

NOTICE OF COURT RULES

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

Rule 2.4.3 – Safe Harbor Expungement Docket

Rule 2.23.3 – Appointed Counsel

Rule 3.14 – Mediation

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 Dayton Municipal Court finds an immediate need to amend its local court rules to create and establish the Safe Harbor Expungement Docket. All Applications for Expungement of Records of Human Trafficking Victims shall be assigned to the Docket and shall be heard by the Safe Harbor Expungement Docket Judge.

It is hereby Ordered that Dayton Municipal Court Rule (DMCR) 2.4.3 shall be created and effective on December 5, 2019:

Rule 2.4.3 – Safe Harbor Expungement Docket

Upon the original filing of an application for expungement of the record of a human trafficking victim pursuant to R.C. 2953.38 and R.C. 2953.521, the application shall be assigned to the Safe Harbor Expungement Docket. The Judges of the Court shall annually select a Judge to hear the applications on the Docket. All such applications shall be heard by the Safe Harbor Expungement Docket Judge, who shall serve for a period of one year, beginning on the first day of January.

The Dayton Municipal Court finds an immediate need to revise Dayton Municipal Court Rule (DMCR) 2.23.2 to provide appointed counsel with a link to current hourly rate and maximum fee information. The revised language is in bold type. It is hereby Ordered that (DMCR) 2.23.2 shall be revised as follows:

Rule 2.23.2 – Appointed Counsel

The Court maintains lists of attorneys in private practice for appointment to represent indigent defendants in criminal and traffic cases. The lists are based on the master list maintained by the Montgomery County Common Pleas Court of attorneys who are qualified to serve as appointed counsel.

To ensure equitable distribution of appointments, the lists are arranged alphabetically and the attorneys are contacted in that order until an attorney is reached that can take the case. When selecting the attorney to be appointed, the attorney's skill and expertise in handling that type of criminal case and the attorney's management of his or her current caseload may be considered, pursuant to Sup. R. 8. Periodically, the lists are reviewed for equitable distribution of appointments.

The hourly rate and maximum fees for appointed counsel can be found at the Ohio Public Defender website www.opd.ohio.gov under 'Reimbursement'. Information, forms, and assistance with reimbursement are available through the Court Administrator's Office.

The Dayton Municipal Court finds an immediate need to revise DMCR 3.14, Mediation, to be in compliance with Sup.R. 16.23 and Sup.R. 16.24. The revisions to DMCR 3.14 are shown below in red ink and shall be effective on December 5, 2019.

Rule 3.14 – Mediation

- A. The Dayton Municipal Court has determined that parties in civil, small claims and eviction cases benefit from having their cases mediated. Whenever possible, the Court shall provide parties willing to mediate their cases with access to mediation services.
- B. The Judges or Magistrates shall determine which cases should be mediated and refer those cases to mediation. The parties shall be notified if they are referred to mediation and the mediation procedure shall be explained to them. For a brief explanation of the mediation process and the answers to frequently asked questions, go to the link for the Dayton Mediation Center that is available through the Dayton Municipal Court website: "www.daytonmunicipalcourt.org".
- C. **The mediator must meet the qualifications, education, and training requirements of Sup.R. 16.23. The Court shall ensure only qualified individuals provide mediation services pursuant to Sup.R. 16.24.** All parties shall be allowed to participate in the mediation and, if they wish, their attorneys or other designated individuals may accompany them and also participate. The mediator shall keep mediation communications confidential, unless the parties consent to disclosure in writing. The efforts of the mediator shall not be construed as giving legal advice.
- D. The mediator may reject or terminate mediation at any time if the mediator finds the case inappropriate or the parties do not cooperate. The mediator shall inform all parties and the Court that the mediation is terminated using the procedure required by the Court. The case shall then be scheduled for trial before the Magistrate or Court.
- E. On Eviction cases, the parties shall discuss the First Cause for Restitution and the Second Cause for back rent and damages. The mediator shall prepare and file a written Mediated Agreement on the First Cause for Restitution and on the Second Cause for Damages. The owner/landlord shall file a motion requesting an Entry Granting Restitution and a Writ of Restitution if the defendant (tenant) fails to comply with the Mediated Agreement for restitution of the premises. The owner/landlord shall request a Conversion Hearing to convert the Mediated Agreement into a Judgment if the defendant (tenant) fails to pay the agreed damages or comply with the Mediated Agreement on the Second Cause. Upon successful completion of all terms and conditions of the First and Second Causes in the Mediated Agreement, the Eviction case shall be dismissed and a Dismissal Entry filed.
- F. On Civil and Small Claims cases, the mediator shall prepare a written Mediated Agreement reflecting any settlement reached by the parties, including the amount of damages. The case shall be dismissed after the Mediated Agreement is filed with the Court and the damages are paid. If the damages are not paid, a party may request a Conversion Hearing to convert the Mediated Agreement into a Judgment.
- G. The Uniform Mediation Act of Chapter 2710 and Ohio Superintendence Rule 16 are incorporated in DMCR 3.14 by reference. In accordance with Ohio Sup.R.16, procedures shall

be in place to screen parties for domestic violence and refer suspected victims and other parties needing assistance to legal counsel and other support services.

Further, Mediation shall never be used:

As an alternative to the prosecution or adjudication of domestic violence; to determine whether to grant, modify, or terminate a protection order; to determine the conditions and terms of a protection order; to determine the penalty for violating a protection order.

- H. The Administrative Judge shall establish a process for accepting and considering written comments and complaints regarding the performance of mediators. The Court Administrator shall notify the person making the complaint and the mediator of any action taken by the Administrative Judge and shall maintain a written record for the Court.