

**EAST LIVERPOOL MUNICIPAL COURT**

**LOCAL RULES OF COURT**

**MELISSA BYERS-EMMERLING  
MUNICIPAL COURT JUDGE**

EFFECTIVE DATE: JANUARY 1, 2010

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AMENDED DECEMBER 29, 2009

INTRODUCTION

The East Liverpool Municipal Court hereby adopts the following rules, which shall be applicable in all cases filed in this Court.

**HOURS:** The office of the Clerk of Court shall be open Monday through Friday from 8:00 a.m. until 4:00 p.m. excluding legal holidays. All sessions of the Court shall begin promptly at 9:00 a.m. and 1:00 p.m. unless otherwise directed by the Judge. The Court may be closed or its hours of operation changed at any time without prior notice by order of the Court.

**AUDIO RECORD:** Unless otherwise provided in these rules, all proceedings before this Court shall be recorded by an audio electronic recording device provided by the court. No record shall be required of any proceeding in the Small Claims and Civil division of this Court, unless requested by plaintiff or defendant.

**FEES AND COSTS:** Pursuant to Ohio Revised Code Section 1901.26 and 1901.261, the Court hereby establishes the Schedule of Fees and Costs for each civil and criminal action and proceeding in this Court as set for in attached Exhibit A, which may be modified from time to time. Also state costs set by O.R.C.2949.091 State General Revenue cost and O.R.C.2743.70 Victims of Crime cost for each case (any offense other than a traffic offense that is a non-moving violation). Such schedule together with any amendments or modifications shall be posted in the office of the Clerk of Court.

**COURT RECORDS:** Inspection of records-all indexes, docket, journals, and file records maintained in accordance with law by the clerk of court shall be open to public inspection during regular business hours in a manner that does not interfere with the normal operation of the clerk's office. Transcription of records-the audio electronically recorded court proceedings shall not be inspected but may be transcribed by a certified court reporter approved by the Court upon request and upon payment of appropriate deposit. All inspections shall be made under the supervision of Court personnel. Original papers shall not be removed from the office of the clerk.

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**RULE 1.0 CRIMINAL CASE MANAGEMENT**

- I. The purpose of this Rule is to establish, pursuant to M.C.Sup.R.18, a system for criminal case management, which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court Justice System.
- II. **SCHEDULING OF EVENTS:** The scheduling begins after arraignment. Thereafter, the case is managed in SEVEN (7) judicial steps:
- A. **ARRAIGNMENTS:** Arraignments are to be scheduled in traffic cases seven days after the citation except for DUI cases, which must be scheduled no later than five days, but not the next morning after citation.
- The East Liverpool Municipal Court will not accept any traffic ticket for filing, if a LEADS printout is not filed with the ticket.**
- The ticket will be returned to the Police Department.**
- The ticket may be re-filed with the LEADS printout.**
- If the arraignment date has passed, the officer must re-serve the defendant with a new court date. All criminal cases and any traffic citation that carries a jail sentence must include a police report.**
- All Criminal cases and any Traffic citation that carries a jail sentence must include a police report.
- B. **SECOND ARRAIGNMENTS:** Second arraignments will be set within 7 to 10 days after the first arraignment on all first, second, third, and fourth degree misdemeanors. All minor misdemeanors will be set directly for trial because of the short try-by-time. Counsel must appear at the second arraignment with their calendar. **If Counsel is unable to appear, Counsel must do the following before the second arraignment:**
1. File a Written Notice of Appearance. Faxing is encouraged to ensure timeliness with an original to follow. No other criminal pleadings or motions shall be accepted by the Clerk, unless a notice of appearance is filed and the attorney has been hired by the defendant to represent him/her on the entire criminal case. Ohio Criminal Procedure does not permit “limited” appearances by counsel on behalf of a defendant.
  2. File a proposed judgment entry setting forth the type of hearing requested and with a blank space for the Bailiff to insert the hearing date. The Attorney or his/her staff must contact the Bailiff to schedule a mutually agreeable date for the next hearing. If the Attorney fails to contact the Bailiff before the second arraignment, the Bailiff will schedule the hearing at the Court’s convenience. No Continuances will be accepted by the Court, since the Attorney or his/her staff have the ability to coordinate their schedule with the Court.
  3. Also a written Waiver of Try-by-Time must be filed.
  4. A written Not Guilty Plea must be included.

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5. Second arraignments by written waiver of appearance are acceptable in all traffic cases including DUI's and Criminal cases except for Domestic Violence, Child Endangering, Assault, Menacing by Stalking and Violating a Protection Order or any crime of violence by a family member; unless a Judge has given prior approval.
- C. **PRETRIALS:** After the second arraignment, all first degree and second degree misdemeanors shall be set for pretrial by the Bailiff within thirty (30) days of the second arraignment, unless otherwise ordered by the Court. All other misdemeanors shall be set for trial unless the Judge orders a pretrial in said case and the defendant waives his/her right to a speedy trial in writing, on the record, and in open Court. Prior to the pretrial all discovery, if requested shall be exchanged among the parties. The Court has an open file policy, i. e. informal discovery. If the information requested is not contained in the file, that information may be discovered at the pretrial. The party requesting the discovery shall put the pretrial date in bold print in the caption of the motion. All discovery must be completed by the end of the pretrial or a 2<sup>nd</sup> pretrial must be requested and will be granted only for just cause. Unless otherwise requested by the parties, pretrials of all misdemeanors shall be given 15 minutes and Public Defender Cases shall remain 15 minutes apart unless otherwise determined by the Judge or Bailiff. The pretrial shall be conducted in accordance with Criminal Rule 17.1. Any attorney who fails to appear for pretrial without just cause being shown may be punished for Contempt of Court.
- All material witnesses shall be present at the pretrial; each side is responsible for notifying these witnesses. The Prosecutor as required by law shall subpoena all victims of violent crimes.
- If the parties cannot resolve the case, then the case shall be set for trial to the Court unless a Jury Demand is filed in compliance with Criminal Rule 23. The court will not accept a plea to a reduced charge after the pretrial when trials are the next hearing. The Defendant must plead as charged or proceed to trial. The Court will not accept a plea agreement other than the one previously proposed at the pretrial. If the case is set for a status after the pretrial, the Court will accept a plea agreement.
- D. **MOTIONS:** All Motions shall be made in writing and accompanied by a written Memorandum containing the arguments of counsel. All Motions must comply with Criminal Rule 47. The moving party must obtain a hearing date at the date of filing. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. **MOTIONS TO DISMISS OR SUPPRESS MUST BE FILED SEVEN (7) DAYS BEFORE THE HEARING DATE.**
- All Motions (except for a continuance) shall be set for oral hearing unless otherwise indicated by the Judge. A Motion may be decided without hearing at the joint request of both sides. **Any motion to be decided without a hearing must be accompanied by a proposed Judgment Entry from each party.**

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- E. **TRIALS:** Each case not resolved at pretrial shall be set for Trial to the Court unless a Motion is to be filed. If a Jury demand is timely filed, then the case will be moved to the Jury Trial schedule. The Court will not accept a plea to a reduced charge the day of the Trial or a plea agreement other than the one proposed at the pretrial, or status. All cases set from pretrial to trial shall be settled at the pre-trial.
- F. **STATUS:** A Status Conference will be held at least one week before all scheduled Jury Trials. Counsel, clients, and victims as required by law and all other victims as necessary must attend. The purpose of the Status is two-fold. One: to ensure the case cannot be settled. The Court will not accept, after the Status Conference, a plea to a reduced charge nor a plea agreement different from the one proposed at the Status Conference. Two: To address all pre-jury trial issues: all Motion In Limine; proposed Jury instructions; copies of case law; or trial briefs, which must be filed and discussed at the Status.
- G. **JURY TRIALS:** The defendant or his/her Counsel must notify the Court that a Jury is not needed by 3:00 p.m. on the Monday of jury week or by 3:00 p.m. on Friday if the following Monday is a holiday. Failure to do so shall result in the defendant being assessed all Jury costs, subpoena fees, sheriff fees, witness and bailiff fees. The Court will not accept a plea that differs from the proposed plea agreement offered at the Status Conference.
- H. **SENTENCING:** Sentencing shall be done immediately upon conviction. The Court, upon good cause shown, may schedule a sentencing hearing within seven (7) days from the date of conviction
- III. **CONTINUANCES:** (Same as Civil, see page 6).
- IV. **SERVICE:** All warrants, complaints, traffic tickets, or minor misdemeanor citations must be personally served upon the defendant. A complaint or citation that has not been personally served, will be dismissed for improper service.
- V. **JUDGMENT ENTRIES:** All Judgment Entries for hearings will be prepared by the Judge unless otherwise ordered. Written Motions requiring a proposed Judgment Entry or the Clerk of Court must accompany Court action without a hearing shall not accept the Motion for filing.
- VI. **COMMITMENT TO JAIL-NON BONDABLE OFFENSES:** If a defendant is committed to Jail for which a bail bond is not set i.e. (must be reviewed and set by the Judge), the Court Bond Information Sheet must be completed by the arresting officer before the defendant is transferred to jail and kept with the arresting police department. See attachment A (Court Bond Information).

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VII. OPERATING A VEHICLE WHILE UNDER THE INFLUENCE (OVI) LIMITED DRIVING PRIVILEGES

A. Requirements for Filing Limited Driving Privileges are as follows:

1. Proof of insurance with effective date. (Effective from \_\_\_\_\_ to \_\_\_\_\_)  
Both from date of offense and date of limited driving privilege.
  - a. Card
  - b. Insurance policy
2. Proof of work schedule with specific days and hours of employment. A check stub is not acceptable. The schedule should be on company letterhead and signed by a Supervisor or scheduler with a phone number to contact that person. Proof of a swing shift must be current and carried with these privileges.
3. BMV form 2006
4. Proof of service to the Bureau of Motor Vehicles (BMV).
5. Judgment entry granting limited driving privileges.
6. \$30.00 filing fee is required at the time of filing.
7. All OVI offenses except 1<sup>st</sup> offense OVI .08 to .17 or refusal. Defendant takes the application to the Deputy Registrar to get restricted plates. The restricted plates must be presented to the Clerk before the Judge will sign the Limited Driving Privilege Judgment entry.  
Proof vehicle registered in Defendant's name.

**ALS REFUSAL** (WITHIN 6 YEARS)

1<sup>ST</sup> offense must wait 30 days

2<sup>nd</sup> offense must wait 90 days

3<sup>rd</sup> offense must wait 1 year

**ALS TEST** (WITHIN 6 YEARS)

1<sup>st</sup> offense must wait 15 days

2<sup>nd</sup> offense must wait 30 days

3<sup>rd</sup> offense must wait 180 days

**AFTER CONVICTION**

You must wait 15 days before applying for limited driving privilege on a first offense. 30 days for a second offense and 180 days with a disabling device during the privileges on a third offense.

*(Credit for any Pretrial Suspension)*

8. Affidavit from Defendant or Attorney stating that the defendant does not possess a commercial driver's license (CDL).

**All limited driving privileges (except ALS) will be granted only if the defendant has proof of "Restricted Plates" for every vehicle to be driven during the duration of the privileges.**

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RULE 2.0 CIVIL CASE MANAGEMENT

- I. 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.
- II. 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 six (6) judicial steps:
- III. CLERICAL STEPS:
- A. Summons shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the Clerk shall immediately notify counsel. If counsel fails to obtain service of Summons within six (6) months from the date the cause of action has been filed, then the Clerk shall notify counsel in writing that the case will be dismissed after fourteen (14) days unless good cause is shown to the contrary.
  - B. Upon perfection of service, the Clerk shall notify counsel of the default and that a failure to submit an entry within seven (7) days may result in the case being dismissed.
  - C. 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.
  - D. If no action has been taken on a file for six (6) months and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within one week unless good cause is shown.
  - E. When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, the Clerk shall notify the party in writing that his case will be dismissed unless the entry is received within fourteen (14) days.
- IV. JUDICIAL STEPS:
- A. **MOTIONS**: All Motions must be in writing and accompanied by a written Memorandum containing citations and the arguments of counsel and a proposed Judgment Entry. 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 the Court extends time.  
*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.*
  - B. **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 the attorney of record. **(Pretrial conference by phone is permitted; Court must be notified in writing before date and all parties must be on the phone before calling the Court.)**  
Any attorney for a party to the action, who fails to attend a scheduled pre-trial conference, without just cause being shown, may be punished as for contempt of this Court.

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Notice of pretrial conference shall be given to all counsel of record by mail and/or telephone from the Clerk's Office not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Civil Deputy Clerks. See Rules for continuance.

**Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.**

The Judge shall have the authority to dismiss the action for want of prosecution upon Motion of the Defendant for failure of the Plaintiff, or his counsel to appear in person at any pre-trial 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 pre-trial conference or trial as required; or to make such other order as the Court may deem appropriate under all the circumstances.

If the case cannot be settled at pretrial, then the case will be set for trial at a time agreeable to all parties and the Court.

- C. STATUS CONFERENCE: A Status Conference shall be held at least seven (7) days before the Jury Trial date to ensure the case cannot be settled and to address all pre-Jury Trial issues.
- D. JURY TRIAL: A Jury Demand Fee of Three Hundred and no/100 Dollars (\$300.00) must be posted by the party requesting same no later than ten (10) days before the scheduled Jury Trial date or the case will be set for trial to the Court.
- E. CONTINUANCES: All Criminal continuance requests shall be directed to the Bailiff and Civil continuances shall be directed to the Civil Deputy Clerks. No party shall be granted a continuance of a trial or a hearing without a Written Motion

stating the reason for the continuance and a Judgment Entry for the Judge's signature. These may be faxed to the Court.

The following are six (6) possible reasons for a continuance:

1. Conflict with prior scheduled Court hearing.
2. Material witness is unavailable due to no fault of the Attorney.
3. Subpoena unable to be served.
4. Hospitalization or unexpected illness of the attorney or any party with proper medical excuse.
5. Death in the immediate family of the attorney, witness, or party.
6. Good cause shown as decided by the Court.

When a continuance is requested for the reason that counsel is scheduled to appear in another case, the case which was first set for hearing shall have priority and shall be heard on the date assigned. Criminal cases assigned for trial have priority over Civil cases assigned for trial. The granting of a request for continuance of a scheduled hearing is a matter within the discretion of the trial court. **In an emergency situation an oral request for a continuance shall be granted as long as a written motion is filed with the Court within three (3) days of the oral request.**

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The moving party making the oral request must notify all parties, counsel, and subpoenaed witnesses of the continuance. The Bailiff will execute a continuance form, which will be docketed and calendared. The moving party upon his/her client and all Counsel must serve the Motion. The Court will serve the Judgment Entry denying or granting the continuance. The Attorney or his staff must contact the Bailiff to schedule a new hearing date or the Court will choose a date. No continuances shall be granted since the Attorney forfeited his/her right to coordinate his/her calendar with the Bailiff prior to the scheduling of the new hearing date.

- F. **JUDGMENT ENTRIES:** The Court shall prepare all Judgment Entries for hearings unless otherwise ordered. However, a proposed Judgment Entry must accompany Written Motions not requiring a hearing.
- G. **DEFAULT JUDGMENTS:** The party requesting Default Judgment must serve a written notice of the application for judgment upon the defaulting party at least seven (7) days prior to the hearing or order on such application. The Court will not hold a hearing as a default judgment application unless requested to do so by either party. The party requesting the Default shall file a proposed Judgment Entry written thirty (30) days of the Default or the case will be dismissed for want of prosecution. The Clerk shall mail the Default Judgment Entry to all parties or, if represented, to their counsel of record.
- H. Settlement entries may be filed at any time before trial. All agreed judgment entries to be prepared by the parties must be filed fourteen (14) days after trial or the case will be dismissed.

**RULE 3.0 SPECIAL PROCEEDINGS CASE MANAGEMENT**

- I. 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: **SMALL CLAIMS, FORCIBLE ENTRY AND DETAINER, DEFAULT HEARINGS, RENT ESCROW, REPLEVIN, MOTION TO CITE, GARNISHMENT HEARING, AND DEBTOR'S EXAMS.** The following criminal matters are considered special proceedings: **PRELIMINARY HEARINGS, EXTRADITION HEARINGS, AND B.M.V.HEARINGS.**
- II. **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.
- III. **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 fourteen (14) days unless good cause is shown to the contrary.
- IV. Upon perfection of service, if a party defaults, the party requesting the Default Judgment must have his/her attorney submit a Default Judgment entry within fifteen (15) days or the case will be dismissed.

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- V. After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the Judge so that the matter may be set for a hearing.
- VI. 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.
- VII. 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 fourteen (14) days.

**RULE 3.2 FORCIBLE ENTRY AND DETAINER HEARINGS**

- I. HEARING: All forcible entry and detainer cases shall be set for hearing pursuant to the time limits set forth in the Ohio Revised Code and the applicable Ohio Rules of Civil Procedure will be applied. The Judge shall file a Judgment Entry within fourteen (14) days and cause a copy to be served on the Plaintiff and Defendant.
- II. 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.
- III. The Forcible Entry and Detainer (FED) complaint must include a copy of any written lease agreements and notices to leave premises.

**RULE 3.3 SMALL CLAIMS COURT**

- I. A small claim action is commenced by filing a small claim petition, pursuant to Ohio Revised Code Section 1925.04. 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. If the case involves a written contract or account, same must be filed with the small claim’s petition.
- II. All small claims cases are scheduled for fifteen (15) minutes. If the case will take longer, the parties need to notify the Court.
- III. The Clerk will provide a party filing a small claim (See attachment G), which explains the procedure of a small claims hearing and how to collect judgments.
- IV. 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, if the Judge deems this to be necessary. No transfer will be granted until the filing’s costs are paid.
- V. HEARING: The Judge 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 unless otherwise indicated.

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- VI. COLLECTION OF JUDGMENTS: The Clerk of Court shall assist the prevailing parties in filing garnishments to collect judgments pursuant to Ohio Revised Code Section 1925.13 after thirty (30) days from the date of the Judgment. Deputy Clerks are not permitted to practice law and are not collection agencies. As to small claims judgments the Deputy Clerks provide the pro se Plaintiff with all forms to file garnishments. The Plaintiff must provide the necessary information to fill out the garnishments or debtor's exams.

**RULE 3.4 LANDLORD/TENANT: RENT ESCROW FEE**

LANDLORD/TENANT-RENT ESCROW: The 1% (one) charge by the clerk for rent escrow pursuant to ORC 5321.08 (D) is chargeable only to the landlord unless the Court dismisses the rent escrow case as a frivolous case. The tenant cannot be made to pay the 1% escrow fee.

**RULE 3.5 LIMITED DRIVING PRIVILEGES PETITION**

Defendant shall file a Limited Driving Privileges Petition with the Civil Division and pay the civil filing fee. These Limited Privileges are available (if defendant otherwise has a valid operator license) for:

Court Suspensions as follows:

1. D. U. S. R. C. 4510.11
2. D. U. S. Under FRA suspension R. C. 4510.16
3. D. U. S. Failure to Reinstate R. C. 4510.21
4. D. U. S. O. V. I Suspension R. C. 4510.14
5. Wrongful Entrustment R. C. 4511.203

Bureau Suspensions as follows:

1. Limited privileges to pay reinstatement fee 4510.10 (B) (2)
2. During FRA Suspension 4509.101 (A) (2) (a) & (6)
3. Appeal of 12-point suspension 4510.037 (G)

A written petition shall be filed listing with specificity the reason the Defendant is under suspension, the purposes, times and places the privileges are requested as listed in R. C. 4510.021.

Attached to the Petition must be:

1. Written proof (on letterhead signed by the appropriate party) of the hours, days and designation needed,
2. An accurate and current BMV form 2006,
3. Proof of payment of reinstatement fees if necessary to acquire privileges or payment plan entered into,
4. Proof of current insurance,
5. A copy of his/her registration of a vehicle titled in his/her name and show proof he/she acquired "restricted plates" for the vehicle if limited privileges are requested for D. U. S. 4510.11, 4510.16, 4510.21 or 4510.14 or if the plates were otherwise impounded .
6. Proof of unexpired license status from BMV (if expired, must renew license before Petition is filed).

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A copy of the petition must be served by the defendant upon the BMV and the Law Director and proof of service must be attached. The Law Director or his designee shall represent the BMV at a hearing. The Law Director shall secure a LEAD's printout of the defendant, by the hearing date to corroborate the reason(s) why the defendant is under suspension and whether the defendant is otherwise prohibited from acquiring limited privileges.

The defendant must have a pending D. U. S. traffic case before the Court or live within the Court's jurisdiction to file a petition.

Restricted Plates are required on all Court suspensions but wrongful entrustment R. C. 4511.203.

No Restricted Plates are required on BMV suspensions.

\*Limited Privileges for FRA suspension must attach with the petition proof of payment of reinstatement fees and current proof of insurance per 4509.101 (A) (2). If defendant is unable to pay the reinstatement fees, the defendant must have a pending case in this Court and been granted a reinstatement fee plan which BMV form must be attached with the petition. If defendant doesn't have a pending case, defendant must enter into a fee plan with the last court defendant had a suspension case and attach a copy of the BMV fee plan form with the petition.

**THIS RULE DOES NOT APPLY TO LIMITED PRIVILEGES FOR OVI AND OVUAC PER 4510.021 (A) AND 4510.13 (A).**

**RULE 4.0 FILING OF PLEADINGS, MOTIONS, AND DOCUMENTS**

Every pleading, Motion, or document, filed with the Clerk of Court must include the Attorney's registration number issued by the Supreme Court of Ohio. No pleading will be accepted for filing without the registration number.

**RULE 4.1 PRO HAC VICE**

An attorney not licensed to practice law in the state of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, in the discretion of the Trial Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this Court after completion of all of the following condition:

- A. File a written oath substantially in compliance with Rule I, Section 8A of the Rules for the Government of the Bar as follows;
  - I, \_\_\_\_\_, hereby (swear or affirm) that I will support the Constitution and laws of the United States and the Constitution and the laws of Ohio, and I will abide by the Code of Professional Conduct;
  - In my capacity as an attorney and officer of the Court, I will conduct myself with dignity and civility and show respect toward judges, court staff, clients, fellow professionals, and all other persons.
  - I will honestly, faithfully, and competently discharge the duties of an attorney at law. (So help me God.)
- B. Certify in writing that he or she has familiarized himself or herself with local Court rules and will familiarize himself or herself with the appropriate Criminal or Civil Rules, the Rules of Evidence and the Code of Professional Responsibility;
- C. Be sponsored in writing by an attorney licensed to practice law in the state of Ohio. The motion made by the licensed attorney shall certify such out-of-state counsel's compliance with this rule and the Rules for the Government of the Bar;

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- D. The sponsoring attorney shall submit with the motion and certification an entry authorizing the approval of the motion;
- E. The sponsoring attorney, or any other attorney licensed to practice law in the state of Ohio, shall be co-counsel with the attorney admitted pro hac vice.

**RULE 4.2 LEAVE TO PLEAD**

Absent good cause shown, the Court will not grant a third leave to plead without the parties or counsel seeking such leave by Written Motion and personally appearing before the Court to explain the need for a third Continuance.

In all motions requesting leave to plead, counsel shall state the number of leaves to plead and proof of service to all parties or attorneys of record. A proposed Judgment Entry must accompany the Motion.

**RULE 4.3 MOTION FOR SUMMARY JUDGMENT**

No oral hearing will be held for a Motion for Summary Judgment, unless requested by the parties and agreed to by the court. The filing party must serve a copy of the Motion pursuant to the Ohio Rules of Civil Procedure upon the opposite party and show a proof of service on the Motion. The filing party must also attach a proposed Judgment Entry.

The Court will permit a response to be filed pursuant to Civil Rule 56. After the response time of fourteen (14) days has passed, the Court will make a ruling.

**RULE 4.4 MOTION IN LIMINE**

A Motion In Limine shall be filed not less than three (3) days prior to trial, except for good cause shown.

**RULE 4.5 MOTION FOR DEFAULT JUDGMENT**

Absent a request for a hearing and agreed to do by the Court, no hearings will be held for Default Judgments pursuant to Civil Rule 55. Notice of the Motion must be served upon the opposite side. The Clerk will serve a copy of the Judgment Entry upon all parties even if they have not appeared.

**RULE 4.6 HEARING FOR DEFAULT JUDGMENT**

The Court shall require a hearing on Default Judgments for the tear down and vacation of premises requests. No order shall be given solely on the Motion of Plaintiff. All parties must be notified of a hearing and testimony given by the Plaintiff even if the defendant is in default and does not appear at the hearing.

**RULE 5.0 COURT FILES**

No Court files will be removed from the clerk's Office. Copies may be made at a cost posted in the Court's Cost-Bond Schedule.

**RULE 5.1 COURT RECORDING**

The Court's recording of proceedings shall not leave the custody of the Bailiff except to be transcribed: by the Prosecutor or Law Director's office; this Court's Clerk; or Common Pleas Court Reporters. All Attorneys may have the proceedings recorded by their own Court reporter at their expense in addition to the Court's recording. The Transcript fee for the Court shall be \$2.00 per page for the original and \$1.00 per page for copies. Per diem transcripts shall be \$3.00 per page for the Original and \$1.50 per page for copies.

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**RULE 6.0 LAW LIBRARY**

No Law Library book shall be removed from the Law Library unless application is made by an Attorney in writing and agreed to by the Court. Copies may be made by the attorneys themselves in the Clerk's office at a cost of \$0.10 per page payable upon copying and certified copies-\$1.00.

**RULE 7.0 WITHDRAWAL OF COUNSEL**

- A. Attorney of record wants to withdraw. Withdrawal of an attorney of record shall be made upon application with a Judgment Entry of Approval and, where possible, the name of the successor attorney shall be included in the judgment entry. Upon allowance of withdrawal by the Court, the withdrawing Counsel shall serve a copy of said judgment entry on the client and the opposing party or counsel, if any, by regular U. S. mail.
- B. Defendant wants to substitute Counsel. The proposed substituted Counsel shall file an application with a Judgment Entry of Approval and the signature of the Counsel of Record agreeing to the withdrawal with a Judgment Entry. Upon allowance by the Court the substituted Counsel shall serve a copy of the Judgment Entry on the client and opposing Counsel. The Court may schedule either application for a hearing. The substituted Counsel must contact the Bailiff and reschedule the case if the case had been scheduled for the public defender and file a proposed judgment entry rescheduling the case.

**RULE 8.0 INMATE LIST**

The Sheriff and the City Police shall provide the Court with a list of names, not less than weekly, of all inmates under sentence to the Court and another list of those awaiting trial or hearing.

**RULE 9.0 FILMING AND RECORDING OF TRIALS**

Effective August 1, 1979, broadcasting, televising, recording, and photographing by news media during Courtroom sessions shall be permitted under the following conditions:

- (1) Requests for permission to broadcast, televise, record or photograph in the Courtroom shall be in writing to the Trial Judge as far in advance as reasonably practical, but in no event later than one (1) hour prior to the Courtroom session to be broadcast. Request forms may be obtained from the Office of the Clerk of Court. (See attachment A.)
- (2) The Trial Judge will either grant or deny such request in accordance with Canon 3(A)(7) of the Code of Judicial Conduct, Superintendence Rule 11, and this local Rule. Written permission or denial shall be made part of the record of the proceedings.
- (3) Arrangements shall be made between or among media representatives for "pooling" equipment and personnel authorized by the Rule to cover the Court sessions. Such arrangements are to be made outside the courtroom and without imposing on the Trial Judge or Court personnel to mediate any dispute as to the appropriate media "pool" representative or equipment authorized to cover a particular session.
- (4) Not more than one portable camera (television, videotape, or movie), operated by not more than one in-Court camera person, shall be permitted without authorization of the Trial Judge.
- (5) Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the Trial Judge.

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- (6) Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the Trial Judge.
- (7) If audio arrangements cannot reasonably be made in advance, the trial Judge may permit one audio portable tape recorder at the bench, which will be activated prior to commencement of the Courtroom session.
- (8) Visible audio portable tape recorders may not be used by the news media without prior permission of the Trial Judge.
- (9) Only professional quality telephonic, photographic, audio equipment, which does not produce distracting sound or light, shall be employed to cover Courtroom sessions. No motor driven still camera shall be permitted.
- (10) No artificial lighting device other than that normally used in the Courtroom shall be employed. However, if the normal lighting in the Courtroom can be improved without becoming obstructive, the Trial Judge may permit modification
- (11) Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the Courtroom. Microphones shall be located only at the Trial Judge's bench, witness stand and jury rail, or other such places as determined by the Court. Microphones shall be visible, secured, but unobtrusive. If no technically suitable audio system exists in the Courtroom, microphones and related wiring essential for all media purposes shall be unobtrusive and located in places designated by this Rule or the Trial Judge in advance of any session.
- (12) One television camera shall be positioned on a tripod in an area designated by the Trial Judge prior to the proceeding and said camera shall remain in that fixed position. This designated area shall provide reasonable access to coverage of the proceedings. Videotape recording equipment or other technical equipment which is not a component part of an in-Court television or broadcasting unit shall be located in a room adjacent to or outside the Courtroom.
- (13) The television broadcast and still camera operators shall position themselves in a location in the Courtroom, either standing, or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, They shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts, or zooms by the camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of Courtroom session, except to leave or enter the Courtroom.
- (14) Television cameras, microphones, and taping equipment shall not be placed in, moved during or removed from the Courtroom except prior to commencement or after adjournment of the session or during a recess. No television film magazine, rolls, or lenses, still camera film or audio portable tape cassettes shall be changed within a Courtroom except during a recess.
- (15) Proper Courtroom decorum shall be maintained by all media "pool" participants.
- (16) All media representatives shall be properly attired in a manner that reflects positively upon the journalistic profession.
- (17) There shall be no audio pickup or broadcast of conference conducted in a Courtroom between counsel and clients, co-counsel or the Trial Judge and counsel.

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- (18) The Trial Judge shall prohibit photographing or televising by any means the victims of sexual assaults and undercover police officers. The Trial Judge shall retain discretion to limit or prohibit photography or televising of any victim, witness or counsel, or his work product, upon objection. NO JUROR SHALL BE PHOTOGRAPHED OR TELEVISED.
- (15) Upon failure of any representative to comply with the conditions prescribed by the Trial Judge, **the Rules of Superintendence of the Supreme Court or this Rule**, the Trial Judge may revoke the permission to broadcast, photograph, or record the Courtroom session at any time during such session.

**RULE 10.0 JURY MANAGEMENT  
INTRODUCTION**

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18 ©, which requires that each Municipal Court, prior to July 1, 1994, develop and implement a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the East Liverpool Municipal Court.

**JURY ELIGIBILITY**

To ensure that the jury pool is representative of the adult population of the East Liverpool Municipal Court Jurisdiction, all persons are eligible to serve on a jury, except as follows:

- (1) Are less than 18 years of age or are 75 years of age or older.
- (2) Are not current residents in the City of East Liverpool, Liverpool Township, or St. Clair Township.
- (3) Are not United States citizens.
- (4) Are not able to communicate in English.
- (5) Have been convicted of a felony and have not had their civil rights restored.

All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

**PROCEDURE FOR JURY SELECTION**

1. **Appointment:** the Judge shall appoint The Jury Commissioners. The Commission shall consist of two (2) people, one a registered Democrat, and the other a registered Republican.
2. **Duties:** The Commission, or their appointed Deputies pursuant to ORC 2313.04, shall draw and prepare jury lists in keeping with these rules pursuant to ORC 1901.25. The Commission shall meet no later than 8 weeks prior to the new term of Court (January one (1) each year to select Jurors for the annual Jury List.

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3. **Annual Jury List:** The County Board of Elections shall certify a list of electors from the City of East Liverpool, Liverpool Township, and St. Clair Township and provide this list to the Commissioners to be used in selecting the Annual Jury List. This list is then transferred onto a diskette and automated data processing procedures and visual display apparatus are used to compose the jury selection list, the annual jury list, and the bimonthly jury selection list for the year.

The Commission shall prepare, certify, and file the Annual Jury List in the Clerk's office. These names shall be entered in a book to be known as the "Annual Jury List" and arranged alphabetically, under precinct divisions. A copy of the answered jury questionnaire (See Appendix B attached) shall be included in the "Annual Jury List". The "Annual Jury List" shall be added to by a supplementary list as ordered by the Court pursuant to ORC 2313.09. All names shall be selected by automated data processing storage device as provided by ORC 2313.01 to 2313.46 and used for the year.

4. **Drawing of Jurors:** Seventy-Five (75) Jurors shall be drawn and summoned to duty bimonthly for a total of no more than six (6) days or the completion of a trial, whichever is longer. The bimonthly sessions are January/February Session, March/April Session, May/June Session, July/August Session, September/October Session, and November/December Session.

The Jury Commissioners or their deputy, and the Clerk of Court or the Clerk's designated Deputy Clerk, must be present at the drawing. If there are Jurors who were excused from one bimonthly session to another, their name shall be listed first and only that number of names needed to obtain seventy-five (75) shall be drawn.

The names and addresses shall be listed in the order drawn on a Venire prepared by the Clerk or designated Deputy. The Clerk or the Clerk's designated Deputy and all attending officers shall sign the Venire and certify all rules were followed.

The Clerk shall give the Jury Summons to the Bailiff, who will serve them upon the prospective Jurors no later than fourteen (14) days before date of service. (See attachment C.) The Jury Summons will be phrased so as to be easily understood by lay persons and shall explain when and how the Jurors must respond.

The Bailiff will send Juror Questionnaires with the Jury Summons. Service will be by ordinary mail. (See attachment B.) Upon receipt of the answered Juror Questionnaire, the Bailiff shall compile the original in alphabetical order within the bimonthly Jury term and file these in the Clerk's office. A copy of the questionnaire will be made available to the Law Director and defense Counsel at least one day before the trial.

Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire.

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service.
2. To excuse or defer prospective jurors.
3. To remove prospective jurors for cause or if challenged peremptorily.
4. To obtain sufficient jurors for a case through the tailsman procedure.

Any person who fails to respond to a duly served summons shall be served with a citation for contempt of Court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

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5. **Confidentiality of Juror Questionnaires:** the Law Director and Defense Counsel as an aide in voir dire therein shall only use The Juror Questionnaire or information. No access shall be given to the defendant or any other individual as to Juror's address or phone number upon Contempt of Court charges. All questionnaires shall be returned to the Bailiff after voir dire. Under no circumstances may counsel or a Party retain any Jury questionnaire. No copies may be made unless otherwise ordered by the Court.
6. **Juror Fees:** Jurors shall be paid \$15.00 per day for each day's attendance or as modified by ORC 2313.34. The County shall pay Juror fees for cases involving the State law and the City shall pay Juror fees for City ordinance cases pursuant to ORC 1901.25.

SUMMONING OF JURORS

Every effort shall be made to resolve cases prior to summoning juries. In Criminal Cases the Court will not accept a plea to a reduced charge later than seven (7) days after pretrial or later than the Motion to Suppress whichever is scheduled last. In Civil Case Jury Trials only, a \$300.00 deposit must be filed no later than ten (10) days before the scheduled trial date or the case will be tried to the Court. A person who is indigent may petition the Court for a waiver of the Civil Jury Trial deposit requirement.

All attorneys shall notify the Court by 3:00 p.m. of the preceding day of a Jury Trial of any changes in plea or Jury costs shall be assessed to their Case.

Jurors are instructed to call the Court after 4:00 p.m. the preceding day of each Jury Trial date for instructions regarding being summoned for service.

EXEMPTION, EXCUSE, AND DEFERRAL

All persons except those who exercise their right to exemption are subject to service. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service at a later time. All requests for excuse, exemption, or deferral must be made on the form provided (See attachment E) and shall be accompanied by appropriate documentation. The Court shall retain these documents.

The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service, in accordance with O.R.C.2313.16:

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a scheduled vacation or business trip during potential jury service.
3. Any person for whom jury service would constitute a substantial economic hardship.
4. Any person for whom service on a jury would constitute a substantial hardship on their family, clients, or members of the public affected by the prospective juror's occupation.

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5. Any person for whom it may be readily determined is unfit for jury service.
6. Any person for whom it is readily apparent would be unable to perform their duty as a juror.
7. Other valid excuses.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized to excused jurors. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. Once a prospective juror has submitted his/her request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

EXAMINATION OF PROSPECTIVE JURORS

Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.

All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.

Neither Counsel nor party will be permitted to question prospective jurors as to matters contained in the questionnaire. Parties and counsel may be permitted to ask follow up questions concerning such information.

The Court may conduct a preliminary voir dire examination. Counsel or parties shall conform their voir dire questioning to the following rules:

1. Counsel may not examine prospective jurors concerning the law or possible instructions.
2. Counsel may not ask jurors to base answers on hypothetical questions.
3. Counsel may not argue the case while questioning jurors.
4. Counsel may not engage in efforts to indoctrinate jurors.
5. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
6. Questions are to be asked collectively of the panel whenever possible.
7. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there exists a potential for sensitive or potentially invasive voir dire questions, the Court or the parties may request a hearing preceding voir dire to consider these questions.

In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors than the juror being questioned in order to protect juror privacy, or to avoid juror embarrassment.

If it is determined by the Court, during the voir dire process, that an individual is unable or unwilling to fairly and impartially decide a particular case, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon the motion of the Court. Further, Ohio Revised Code 2312.42 and Ohio Criminal Rule of Procedure 24 (B) set forth additional cause challenges which may be made against potential jurors.

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Peremptory challenges shall be exercised alternatively as presently established by Revised Code 2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open Court, but the basis for challenge for cause shall be made outside the hearing of the prospective jurors at side bar. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

Challenges to the jury array shall be made in accordance with established rules of procedure.

In criminal cases, the jury shall consist of eight regular jurors and one alternate juror. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

**JURY ORIENTATION**

Jurors shall report for service no later than 8:30 a.m., unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion of orientation. No motions shall be entertained by the Court the day of trial, except those which the Court must consider by law or by Rule of Procedure. The status is the hearing where pre-trial motions are addressed.

Prospective jurors shall be provided an oral orientation by the Court upon their initial appearance and prior to service. The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with other basic and relevant legal principals.

Upon the completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury. These special instructions must be given to the Court no later than the status.

A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation. Jurors shall be permitted to take notes as and when directed by the Court.

Upon appearance for service, all prospective jurors shall be placed under supervision of the Bailiff or other assigned Court personnel and Jurors shall direct any questions or communications to such Court personnel for appropriate action.

All communication between the Judge and the members of the jury panel, from the time of reporting to the Court through dismissal, shall be committed to writing or placed on the record in open Court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

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All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize conduct between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of Court personnel and shall not be permitted to leave the Jury room without permission.

Deliberations shall not continue after a reasonable hour, unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice. Jurors shall be consulted prior to any decision.

If jury deliberations are halted, jurors shall be permitted to be separated, unless for good cause shown the Court finds that sequestration is necessary. If a jury is sequestered, the Court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open Court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

Upon completion of service, each juror shall be given a personalized certificate of appreciation. (See attachment D.)

CONCLUSION

The Court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and overall juror satisfaction.

To achieve these goals, the Court shall adopt and utilize a juror exit survey, (See attachment F) along with maintaining regular data on all jury pools.

**RULE 11.0 JUDGMENT ENTRIES FOR SIGNATURE**

All Judgment Entries to be signed are directed to the Bailiff who will provide them to the Court for review. No Judgment Entries shall be personally presented to the Judge. Any Entry which Counsel believes needs the immediate attention of the Judge shall be given to the Bailiff who will bring the matter to the attention of the Judge at the next available court break. No Judgment Entry shall be presented to the Judge without the entire file.

**SO ORDERED.**

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**MELISSA BYERS-EMMERLING, JUDGE**

**APPLICATION FOR FILMING AND RECORDING OF TRIALS**

**TO: Judge Melissa Byers-Emmerling, Judge of the East Liverpool Municipal Court for the City of East Liverpool, Ohio**

**RE:** \_\_\_\_\_

**VS.** \_\_\_\_\_

CASE NO: \_\_\_\_\_

In accordance with Canon 3(A)(7) of the Ohio Code of Judicial Conduct, Superintendence Rule 11 and Local Rule of Court 13.

*(Name of person requesting permission)*

\_\_\_\_\_ *Phone:* \_\_\_\_\_

\_\_\_\_\_ *(Name, Address and Telephone Number of Agency)*

request(s) permission to \_\_\_\_\_

*(Broadcast, televise, record, videotape, or photograph)*

in the Courtroom during the trial of this matter.

\_\_\_\_\_ *(Date)*

\_\_\_\_\_ *(Signature)*

THE ABOVE APPLICATION IS (GRANTED) (DENIED) THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.

REASONS OR INSTRUCTIONS IF ANY: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE EAST LIVERPOOL MUNICIPAL COURT  
126 WEST 6<sup>TH</sup> STREET  
EAST LIVERPOOL, OHIO 43920