

GIRARD MUNICIPAL COURT
RULE II
CIVIL CASE MANAGEMENT PLAN
(Effective for all cases filed after January 1, 2014)

RULE 2.01 Authority

Rule 5 (B)(1) of the Rules of Superintendence for the Courts of Ohio prescribe that - “A case management plan shall be established for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases.”

RULE 2.02 Civil Case Management Plan

Notice: This Rule does not apply to Small Claims or Forcible Entry and Detainer actions.

(A) Filing of the Complaint/Service/ Leave to Plead

(1) Upon filing of a civil case, the clerk shall within a period of two (2) days, serve a true and accurate copy of the complaint and summons to the defendant(s) in accordance with Rules 4.1-4.6 of the Ohio Rules of Civil Procedure. Fourteen (14) days after service, the clerk shall check the docket to determine whether service was perfected on all parties. In the event service has not been perfected on some or all of the defendants, the clerk shall notify plaintiff or plaintiff’s counsel and request that an alias summons be issued to the defendant(s) proper address or request personal service by the bailiff at a location the defendant(s) may be found. In the event that personal service fails, the plaintiff or plaintiff’s counsel may issue notice by publication and file with the clerk, an affidavit showing publication was made, and a copy of the notice of the final publication.

(2) In the event a party defendant fails, refuses and/or neglects to answer a complaint within twenty-eight (28) days after service, the plaintiff or plaintiff’s counsel shall file a motion for default judgment within a period of forty-five (45) days thereafter and the failure to do so may result in the court sua sponte dismissing plaintiff’s action against the defendant.

(3) The clerk of Court shall deliver any motion to the judge within one (1) day after the filing and the judge shall enter his ruling thereon within seven (7) days thereafter, unless a responsive pleading is filed or the Court grants leave for a responsive pleading to be filed.

(4) Ohio R. Civ. Pro. 12 will be strictly enforced. However, parties may generally obtain one (1) extension of time without leave of court not to exceed thirty (30) days, in which to answer, plead or otherwise move, when no such prior extension has been granted, by filing a Journal Entry with the Clerk of Courts, thereon noting “First Leave” or words of similar import, with stipulation by or notice to opposing counsel. (See Form attached). If any additional extension is requested, the party desiring the extension must obtain the approval of the Court.

(5) The clerk shall pull all cases where there has been no activity for a period of six (6) months. Cases that have been on the docket for six (6) months without any proceedings taken in the case, except cases awaiting trial assignment, shall be dismissed after notice to counsel of record, for want of prosecution, unless good cause is shown to the contrary.

(B) Case Management Order

This Order shall apply in all Civil proceedings pending before the Court and shall not be modified except by leave of the Court upon a showing of good cause. The term counsel, as it is used in this order, includes the case attorney and any other attorney designated or authorized to appear in this proceeding as well as any individual or entity appearing *pro se*. Counsel for all parties and pro se litigants are expected to be fully aware of and comply with the directives set forth herein.

(1) Local Rules and Ohio Rules of Civil Procedure.

All counsel shall familiarize themselves with and follow the Ohio Rules of Civil Procedure and the Local Rules of the Girard Municipal Court. Copies of the Local Rules are available on the Court's website at www.girardmunicipal.com or from the Clerk of the Girard Municipal Court.

(2) Discovery.

Formal discovery shall begin promptly upon the filing of the Defendant's Answer consistent with Ohio R. Civ. P. 26 and, unless so ordered otherwise by the Court, **shall be completed by the one hundred twentieth (120th) day following the filing of the answer.** Counsel are expected to comply with discovery requirements. Counsel conducts "informal discovery" at his/her own peril because "informal discovery" is no substitute for the formal discovery process.

If the parties jointly agree to a discovery plan longer than the one hundred twenty day (120) day period referenced above and timely file such plan with the Court, it is not necessary to file a motion to extend the discovery cutoff through the date specified in the discovery plan. Thereafter, any proposed extension(s) of discovery shall be made by motion, which shall: (i) include a reason for the requested extension; and (ii) be filed prior to the close of the discovery period. If the parties do not file a proposed discovery plan, discovery shall be governed by the one hundred twenty (120) day default provision referenced above.

Discovery disputes may be brought to the Court's attention by appropriate motion, subject to the provisions of the Ohio Rules of Civil Procedure and other provisions of applicable law. The Court will consider appropriate sanctions to parties or their counsel for failure to respond to discovery requests. In the case of a corporate or partnership party, sanctions may be made applicable to officers, partners, agents or employees.

(3) Pre-Trial Hearings.

Following a review of the initial pleadings, the Court may issue an order setting an in-person pretrial conference. Immediately following the close of discovery, the Court shall schedule a pre-trial conference where the parties shall: (i) report on discovery; (ii) discuss whether the case is a candidate for summary judgment; and/or (iii) obtain a final pretrial date. **Telephonic appearances are prohibited.**

(4) Final Pre-Trial Hearings.

The Court shall conduct a final pretrial on the record with counsel and all parties required to be present prior to setting a trial date. At the final pretrial conference, counsel shall be prepared to discuss:

- (a) the estimated time for presentation of its case-in-chief and/or defense;
- (b) any pre-trial motions, including motions *in limine*, the party anticipates filing;
- (c) each cognizable claim and/or defense;
- (d) exhibit and witness lists, which include a summary of the testimony to be presented by each witness;
- (e) the formulation and simplification of issues, including the elimination of frivolous claims and/or defenses;
- (f) the possibility of obtaining admissions of fact and stipulations regarding authenticity of documents;
- (g) the avoidance of unnecessary proof and of cumulative evidence;
- (h) the current status of settlement negotiations, the possibility of settlement and the use of alternative dispute resolution procedures; and
- (i) such other matters as may aid in the disposition of the action.

Unless otherwise instructed and/or so ordered by the Court, counsel **shall appear with clients at the final pretrial**. At the final pretrial conference, at least one of the attorneys for each party shall have authority to:

- (i) settle the case;
- (ii) enter into stipulations;
- (iii) make admissions regarding all matters that participants may reasonably anticipate will be discussed.

(C) Dispositive Motions

(1) Motions for Default Judgment

When a party against whom a judgment for affirmative relief is sought, has failed to plead or otherwise defend as provided by the civil rules, the party entitled to a judgment by default shall promptly apply in writing or orally to the trial judge within forty-five (45) days after the date upon which the defaulting party should have plead or otherwise defended. No judgment by defendant shall be entered against a minor or an incompetent person unless represented in the action by a guardian or other representative who has

appeared. If a party against whom judgment by default is sought has appeared in the action, written notice of the hearing on the motion along with the date and time fixed by the assignment clerk with the concurrence of the trial judge shall be served upon that party. In order for the trial judge to award damages and enter judgment, to establish the truth of any averment by evidence, or to make inquiry of any other matter, the trial judge may conduct hearings or order references, as necessary and proper, and shall, when applicable, accord a right of trial by jury to the parties.

(2) Summary Judgment Motions

All motions for summary judgment filed pursuant to Rule 56 of the Ohio Rules of Civil Procedure shall be deemed submitted to the judge seventeen (17) days thereafter and referred to as the “hearing” date. The respondent shall reply with a memorandum contra and/or a cross-motion for summary judgment. All affidavits, depositions and other evidentiary material permitted by Rule 56 (C) of the Ohio Rules of Civil Procedure in support of or in opposition to the motion for summary judgment shall be filed with the motion or responsive pleading.

No motion for summary judgment shall be filed in any case after the dispositive motion date set at the initial pre-trial hearing unless the court, for good cause, determines otherwise.

(D) Withdraw of Counsel

An attorney who desires to withdraw from representing a client in a civil or criminal case shall file a written motion to withdraw together with a proposed Judgment Entry representing the reasons for the withdraw. In the motion, the attorney shall represent that he notified his client in writing that he is no longer willing to provide further legal services for his benefit; that counsel informed his client that his client should immediately secure the assistance of other competent counsel and further informed his client of any upcoming dates his client is required to attend.

Said motion shall be filed more than ten (10) days before the next scheduled appearance date.

**IN THE GIRARD MUNICIPAL COURT
TRUMBULL COUNTY, OHIO**

)	Case No.
)	
Plaintiff)	
)	
v.)	Hon. Jeffrey D. Adler
)	
)	
)	JOURNAL ENTRY
)	(First Leave)
Defendants)	
)	

Pursuant to Local Rule of Court 2.02(A)(4), the Defendant, (Defendant's name), is hereby granted leave to answer or otherwise respond to the Plaintiff's complaint on or before (INSERT DATE). This is Defendant's first leave pursuant to Local Rule 2.02(A)(4).

Date _____

Hon. Jeffrey D. Adler

Submitted by:

Counsel for Defendant

Copy to:

(Counsel for Plaintiff)