

**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**

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

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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,

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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].

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Attorney Name  
Counsel for Plaintiff John Smith