



NILES MUNICIPAL COURT

LOCAL RULES

CASE MANAGEMENT IN CIVIL CASES

PURPOSE: The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a system for civil case management which will achieve the prompt and fair disposal of civil cases.

SCHEDULING OF EVENTS: The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and five (5) judicial steps.

CLERICAL STEPS:

- 1) Summons shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the clerk shall notify counsel immediately. If counsel fails to obtain service of summons within (6) months from the date the cause of action has been filed, then the clerk shall notify counsel that the case will be dismissed in then (10) days unless good cause is shown to the contrary.
- 2) Upon perfection of service, the clerk shall notify counsel of the default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.
- 3) After any responsive pleading is filed, the clerk shall immediately forward said pleading and file to the judge, so the matter may be set for a hearing.
- 4) If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the clerk shall notify the party that the matter will be dismissed within one (1) week unless good cause is shown.
- 5) When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, then the clerk shall notify the party that his case will be dismissed unless the entry is received within ten (10) days.

JUDICIAL STEPS

- 1) Status Hearing: After an answer is filed, the clerk will forward the file to the Judge. The Court will then determine whether or not the case shall be set for trial to the Court, or pretrial if deemed necessary. All Civil Cases that are accompanied by a demand for trial by jury timely filed shall be set for pretrial.
- 2) Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless time is extended by the court. There will be no oral hearings granted in said motions unless the parties request an oral hearing in writing and the court deems it necessary.

3) Pretrials: For the purpose of this rule, “pretrial” shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record. Any attorney for a party to the action who fails to attend at a scheduled pretrial conference, without just cause being shown, may be punished as for contempt of this court. Notice of pretrial conference shall be given to all counsel of record by mail and/or by telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Counsel attending the pretrial conference shall be to achieve an amicable settlement of the controversy in suit. The Court shall attempt 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 will file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the pretrial. 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. Any Judge presiding at pretrial conference of trial shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of plaintiff, and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any pretrial conference of trial as required; to make such other order as the court may deem appropriate under all the circumstances. If the case cannot be settled a pretrial, then the case will be set for trial at a time agreeable to all parties. 4) Continuances: No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reason for the continuance. All requests for continuance filed by counsel must be signed and approved by the party represented. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court. If a continuance is requested due to conflict with a previously assigned case in another Court, counsel must attach a copy of said assignment with the written request submitted. 5) Judgment Entries: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That entry shall be submitted to opposing counsel within five (5) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days. Within fifteen (15) days of the decision, the journal entry shall be submitted to the judge, or, thereafter, the court will prepare the journal entry. Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an entry, but such entry shall be filed within thirty (30) days, or the case will be dismissed for want of prosecution. Upon notification from the clerk that the case has defaulted, prevailing counsel shall submit an application for default judgment within fifteen (15) days or the case will be dismissed for want of prosecution. The journal entry shall state which party will pay the court costs.

CASE MANAGEMENT IN SPECIAL PROCEEDINGS

PURPOSE: The purpose of this rule is to establish, pursuant to M.C. Sup. R 18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings to wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, motion to cite, garnishment hearings, and debtor’s exams. The following

criminal matters are considered special proceedings and they are to be heard by a judge, to wit: preliminary hearings, extradition hearings, and B.M.V. hearings. SCHEDULING OF EVENTS: Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

CLERICAL STEPS: In all new cases, if counsel fails to obtain service of summons within six (6) months, the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.

1) Upon perfection of service, the clerk shall notify counsel of said default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.

2) After any responsive pleading is filed, the clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.

3) If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the clerk shall notify the party that the matter will be dismissed within one (1) week unless good cause is shown.

4) When a file has been marked "settlement to come" and the entry has not been received within thirty (30) days, then the clerk shall notify the party that his case will be dismissed unless the entry is received within then (10) days.

FORCIBLE ENTRY & DETAINER HEARINGS

1) Hearing: All forcible entry and detainer cases shall be set for hearing, pursuant to the time limits set forth in the Ohio Revised Code. At that hearing, the Ohio Rules of Evidence and the applicable Ohio Rules of civil Procedure will be applied.

2) Judgment Entries: The court shall review the evidence and enter the appropriate judgment entry.

3) If an answer or jury demand is filed in a forcible entry and detainer case, then the clerk shall forward the case to the judge so the case can be scheduled for the appropriate hearing.

SMALL CLAIMS COURT

1) A small claim is commenced by filing a small claims petition, pursuant to Ohio Revised Code Section 1925.04, the form is attached as Appendix "E". No defendant is required to file an answer or statement of defense. However, should the defendant fail to appear for the hearing, after being duly served, then a default judgment will be entered against said defendant. All pleadings will be construed to accomplish substantial justice.

2) Upon filing of motion and affidavit, as required by Ohio Revised Section 1925.10, and upon payment of the required cost, the small claim will be transferred to the regular docket. No transfer will be granted until the filing costs are paid.

3) Hearing: The hearing in small claims court shall be conducted in open Court. The Court shall place all parties who plan to offer evidence under oath and then allow the plaintiff and defendant to state their case. The plaintiff and defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure will not apply to a hearing in small claims court.

4) Collection of Judgments: The employees of the court shall assist the prevailing parties in collection their judgments pursuant to Ohio Revised Code Section 1925.13.

LOCAL RULES OF COURT: m.c. Sup. R. 18 Criminal Cases

1) Scheduling: During arraignment, cases shall be set for further appropriate hearing.

a) Pretrials: Pretrials shall be set only in those cases as determined by the Court. In all first- and second-degree misdemeanor cases, pretrials shall be set within thirty (30) days. Pretrials in the cases involving third- and fourth-degree misdemeanors shall be set within fifteen (15) days. All pretrials shall be conducted in accordance with Criminal Rule 17.1. Any recommendations by the prosecutor shall be reduced to writing. If any recommendation made is accepted by the Defendant and Defendant's counsel such agreement shall be expressed in open Court prior to the entry of a plea.

If the agreement of the parties is found acceptable by the Court, the case will proceed to disposition by plea. If the agreement is deemed unacceptable by the Court, the case shall be reset for trial. Counsel for the Defendant, and the Defendant must be present for pretrial hearings unless excused for good cause shown. In cases where scheduling conflicts exist it shall be the policy of the Court not to continue pretrial hearings. The counsel for the Defendant may, however, conduct a pretrial over the telephone. If a telephone pretrial is held the results must also be reduced to writing and a definite future date agreed upon for the entry of a plea, or trial. Any future date agreed must conform to trial requirements as specified in O.R.C. Sec. 2945.71 et. Seq. unless extended by an appropriate time waiver. In no event shall any first or second-degree misdemeanor case be set beyond 6 months of arrest or service of summons; in no event shall any third, fourth, or minor misdemeanor be set beyond 90 days. If a case cannot be resolved at pretrial the case shall be set for trial to the Court or for jury, if demanded. b) Motions: All motions shall be in writing accompanied by written memorandum that specifies the arguments of counsel. All motions must be filed within the time limits established the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing. If the motion is filed after arraignment but prior to the trial or pretrial date set by the Court, the oral motion shall be heard on the date upon which the case has been set. Otherwise, the case shall be set for hearing on the motion by the Court. c) Trials: Trials to the Court shall proceed as scheduled. If a jury demand is timely filed, then the case shall be set for trial by jury. All attorneys shall notify the Court by 1:30 P.M. of the day proceeding their trial of any change of plea and withdraw of their jury demand, or jury costs shall be assessed. d) Sentencing: Sentencing hearing shall be conducted immediately after trial, unless the Court requests a pre-sentence report. In no event shall the sentencing be held seven (7) days beyond the trial or receipt of a pre-sentence report.

Electronic submission of traffic citations FCMC Loc. R. 5.06 Use of electronically produced ticket. The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Niles Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

REMOTE APPEARANCES

The intent of this local rule is to promote uniformity in the practices and procedures related to remote appearances in cases where such an appearance is permitted by these rules, court order, statute, or other rules of court. "Remote" is defined as the use of live, two-way video, telephone, or audio technology. Notwithstanding any other provisions of this Rule, a judge may order a party's personal appearance in Court for any conference, hearing, or proceeding.

(A) Video Conferencing.

- (1) The Court may conduct conferences, hearings, and proceedings via a live two-way video conferencing platform with attorneys and unrepresented parties in accordance with the Hearing Management Plan set forth.
- (2) All evidentiary proceedings involving a video conference appearance must be reported to the same extent as if the participants had appeared in person.
- (3) Upon convening a conference, hearing, or proceeding involving a video conference appearance, the Court shall recite the date, time, case name, case number, names and locations of parties and counsel, and the type of conference, hearing, or proceeding.
- (4) The Court may require a party to appear in person at a hearing, conference, or proceeding in which a video conference appearance is otherwise permitted if the Court rules that a personal appearance would materially assist in the determination or effective management or resolution of the case.
- (5) If at any time during a hearing, conference, or proceeding conducted by video conference the Court determines a personal appearance is necessary, the Court may continue the matter and require a personal appearance.

(B) Confidential Attorney-Client Communication.

Provisions shall be made to preserve the confidentiality of attorney-client communications and privilege during any conference, hearing, or proceeding involving a video-conference appearance.

(C) Witnesses.

A witness may testify via video conference if not otherwise permitted by this Rule, statute, or other rules of court.

(D) Technical Standards and Equipment. The equipment and platform used in any hearing or proceeding conducted under this Rule must conform to the following minimum requirements:

- (1) All participants must have the ability to hear and communicate with each other simultaneously.
- (2) All participants must be able to see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings, either by video, facsimile, or other medium.
- (3) The equipment or platform must be able to be used by people with disabilities to accommodate their disabilities under the Americans with Disabilities Act.
- (4) The use of a video-conferencing platform used to conduct the conference, hearing, or proceeding shall in no way abridge any right of the public.

(E) Hearing Management Plan

The Court may conduct conferences, hearings, and proceedings in the following manner unless for good cause show:

Type of Proceeding	In Person	Video 1	Hybrid 2
Arraignments	X	X	X
Plea Hearings	X	X	X
Pretrial Hearings	X	X	X
Review/Status Hearings	X	X	X
Evidentiary Hearings	X	X	X
Sentencing Hearings	X	X	X
Traffic Proceedings	X	X	X
Civil Proceedings	X	X	X

In Person: A hearing is conducted where the Court and all participants appear physically in the same location.

Video: A hearing is conducted using Cisco Webex where the Court and all participants appear remotely.

Hybrid: A hearing is conducted using a combination of any of the above-listed appearance types (e.g., the Court appears in person in the courtroom and the remaining participants appear via Cisco Webex).

(F) Telephone Pleas

Telephone pleas can be taken in the Court’s discretion in minor misdemeanor criminal cases and minor misdemeanor or unclassified traffic cases.

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1. Some types of proceedings may require the consent of one or both parties to be conducted remotely using videoconferencing technology.
 2. Some types of proceedings may require the consent of one or both parties to be conducted in a hybrid manner.

TECHNOLOGY PLAN

In accordance with Superintendence Rule 5(E), the Court shall adopt and maintain a court technology plan which will include:

- (1) A comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology-related solution utilized by the court; and
- (2) Procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the court or division and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the “Americans with Disabilities Act.”

COURT SECURITY POLICY

The Niles Municipal Court has established the Court Security Program to comply with standards established by the Ohio Supreme Court. The purpose of these standards is to establish a safe environment in the courthouse for elected officials, court employees, case participants, and the visiting public.

It is the policy of the Niles Municipal Court that all visitors successfully complete the physical screening process before admittance to the courtroom is allowed.

Items prohibited in the building are, but not limited to:

- Knives
- Nail Files
- Handcuff Keys
- Mace
- Tools
- Guns

Additional prohibited items:

- Any firearm, deadly weapon, dangerous ordnance, or explosive device as defined in Revised Code Section 2923.11, or as would by common sense or common usage be used primarily or secondarily as a weapon
- Any other instrument that is specially adapted as a weapon
- Any switchblade and/or martial arts knife of any length
- Any knife or any knife-like instrument of any length or purpose of design that suggests it is not merely a normal pocketknife and normally carried
- Any straight razor or razorblade
- Any drug of abuse or illegal substance
- Any drug paraphernalia items
- Any incendiary device or firework, including smoke and stink bombs
- Any device that operates as a noisemaker
- Any type of sound amplifier, except a personal hearing aid that operates without disruption to the court

You are also subject to arrest for any illegal items, you bring into the building including, but not limited to: any type of drugs, or drug paraphernalia.

The Court Security Officers may prohibit any other item or items that caution, good sense or professional experience suggest are inappropriate to the Court environment, whether it is specifically listed as a prohibited item.

Upon entering the Niles Municipal Court, visitors shall place all items such as bags, packages, and purses through the X-ray scanner. All items are subject to being searched for prohibited

items. Additionally, visitors shall successfully pass through the walk-through magnetometer. To successfully do so, visitors should observe the following procedures:

- Remove all metallic items from pockets and place into the rubber tray. These items include, but are not limited to coins, gum wrappers, keys, lighters, cigarettes and any other metallic item.
- Electronic items that shall be placed through the X-ray scanner include, but are not limited to laptops, cell phones, pagers and electronic day planners.
- Outer garments with a large amount of metal (zippers, buttons, tags, decorations) should also be removed and placed through the X-ray scanner.
- If visitors unsuccessfully pass through the walk-through magnetometer, they are subject to search with a hand-held metal detector by the court security officer.
- Any items on the prohibited list (above) shall be held by the Court Security Officer during your stay in the building.

Inside the courtroom ALL persons shall be required to stand during the opening and closing of Court.

All broadcasting, televising, recording and photographic equipment in the courtroom shall be prohibited unless authorized by the Court.

More information regarding these policies can be obtained by contacting:

Niles Municipal Court
Chief Bailiff: Craig A. Aurilio