shall be assigned for trial on the basis of the oldest cases first with criminal taking priority over civil cases. The Assignment Commissioner shall notify in writing the parties or if represented by counsel, the counsel of all pre-trial dates. It is the responsibility of the party, or if represented, counsel, to secure the attendance of necessary witnesses by subpoena or otherwise.

Original rule established August 28, 1986.

RULE 6

DEFAULT JUDGMENTS

All motions for default judgment shall be made in writing and clearly state the date the complaint was filed, how service was made, proof of service, and answer date. All motions for default judgment shall also contain a list of all damages supported by documentary or other evidence. Motions for relief from judgment under this rule shall be made in accordance to Ohio Rule of Civil Procedure 60 (b). All motions for default judgment on an account shall in addition to the above include an updated copy of the account as of the date of the request for default judgment.

Original rule established August 28, 1986.

RULE 7

TRAFFIC VIOLATIONS BUREAU

In accordance with Ohio Traffic Rule 13, there is hereby established in the Shelby Municipal Court, a Traffic Violations Bureau with authority to process and dispose of those traffic offenses for which no Court appearance is required by law, the Court, or the discretion of the arresting officer. The Clerk is hereby appointed violations Clerk with authority to delegate the duties of the office as the Clerk sees fit. A schedule of fines has been adopted and is available at the office of the Violations Clerk or Deputy Clerks authorized to accept waivers of trial and pleas of guilty. Such schedule is subject to change by the Municipal Judge.

Original rule established August 28, 1986.

RULE 8

MINOR MISDEMEANOR VIOLATION'S BUREAU

In accordance with the Ohio Rules of Criminal Procedure 4.1, there is hereby established within the Shelby Municipal Court a Minor Misdemeanor Violations Bureau, with authority to process and dispose of minor misdemeanors other than traffic offenses for which no Court appearance is required either at the discretion of the arresting officer or the Court. The Clerk is hereby appointed Violations Clerk with authority to delegate the duties of this office as the Clerk sees fit. A schedule of fines has been adopted and is available at the office of the Violations Clerk or Deputy Clerks authorized to accept waivers of trial and pleas of guilty. Such schedule is subject to change by the Municipal Judge.

Original rule established August 28, 1986.

RULE 9

UNPAID FINES

Effective immediately, when fines or court costs remain unpaid for ten (10) days after the date originally set for completion of payment, the Clerk or Deputy Clerk shall forthwith cause a summons to be issued to the defendant to appear in open court and advise the Court as to why the fine has not been paid.

If the individual fails to appear, a bench warrant shall be issued for his or her appearance.

The Court shall impose whatever payment program it deems fair and equitable to ensure payment of the fines and costs within the guidelines of Ohio law.

In addition to the above the Clerk of Courts may file for Declaration of Forfeiture of the defendant's license pursuant to the Ohio Revised Code Section 2937.221, 2935.27, and 4507.168 or similar section.

Original rule established August 28, 1986.

RULE 10

BOND OR BAIL

Bail shall be and is hereby established pursuant to Criminal Rule 46 of the Ohio Rules of Criminal Procedure. Reasonable bail shall be established as follows:

1 st degree misdemeanor	\$2500.00
2 nd degree misdemeanor	\$2000.00
3 rd degree misdemeanor	\$1000.00
4 th degree misdemeanor	\$1000.00
Minor misdemeanor	No bail- See Waiver Schedule

If the defendant pleads guilty or no contest, or is found guilty, the bond shall be applied to fine or costs, is posted by the defendant, or returned to the individual who posted the bond pursuant to Criminal Rule 46.

The Clerk shall note on the jacket or by some other distinctive means on each case file when a bond is being held by the Court. There shall be no need to mark any file where no bond is required.

Original rule established August 29, 1986.

RULE 11

SEARCH WARRANTS

All search warrants and related documents filed in the Court shall be approved by the Richland County Prosecutor or his representative or by the Law Director having authority over the respective municipality or township.

Original rule established November 20, 1987.

RULE 12

EXHIBITS AND STENOTYPE RECORDS

IT SHALL BE AND IS HEREBY ORDERED:

A. Stenotype records shall be retained for five years after the last hearing in the case and then destroyed.

B. Substitution of exhibits. Any time after the hearing or trial a party shall, with notice to all other parties in the case, substitute a copy for an original document or substitute a photograph for an exhibit which is a bulky physical object, chart or diagram. Failure to supply such copy shall be deemed notice to the Court that the party does not want the item/document returned and consents to its disposal by the Court as provided below.

C. Exhibits, transcripts, and depositions shall be retained for ninety (90) days after the conclusion of the case and then disposed of. If the exhibits are other than papers and appear to have some significant economic value, the Court will try to contact the attorney or the party who submitted the exhibits and give that person sixty (60) days to pick them up. All exhibits not picked up within sixty (60) days after notification, will be destroyed or otherwise disposed of at the end of the retention period.

Effective May 1, 2009.

RULE 13

PERSONAL IDENTITIES

IT IS ORDERED:

Pursuant to Ohio Rule of Superintendence 45 (D)(1): “When submitting a case document to a court or filing a case document with the Clerk of Court, a party to a judicial action or proceeding shall omit personal identifiers from the document. Pursuant to Ohio Rule of Superintendence 44 (H), “personal identifiers” means 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, and 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.”

If a party believes it is critical or necessary to use any of the above personal identifiers in his or her case, the party shall furnish the Court with said personal identifiers such as account numbers on a separate form setting forth each individual identifying a separate form or pleading which shall be withheld from others and not discriminated by the Clerk or other Court personnel.

Effective May 1, 2009.

RULE 14

JUDGMENT AND STATUTORY RATE

When used a judgment entry “Judgment Rate” and “Statutory Rate” shall mean the same thing. The rate is currently 5% per annum and shall change annually as determined by law.

Effective July 8, 2009.

SHELBY MUNICIPAL COURT

RULE 15

JUDGMENT ENTRY

IT IS ORDERED TO FOLLOWING SHALL BE Local Rule of Court # 15

Any application, motion, or other request for a Default Judgment, Summary Judgment, or Judgment on the pleadings where the claim is based on an assignment, no judgment will be granted unless the motion is accompanied by an affidavit from the original assignor that the claim and/or debt was never discharged by the Defendant in bankruptcy.

Effective October 5, 2011

Judge

IN THE MUNICIPAL COURT OF SHELBY, OHIO

In Re: Local Rules of Court

The Ohio Supreme Court Rules of Superintendence provides for local rules of court to use electronically or computer produced Traffic Tickets.

IT IS THEREFORE ORDERED the Shelby Municipal Court Local Rule # 16 shall provide for and permit the use of a ticket that is produced by computer or other electronic means, provided that the ticket conforms in all substantive respects, including layout and content, to the "Ohio Uniform Traffic Ticket." The provision of the rule relative to the color and weight of paper and method of binding shall not be applicable to any Ticket that is produced by a computer or other electronic means.

IT IS FURTHER ORDERED that any Ticket produced by computer or electronic means may be filed by electronic means. If an electronic or computer generated ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the Ticket . A law enforcement officer who files a Ticket electronically shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other Tickets issued.

Signed at Shelby, Ohio this 19th day of October, 2012.

Judge Jon P Schaefer

IN THE MUNICIPAL COURT OF SHELBY, OHIO

In RE: Local Rule 17

The names of potential jurors shall be available to counsel for the Plaintiff (State) and the Defendant seven days prior to trial date. For the safety and protection of the jurors and their families, the juror information forms shall not be released to counsel for the state or parties until the morning of the trial. After the jury is selected, all copies of the juror information sheets shall be immediately returned to the Court.

It is Ordered the above Local Rule 17 shall and is hereby adopted and becomes effective May 1, 2013.

It is Further Ordered the Clerk shall journalize this Order and forward a copy, to the Ohio Supreme Court and make the same available to counsel practicing in this Court.

Jon P Schaefer, Judge

IN THE MUNICIPAL COURT OF SHELBY, OHIO

In RE: Local Rule 18

Effective immediately the Court adopts the following Rule of Court:

All funds received by the Clerk of Courts shall be applied in the following order:

- 1) Court Costs
- 2) Probation fees and testing
- 3) Restitution
- 4) Fines on criminal cases
- 5) Fines on Traffic cases

Any exception to the above shall be by specific judgment entry indicating application other than above.

A copy of this order shall be mailed by the Clerk to the Ohio Supreme Court and all local counsel and posted with the Court's other rules.

Jon P Schaefer, Judge

IN THE MUNICIPAL COURT OF SHELBY, OHIO

In RE: Local Rule 19 Specialized Docket- Treatment Court

A. Establishment of Treatment Court Specialized Docket

This Court is establishing a specialized docket to address the increasing number of criminal cases resulting from growing crime and recidivism associated with substance abuse and addiction. The Court believes we have a responsibility to ensure that participants in specialized court programs designed to reduce crime and receive the intervention and treatment they need, December 1, 2015 to establish a Treatment Court Specialized Docket Program which will be governed under the Ohio Supreme Court *Sup. R 36.20* for Specialized Dockets. It is the goal of the Treatment Court Specialized Docket Program to link participants with various support programs, and treatment to reduce recidivism among those participants with substance abuse, addiction and behavioral health issues in the criminal justice system; to reduce the need for incarceration, as well as periods of incarceration for those sentenced with treatable medical, substance abuse and behavioral health issues; and to successfully graduate participants from the Treatment Court Specialized Docket.

B. Placement in Treatment Court Specialized Docket

In order to have his/her criminal case placed on the Treatment Court Specialized Docket, a criminal defendant must make an application for admission. To qualify for admission, a criminal defendant must meet the following legal criteria; be charged with a misdemeanor of the fourth, third, second and/or first degree unless approved otherwise by the docket Judge; be amendable to treatment and acknowledge a willingness to comply with the recommendation of the treatment team; be able to benefit from court monitored treatment and supervision; and the participant must voluntarily enter the Treatment Court Specialized Docket Program. Application for placement in Treatment Court Specialized Docket Program shall be subject to initial assessment by defense counsel, law director, and/or probation officer, subject to approval by the Judge and according to the criteria adopted by the Court. Persons charged with sex crimes (excluding public indecency), and minor misdemeanors are normally not eligible for the Treatment Court Specialized Docket Program. Treatment Court Specialized Docket Program is not available if felony charges are pending without approval from the Judge. Upon initial acceptance into the Treatment Court Specialized Docket Program, the participant is referred for diagnostic evaluation to confirm the he/she meets clinical criteria. Clinical criteria include treatable addiction, medical, psychological, substance abuse or mental health condition that may be contributed to the participant's involvement

with the criminal justice system. The defendant may be referred to the Mental Health Court if the diagnosis is

consistent with severe and persistent mental illness. He/she must have sufficient stability to understand and comply with the program requirements and the defendant must not pose a risk to program staff, family or community to be accepted. Following the assessments and evaluations, it is subject to approval by the Judge assigned to the case will determine if the defendant qualifies for the Treatment Court Specialized Docket Program.

C. Treatment Court Specialized Docket Program Management

Criminal defendants accepted into the Treatment Court Specialized Docket Program will partake in counseling, being that of individual and/or group sessions, as well as substance abuse treatment, if appropriate. The treatment plan may also include obtaining stable housing and reliable transportation, completing high school or obtaining a GED, participating in vocational assessment and entering appropriate training, obtaining and maintaining employment, either full or part time. The Program Description, Participant Handbook, and Participant Agreement are incorporated by reference.

D. Graduation from Treatment Court Specialized Docket Program

Termination from Treatment Court Specialized Docket Program

Upon successful completion of the treatment plan, and the participant is graduated from the Treatment Court Specialized Docket Program and may be placed on non-reporting probation for one additional year. If the criminal defendant is unsuccessfully terminated from the Treatment Court Specialized Docket Program, a probation violation hearing may be scheduled. In the event the Court finds the probation terms have been violated, the remaining suspended sentence may be imposed as well as any suspended fines. A criminal defendant may also be neutrally discharged if they are nor longer capable of completing the Treatment Court Specialized Docket Program, due to approved circumstances that may occur.

Judge Jon P Schaefer