

## NOTICE OF COURT RULES

THE COURT PUBLISHES AND GIVES NOTICE OF THE FOLLOWING COURT RULES:

Rule 2.7 – Assignment of Applications Requesting Sealing of Record and Applications Requesting Expungement of Record

Rule 3.11 – Appointment of Special Process Server

COMMENTS ON THE COURT RULES MAY BE SENT IN WRITING TO:

DAYTON MUNICIPAL COURT  
COURT ADMINISTRATOR ANN MARIE MURRAY  
301 WEST THIRD STREET, ROOM 365  
DAYTON, OHIO 45402

The Court finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 2.7, Assignment of Cases Requesting Sealing of Record, to include assignment of applications requesting expungement of record.

Revised DMCR 2.7, Assignment of Applications Requesting Sealing of Record and Applications Requesting Expungement of Record, shall be effective on the date of filing:

### **Rule 2.7 – Assignment of Applications Requesting Sealing of Record and Applications Requesting Expungement of Record**

An Application Requesting Sealing of Record or an Application Requesting Expungement of Record shall be assigned to the Judge who was assigned the criminal or civil case associated with the record or that judge's successor. Applications without the defendant's date of birth, social security number, and current address will not be accepted for filing.

The Dayton Municipal Court finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 3.11, Appointment of Special Process Server, to comply with the new requirements of Civ.R. 4.1(D).

It is hereby Ordered that DMCR 3.11, Appointment of Special Process Server, be revised and that the following version be effective on the filing date of this Order:

## Rule 3.11 – Appointment of Special Process Server

### A. Special Process Server.

A special process server is a person who has been designated by court order to make personal or residence service of civil process pursuant to Civ. R. 4.1.

#### 1. Effecting Service.

##### (a) Personal service.

The special process server shall effect personal service by locating the person to be served and tendering a copy of the process and accompanying documents to the person to be served.

##### (b) Residence Service.

The special process server shall effect residence service by leaving a copy of the process and the complaint, or other document to be served, at the usual place of residence of the person to be served with some person of suitable age and discretion residing therein.

#### 2. Notice of Service.

When the copy of the process has been served, the special process server shall endorse that fact on the process and return it to the clerk, who shall make the appropriate entry on the docket.

#### 3. Failure of Service.

When the special process server is unable to serve a copy of the process within twenty-eight (28) days, the process server shall endorse that fact and the reasons on the process, and return the process and copies to the clerk, who shall make the appropriate entry on the docket.

### B. Requesting a Special Process Server.

If a party desires a certain person serve civil process on their case(s), the person must apply to be appointed a special process server pursuant to Civ. R. 4.1. To qualify as a civil process server for personal or residence service, the applicant must certify by affidavit that he or she has the following qualifications:

1. Not less than eighteen years of age;
2. Not a party to the proceeding, related to a party to the proceeding, or having a financial interest in the outcome of the proceeding;
3. A United States citizen or a legal resident of the United States;
4. Hold a valid government-issued identification card, passport, or driver's license;

5. Not convicted in the last ten years of any felony, offense of violence, or offense involving dishonesty or false statement, and not currently under community control sanctions, probation, post-release control, or parole;
6. Not currently a respondent under any civil protection order;
7. Familiar with the required procedure for service of process; and
8. Will conduct themselves in a professional manner.

C. Order Designating a Special Process Server.

If the Applicant has the qualifications listed in division (B) of this rule, the Court may appoint the applicant by court order to make personal or residence service of process for a period up to one (1) year. The appointment can be a one-time appointment for service of process on a specific case of the plaintiff or a standing appointment for service of process on all of the plaintiff's cases. The order shall provide that if the special process server ever fails to satisfy the required qualifications during the appointment, their authority to serve process shall cease.

D. Application, Affidavit, and Order.

The applicant must file a combined Application, Affidavit, and Order Appointing a Special Process Server provided by the Clerk. A Judge shall then review the applicant's qualifications and may authorize the appointment for a period of up to one year by signing the Order.

E. Standing Process Server.

In any case thereafter, the Clerk shall accept a time-stamped copy of the order appointing the special process server to be an order appointing a standing process server. When the order appointing the special process server expires, a new Application, Affidavit, and Order must be filed.

F. Record of Appointment of Special Process Servers.

The Clerk shall record the appointment orders on the Court's general docket and shall retain the original applications, affidavits, and court orders.