

NOTICE OF COURT RULES

THE COURT PUBLISHES AND GIVES NOTICE OF THE FOLLOWING COURT RULES.
COMMENTS ON THE COURT RULES MAY BE SENT IN WRITING TO:

THE DAYTON MUNICIPAL COURT
COURT ADMINISTRATOR ANN MARIE MURRAY
301 W. THIRD STREET, RM. 365
DAYTON, OHIO 45402

NOTICE OF REVISION TO COURT RULE

The Dayton Municipal Court finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 4.9, Subpoenas, to include service by a standing special process server designated by the Court pursuant to DMCR. 3.11.

Effective April 3, 2018, DMCR 4.9 is revised as indicated below in bold face type:

Dayton Municipal Court Rule 4.9 – Subpoenas

Subpoenas shall be processed by the Clerk of Court from a praecipe filed by defense counsel. All other subpoenas are processed by the prosecuting attorney's office. The praecipe shall be filed at least five (5) days in advance of the trial date.

Subpoenas shall be served as follows:

A. Personally by the Bailiff's Office **or by a Standing Special Process Server designated by the Court pursuant to DMCR 3.11.** If personal service is not possible, the subpoenas shall be served by ordinary mail. The envelope shall bear a request for return to the Clerk of Court's office if not delivered at once. The Clerk of Court shall make a return on the reverse side of the subpoena showing the name and address where the subpoena was served. When the envelope is returned showing failure of delivery, the Clerk of Court shall attach the envelope to the complaint.

B. When the Clerk issues a subpoena for the attendance of a Dayton police officer, a deputy clerk shall deliver the subpoena for service to the Supervisor of the Police Court Detail. The Supervisor, as an ex officio bailiff of this court, is designated as the person to make service of subpoenas on Dayton police officers. The Department of Police shall make appropriate arrangements for notifying a subpoenaed officer. Each Dayton police officer, as an ex officio bailiff of this court, is ordered to promptly present himself to the Supervisor of the Court Detail to accept service of any subpoena issued for his attendance, upon receipt of notice of its issuance. The Supervisor or his designee shall serve subpoenas and make due return to the Clerk.

NOTICE OF REVISED COURT RULE

The Dayton Municipal Court finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 3.4, Subpoenas for Witnesses, to include service by a standing special process server designated by the Court pursuant to DMCR. 3.11.

Effective April 3, 2018, DMCR 3.4 is revised as indicated below in bold face type:

Dayton Municipal Court Rule 3.4 – Subpoenas for Witnesses

- A. The praecipe (request) for subpoenas of witnesses in civil cases shall be filed with the Clerk not later than five (5) days (excluding intervening Saturdays, Sundays, and Holidays) before the date of trial. Where the praecipe for subpoenas is not filed in accordance with this rule, the failure of a witness to appear may not be grounds for a continuance of the case.
- B. **Service of subpoenas shall be in accordance with Ohio Civil Rule 45. A Standing Special Process Server may be designated by the Court pursuant to DMCR 3.11.**

PROPOSED REVISION TO COURT RULE

The Dayton Municipal Court finds that allowing electronic response to jury questionnaires will make responding easier for prospective jurors and will improve the efficiency of the Court's Jury Management Plan.

The Court hereby revises Dayton Municipal Court Rule (DMCR) 2.28(K)(2), to allow for electronic responses as indicated below in bold type. The following revised Rule will be published for comment for 60 days. The final Rule will become effective June 4, 2018:

DMCR 2.28 JURY MANAGEMENT PLAN

K. Notification and Summoning Procedures

1. The notice summoning a person to jury service and the questionnaire shall be in accordance with Standard 11 of the Ohio Trial Court Jury Use and Management Standards **and shall be delivered by ordinary mail.**

2. The summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond. **A response may be made by completing the paper questionnaire and mailing it to the Court as instructed in the summons.**

a. Electronic Response to Jury Questionnaire. Instead of completing and mailing the paper questionnaire, the recipient may choose to respond electronically through the Dayton Municipal Court Jury Response Service.

(1) Time of Electronic Response. A jury questionnaire responded to through the Jury Response Service is deemed received on the date and time it was electronically transmitted. It is the responsibility of the recipient to submit their response in a timely manner.

(2) Effect of Electronic Response. A timely electronic response through the Jury Response Service has the same effect as a timely written response to the paper jury questionnaire.

3. Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

NOTICE OF PROPOSED COURT RULE

The Dayton Municipal Court finds a need to address the method of filing certain documents with the Clerk of Court. The Court hereby creates Dayton Municipal Court Rule (DMCR) 2.15.1, Facsimile Filing. The proposed Rule will be published for comment for 60 days. The final Rule will become effective June 4, 2018.

Rule 2.15.1 - Facsimile Filing

The provisions of this Rule are adopted under Civ. R. 5(E), Civ. R. 73(J), and Crim.R. 12(B), and follow the Model Facsimile Filing Rule for Ohio Courts developed by the Standards Subcommittee of the Ohio Supreme Court Advisory Committee on Technology and the Courts.

Subject to the following conditions, pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to:

(937) 333-4468 (Civil & Small Claims Division)

(937) 333-4490 (Criminal Division)

(937) 333-7558 (Traffic Division).

Fax filings may not be sent directly to a Judge's or Magistrate's Office.

A. APPLICABILITY

1. This Rule applies to pleadings and papers filed in civil, criminal, traffic, and small claims proceedings in the Dayton Municipal Court that DO NOT require filing fees or service by the Clerk.
 - a. Some examples of documents that will not be accepted are:
 - (1) Civil or small claims complaints and appeals, motions for summary judgment, wage garnishments and any pleadings and documents that require a filing fee (Including those listed in the Court's website under 'Schedule of Fees and Costs');
 - (2) Applications for sealing conviction, dismissal, or arrest records;
 - (3) Criminal or traffic appeals;
 - (4) Written Not Guilty pleas in criminal domestic violence cases. A personal appearance by the defendant is always required at arraignment in this type of case;
 - (5) Not Guilty pleas in criminal or traffic cases with warrants. (Unless a Motion and Entry to Vacate the Warrant is filed with the plea); and
 - (6) Criminal cases with temporary protection orders; and
 - (7) Entries/Orders Granting Driving Privileges.

B. ORIGINAL FILING

1. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the Court the source document filed by fax, with original signatures as otherwise required under the

applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

2. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.
3. The filer will not receive a time-stamped copy of any pleading filed by facsimile. The filer may request a copy of the pleading, after it is filed, by mailing the request and the appropriate fee for the copy.

C. DEFINITIONS

As used in these rules, unless the context requires otherwise:

1. A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals and transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
2. A “facsimile machine” means a machine that can send and receive a facsimile transmission.
3. “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

D. COVER PAGE

1. The person filing a document by fax shall also provide a cover page containing the following information: [See Appendix (M)(1) for required cover page form.]
 - a. The name of the court;
 - b. The title of the case;
 - c. The case number;
 - d. The assigned judge;
 - e. The title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint or Plaintiff Smith’s Response to Defendant’s Motion to Dismiss);
 - f. The date of transmission;
 - g. The transmitting fax number;
 - h. An indication of the number of pages included in the transmission, including the cover page;
 - i. If a judge or case number has not been assigned, state that fact on the cover page; and
 - j. The name, address, telephone number, fax number, Supreme Court registration number of attorney (if applicable), and e-mail address of the person filing the fax document, if available.
2. If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Office of the Clerk may, at its discretion:
 - a. Enter the document in the Case Docket and file the document; or
 - b. Deposit the document in a file of failed faxed documents with a notation of the reason for the failure. In this instance, the document shall not be considered filed with the Clerk of Courts.
3. The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing.

E. SIGNATURE

1. A party, who wishes to file a signed source document by fax, shall either:

- a. Fax a copy of the signed source document; or
 - b. Fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.
2. A party, who files a signed document by fax, represents that the physically signed source document is in his/her possession or control.

F. EXHIBITS

1. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission, for any reason, must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the Court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibit, as required by this paragraph, may result in the Court striking the document and/or exhibit.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case, which sets forth the name of the court, title of the case, the case number, name of the judge, and the title of the exhibit being filed (e.g., Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendant’s Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court. [See Appendix (M)(2) and (M)(2.1) for required exhibit cover sheet and sample exhibit cover sheet.]

G. PROOF OF SERVICE

Faxed pleadings must include a certificate of service showing that all required parties were served by the filer in accordance with Civ.R. 5.

H. TIME OF FILING

1. The Office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the Court is regularly open for business. The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission. **If the filed pleading is time sensitive, the filer shall contact the Judge’s or Magistrate’s office to advise them of the fax filing.**
2. Subject to the provisions of this Rule, all documents, sent by fax and accepted by the Clerk’s Office, shall be considered filed with the Clerk of Court as of the date and time the Clerk’s Office time-stamps the document received, as opposed to the date and time of the fax transmission.
3. The risks of transmitting a document by fax to the Clerk of Court shall be borne entirely by the sending party.

I. VERIFYING RECEIPT OF FACSIMILE FILING

1. The Clerk of Court is not required to send any form of notice to the sending party regarding receipt or failure of a fax filing. **If the filed pleading is time sensitive, the filer shall contact the Judge’s or Magistrate’s office to advise them of the fax filing.**

2. Anyone using facsimile filing is responsible for verifying the filing has been received and accepted by the Office of the Clerk of Court. Filers are urged to use whatever technological means are available, including checking the Clerk's website.
3. Everyone using facsimile filing should be aware that it may take 1 to 2 Court business days for a fax filing to be processed, time-stamped, and notated on the Clerk's website. If the facsimile filing does not appear on the Clerk's website after 2 business days, the filing party may contact the appropriate division of the Clerk's Office.

J. FEES AND COSTS

1. No fee shall be assessed for facsimile filings.
2. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk of Court for filing. Documents tendered to the Clerk of Court which require payment of court costs will not be filed.

K. LENGTH OF DOCUMENT

1. Civil Division. Facsimile filings for the Civil and Small Claims Division shall not exceed 10 pages in length, including exhibits or attachments.
2. Criminal and Traffic Divisions.
 - a. Facsimile filings for the Criminal and Traffic Divisions, including exhibits or attachments, shall not exceed 20 pages in length.

L. EFFECTIVE DATE

1. This Rule shall be effective June 4, 2018, and shall govern all proceedings in actions brought after the effective date and also further proceedings in pending actions, except to the extent that, in the opinion of the Court, the application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event the former procedure applies.

M. Appendix to DMCR 2.15.1.

1. Facsimile Filing Cover Page
2. Exhibit Cover Page
 - 2.1 Sample Exhibit Cover Page

Dayton Municipal Court
Facsimile Filing Cover Page

Recipient Information: *Please circle one.*

Civil or Small Claims

Traffic Division

Criminal Division

937-333-4468

937-333-7558

937-333-4490

Sending Party Information:

Name:

Supreme Ct. No.:

Office/Firm:

Address:

Telephone No.:

Fax Number:

E-mail address:

Case Information:

Case Caption:

Case Number:

Title of Document:

Judge*

*(if a judge has not been assigned, please state that fact in the space provided.)

Filing Information:

Date of Fax Transmission:

Number of pages-including Cover Page

IN THE DAYTON MUNICIPAL COURT
DAYTON, OHIO

_____ Case No.: _____
Plaintiff
v. Judge: _____

_____ **Notice of Filing Supplement to Facsimile
Transmission**
Defendant

[Insert description of document supplemented]

[Insert party], through counsel, hereby files Exhibit “[insert Exhibit label]” to [insert original document title]. The referenced pleading was filed by facsimile transmission with the Dayton Municipal Court on [insert date filed]. [Exhibit label] could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to DMCR 2.15.1.

Respectfully Submitted,

Attorney Name (Sup. Court Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail
Counsel for [insert party]

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit “[insert Exhibit label]” was sent by ordinary U.S. mail on [date] to [party served] at [address].

Attorney Name
Counsel for [insert party]

Sample Exhibit Cover Page

IN THE DAYTON MUNICIPAL COURT
DAYTON, OHIO

JOHN SMITH
Plaintiff

Case No.: 1234567

v.

Judge: NOT ASSIGNED

BILL JONES
Defendant

**Notice of Filing Supplement to Facsimile
Transmission**

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"
TO
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [insert date filed]. Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to DMCR 2.15.1(F).

Respectfully Submitted,

Attorney Name (Sup. Court. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail

Counsel for [insert party]

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit G was sent by ordinary U.S. mail on [date] to counsel for Defendant Bill Jones, [name and address of recipient].

Attorney Name
Counsel for Plaintiff John Smith

The Dayton Municipal Court finds an immediate need to revise the Dayton Municipal Court Rules on case assignment and management (DMCR 2.1 through DMCR 2.9) due to the adoption of Sup.R. 36.01 through Sup.R. 36.019. The Court also finds a need to reclassify DMCR 2.30 as “Reserved” because revised DMCR 2.4 now addresses the assignment and management of Particular Session cases and special proceedings.

The Court revises DMCR 2.1 through DMCR 2.9, and DMCR 2.30, as follows:

Rule 2.1 – Assignment of Cases and Courtrooms

Judges are assigned to courtrooms and cases by order of the Administrative Judge.

A. Case Assignment

Dayton Municipal Court cases are assigned to an individual judge or to a particular session of court, pursuant to the assignment guidelines under Sup.R. 36.011 through Sup.R. 36.019, by order of or under the direction of the Administrative Judge.

1. “Individual assignment system” means the system in which, upon the filing in or transfer to a court or a division of the court, a case immediately is assigned by lot to a judge of the court or division, as applicable, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. Sup.R. 36.01.

(a) “Assigned by lot” means the assignment of a case to a judge that meets each of the following requirements:

(1) The assignment is made by drawing from a pool of judges using paper, balls, or other objects as lots or counters or a computer;

(2) The assignment is arbitrated by chance with the determination fortuitous and wholly uncontrolled;

(3) The assignment is made using the entire base of the number of judges in the court or division, as applicable.

(4) “Assigned by lot” does not include an assignment of cases to judges in an established order of rotation, even if the order of rotation is altered periodically. Sup.R. 36.01.

2. “Particular session of the court” means the system in which cases are assigned by subject category rather than by the individual assignment system. Sup.R. 36.01.

Rule 2.2 – Individual Assignment System Sup.R. 36.011

A. Adoption of Case Assignment System

The Dayton Municipal Court hereby adopts the individual assignment system provided in Sup.R. 36.011, with the exception of modifications adopted by Court Rule.

- B. The individual assignment system ensures all of the following:
1. Judicial accountability for the processing of individual cases;
 2. Timely processing of cases through prompt judicial control over cases and the pace of litigation;
 3. Random assignment of cases to judges of the court or division, as applicable, through an objective and impartial system that ensures the equitable distribution of cases between or among the judges of that court or division.

C. Time of Assignment to an Individual Judge

1. Civil Cases

A civil case, not listed as a Particular Session case in DMCR 2.4, shall be assigned to an individual judge upon the filing of an answer or motion.

2. Criminal or Traffic Cases

A misdemeanor criminal or traffic case shall be assigned to a judge when a plea of "not guilty" or "not guilty by reason of insanity" is entered.

3. Multiple Misdemeanor and Traffic Cases and Cases Involving Different Defendants

On a plea of "not guilty" in multiple related cases, the cases shall be assigned to the same judge. Cases relating to different defendants, even if arising out of the same transaction, shall be separately assigned, unless a Motion for Consolidation is granted by the Administrative Judge.

4. Cases Involving Judges or Court Employees

Traffic or criminal cases involving a Dayton Municipal Court Judge or Court employee shall be initially assigned to the Administrative Judge to determine whether the case should be reassigned to one of the Judges by random lot, assigned to a visiting judge, or retained and disposed of by the Administrative Judge (by agreement of the parties).

Rule 2.3 – Modifications to Assignment System

1. Modifications to the individual assignment system may be adopted by the court in accordance with Sup.R. 36.011(C) to provide for:

(a) The redistribution of cases involving the same criminal defendant, parties, family members, or subject-matter.

(b) The direct assignment of a new criminal case involving a person who is currently on probation with the judge to whom the probation case is assigned.

2. The Dayton Municipal Court adopts the following Modifications to the Individual Assignment System:

(a) A misdemeanor criminal or traffic case shall be assigned to the judge who:

(1) is assigned to another open case for the same defendant,

- (2) placed the same defendant on supervised probation and has not terminated probation by court entry, or
- (3) has other related misdemeanor or traffic cases in which a plea of Not Guilty is entered.

(b) Upon execution of a waiver by the defendant, a minor misdemeanor or a traffic case assigned to a judge shall be referred to a magistrate.

Rule 2.4 – Particular Session Case Assignment and Management Sup.R. 36.014

- A. A particular session of the court is one in which cases are assigned by subject category rather than by the individual assignment system. Sup.R. 36.01. These types of cases and special proceedings may be heard and processed by a judge or magistrate in a single session.
- B. The Administrative Judge shall equally apportion particular session assignments among all the judges. A judge shall not be assigned to a particular session for more than two consecutive weeks.
- C. Criminal and Traffic Particular Sessions and Case Management
 - 1. Particular Sessions are hereby established for the following:
 - (a) Traffic Arraignment (Including cases in which a plea of Guilty or No Contest is entered)
 - (b) Criminal Arraignment (Including cases in which a plea of Guilty or No Contest is entered)
 - (c) Initial Appearance in Felony cases
 - (d) Preliminary Hearings for Felonies (set within the time limits provided by law)
 - (e) Extradition Hearings.
 - 2. Case Management
Particular Session criminal and traffic particular session cases shall be set for hearing and processed within the time limits required by law.
 - (a) See DMCR 4.1, DMCR 5.1 and other applicable Court Rules regarding the case management of the Particular Session Proceedings listed in DMCR 2.4(C)(1).
 - (b) Particular Session criminal and traffic misdemeanors may be referred and heard by Magistrates as provided by Crim.R. 19; DMCR 4.1, DMCR 5.1, and other applicable Rules; and Administrative Order.
- D. Civil Particular Session Cases and Matters
 - 1. Particular Sessions are hereby established for the following civil cases and matters:
 - (a) A Civil case in which a Motion for Default Judgment is filed
 - (b) A Petition for BMV Reinstatement Fee Payment Plan
 - (c) A Petition for Driving Privileges during BMV Suspension for FRA or 12-Point Suspension
 - (d) Dog Designation and Impoundment of Companion Animals Hearings

- (e) Forcible Entry and Detainer Actions where right to jury trial was waived or not demanded
- (f) Small Claims cases
- (g) Rent Escrow hearings
- (h) Aid in Execution Hearings
- (i) Trusteeships
- (j) Replevin hearings
- (k) Administrative Appeals of Civil Photo Enforcement Traffic Violation cases.

2. Case Management

Particular Session civil cases and matters shall be set for hearing and processed within the time limits required by law. If there are no required time limits, the cases shall be set for hearing within a reasonable time.

- (a) See DMCR 2.18, DMCR 3.6, DMCR 3.7 and other applicable Court Rules regarding the case management of the Particular Session Civil Cases and Matters listed in DMCR 2.4(D)(1).
- (b) Particular Session Civil cases and matters may be referred to the Magistrates as provided by Civ.R. 53(D); DMCR 2.18, DMCR 3.5, DMCR 3.6, DMCR 3.7, and other applicable Rules; and Administrative Order.
- (c) Dismissal
If no action has been taken in a Particular Session Civil case or matter for a six (6) month period, the Clerk may notify the party that the matter will be dismissed within twenty (20) days unless good cause is shown.

Rule 2.4.1 – Housing Docket

Upon the original filing of a housing violation case, the case shall be referred to the Housing Docket. The Judges of the Court shall annually select a Judge to hear the cases on the Housing Docket. Such judge shall serve for a period of one year, beginning on the first day of January.

Rule 2.4.2 – Dayton Regional Mental Health Court Docket

A. Establishment of the Dayton Regional Mental Health Court Docket.

1. The Dayton Municipal Court established a mental health docket, “the ACCESS II Mental Health Docket”, in 2003. It is the goal of the ACCESS II Mental Health Program to reduce recidivism among defendants with mental and behavioral health issues who face criminal charges in the justice system; to reduce periods of incarceration by defendants with mental and behavioral health issues; and to provide meaningful psychological treatment intervention to these defendants so they may lead crime-free, stable, and healthy lives free from hospitalization. The Judges of the Dayton Municipal Court annually select a judge to hear the cases on the ACCESS II Mental Health Docket. The

Mental Health Docket Judge serves for a period of one year, beginning on the first day of January.

2. The Court now finds that this Mental Health Docket is governed by Sup.R.36.20 for Specialized Dockets and orders the implementation of the Specialized Docket Standards. The Court further orders that the name of the ACCESS II Docket be changed to: "The Dayton Regional Mental Health Court Docket."

B. Placement on the Dayton Regional Mental Health Court Docket.

To qualify for the Dayton Regional Mental Health Court Docket, a criminal defendant must meet the following legal criteria: be a resident of Montgomery County; be charged with a criminal misdemeanor charge pending in a municipal court within Montgomery County, have a persistent and severe mental illness which would benefit from court monitored treatment; be referred by the judge assigned to the criminal case; and desire to voluntarily enter the ACCESS II Program. Application for placement in the ACCESS II Program shall be subject to initial assessment by the ACCESS II Roundtable (treatment team) based upon the legal and clinical criteria for entering the ACCESS II Program and the approval of the Docket judge. Persons charged with traffic offenses are ineligible for the ACCESS II Program. Any legal issues regarding competency to stand trial or insanity defenses must be resolved before a defendant can enter the Dayton Regional Mental Health Court Docket. Upon referral to the ACCESS II Program, the defendant receives a diagnostic evaluation to confirm that he/she meets clinical criteria. Clinical criteria includes: a diagnosis that is consistent with a severe and persistent mental illness; sufficient stability to understand and comply with program requirements; and the criminal defendant must not pose an unacceptable risk to program staff, family or community. The ACCESS II Roundtable will determine if the defendant qualifies for the ACCESS II Program, subject to the final approval of the Docket Judge.

C. Case Assignment.

Upon acceptance into ACCESS II, the defendant enters a plea of guilty and the Dayton Regional Mental Health Court Docket Judge imposes supervised community control and a jail sentence suspended pending successful completion of the ACCESS II Program. After entering the ACCESS II Program, the case is transferred to the Dayton Regional Mental Health Court Docket. If the criminal defendant does not enter the ACCESS II Program, then the case is returned to the original referring court to proceed on that court's docket. The judge presiding over the Dayton Regional Mental Health Court Docket has the responsibility for case management of all cases transferred to the Docket. In the event the criminal defendant is unsuccessfully terminated from the ACCESS II Program, all or part of the defendant's criminal sentence may be imposed.

D. Docket Case Management.

Criminal defendants accepted into ACCESS II will participate in counseling for mental health (individual and/or group sessions) and for substance abuse, 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, attempting to obtain and/or maintain employment (either part or full time). The Dayton Regional Mental Health Court Program Description, Participant Handbook, and Participation Agreement (as amended from time to time) are incorporated by reference.

E. Termination from ACCESS II.

Upon successful completion of the ACCESS II Program, the criminal defendant is graduated and his or her charges may be dismissed. If the criminal defendant violates the terms of ACCESS II, a Notice of Violation is filed and a Hearing is scheduled. In the event the Court finds that the terms of the ACCESS II Program have been violated and the defendant should no longer continue, the defendant is terminated from the ACCESS II Program and all or part of the criminal sentence is imposed. A criminal defendant may be neutrally discharged if he or she is no longer capable of completing the ACCESS II Program.

Rule 2.5 – Assignment of Refiled Cases Sup.R. 36.017

If a previously filed and dismissed case is refiled, the case shall be reassigned to the judge originally assigned by lot to hear it unless, for good cause shown, that judge is precluded from hearing the case.

Rule 2.6 –Assignment Following Recusal Sup.R. 36.019

A. General.

Following the recusal of a judge, the Administrative Judge shall randomly assign the case among the remaining judges of the Court who are able to hear the case.

B. Request for Visiting Judge.

In any case in which the Administrative Judge reasonably believes based on all circumstances that no judge of the Court should hear the case, the Administrative Judge may request a visiting judge be assigned.

Rule 2. 7 – Assignment of Cases Requesting Sealing of Record

Applications for Sealing of Records shall be assigned for decision to the judge before whom the defendant previously appeared or the judge's successor. Applications without the defendant's date of birth, social security number, and current address will not be accepted for filing.

Rule 2. 8 – Assignment of Cases to New Judges Sup.R. 36.018

After the date of election, but prior to the first day of the term of a new judicial position, the Administrative Judge, through a random selection of pending cases, shall equitably

reassign cases pending in the court between or among the judges of the Court and shall create a docket similar to a representative docket. Reassignment shall be completed in a manner consistent with this rule and may exclude criminal cases and cases scheduled for trial. Any matters arising in cases assigned to the docket for the new judicial position prior to the date on which the judge elected to that position takes office shall be resolved by the Administrative Judge or assigned to another judge.

Rule 2.9 – Case Management of Individual Judge Docket Sup.R. 36.016

- A. Authority.
Pursuant to Sup.R. 4.01, the Administrative Judge may take necessary action to assist with the case management of an assigned judge's individual docket.
- B. Request.
Upon the request of a judge or the Case Management Section of the Supreme Court, the Administrative Judge may, for good cause, take necessary action to assist with the case management of the assigned judge's docket.
- C. Reassignment.
Any cases transferred from the assigned judge's docket shall be reassigned by lot among the remaining judges of the Court.

Rule 2.30 – RESERVED.