

**IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO**

THE STATE OF OHIO)	CASE NO. 25CR000__
)	
Plaintiff)	JUDGE GIOVANNA V. BREMKE
)	
vs.)	<u>ORDER OF PROCEDURE (CRIMINAL)</u>
)	
DEFENDANT)	
)	
Defendant)	(Revised 01/06/2025)

{¶1} To make the most economical and efficient use of the court’s time during the pendency of the case and trial, create a culture of collegiality and professionalism by being explicit about the court’s expectations, and efficiently conclude the case, the court makes the following order of procedure binding on the parties. This order of procedure supplements the Local Rules of Court for Lorain County, which are also binding on the parties. If this order of procedure conflicts with the Local Rules, then the order of procedure controls.

GENERAL

Indigency

{¶2} Counsel representing indigent defendants must be appointed by judgment entry. If counsel has not been appointed in this manner at arraignment, counsel must file a motion for appointment, together with an affidavit under the defendant’s signature, setting forth the facts of his indigence. In order to enable the court to comply with R.C. 120.33 and the regulations adopted thereunder, appointed counsel’s motion for approval of payment of appointed counsel fees and expenses must be submitted within 30 days of the final disposition of or termination of the case. Failure to submit the motion for approval of payment of appointed counsel fees and expenses within 30 days will result in the waiver of any right to payment for fees and expenses.

Client Present

{¶3} Counsel, without exception, must have his or her client present at all stages of the proceedings. Failure of a defendant to appear may result in revocation of bail and issuance of a bench warrant. If the defendant is incarcerated in the Lorain County Jail, the court will arrange for the conveyance to court.

{¶4} Parties shall only be excused from leaving the proceeding by the Court. Parties, including counsel and their clients, shall not leave the proceeding until they first consult the Court.

Motions

{¶5} Motions should be filed so as not to necessitate a delay in trial dates. All motions will be heard on briefs unless the court, in its discretion, considers the issues to require a hearing.

{¶6} All motions shall be made in conformity with Crim R 12. All motions shall set forth clearly and specifically the grounds for the Motion and supporting citations (copies of foreign, federal and unreported decisions to be attached). In Motions to Suppress, the items of evidence shall be specified. Any motions filed, which are not in compliance with this Rule, or with the applicable Rules of Criminal procedure, or are untimely filed, may be summarily overruled.

{¶7} Defendants shall be screened for eligibility for intervention in lieu of conviction and specialized dockets at the initial hearing in the matter.

{¶8} A Motion to Suppress shall be filed no later than forty (40) days after the first pretrial or fourteen (14) days before trial, whichever is earlier. Extensions of time to file motions to suppress shall be made in writing prior to the date in which they are to be filed.

{¶9} Motions in limine shall be made in writing prior to the final pre-trial hearing.

Pleas, Reductions, Dismissals

{¶10} The State shall present all plea offers to the defendant by the date of the final pre-trial or two weeks prior to trial, whichever is earlier for cases in which the highest degree of felony is greater than a felony of the fourth degree. For cases in which the highest degree of felony is a felony of the fourth or fifth degree, the State shall have a plea offer to the defendant by the second pre-trial or two weeks before trial whichever occurs earlier.

{¶11} The court is to be notified by telephone to the bailiff immediately when a *nolle prosequi* is entered or when defendant wishes to change his or her plea. If a plea is to be entered, it must be done before the trial date. **No pleas to reduced charges will be entertained by the court, unless the court is notified seven days prior to trial.** The only plea accepted on the day of trial shall be a plea of guilty to all counts of the indictment.

{¶12} Sentencing determinations shall be that of the Court within the Court's sole discretion.

Address or Bond Changes

{¶13} Defendant and his or her counsel are obligated to notify the court of any change of address and change of conditions of bond by filing a notice with the clerk of courts.

Matters Requiring Extra Time

{¶14} Counsel shall notify the court immediately if an interpreter will be necessary. Counsel should also notify the court, prior to the court's scheduling a change of plea or sentencing hearing, if possible, that the hearing may take significantly longer than 30 minutes for a plea and/or sentencing (e.g. because of characteristics of the defendant, witnesses, victims, or experts, or numerosity thereof, or the plea will be to a SB201 qualifying non-life felony of the first or second degree).

Email Addresses

{¶15} In order to facilitate communication between the court and the parties, each attorney and each self-represented party who is admitted to bail must notify the court of his or her email address and telephone numbers immediately upon entering an appearance. Notice of a current or changed email address or telephone number must be given timely to the court by filing the notice with the Lorain County Clerk of Courts. All hearing notices will be sent by email.

Attorney Withdrawal

{¶16} If an attorney is required or desires to withdraw as counsel of record for a party, the court usually will grant the request effective upon the appearance of new counsel of record for that party, unless the trial or other court proceeding will be impeded. The attorney must serve his or her client with a copy of the motion to withdraw and document service in the certificate of service. A motion to withdraw is required, even if withdrawal is mandated by the code of professional conduct.

PRE-TRIAL PROCEDURES

{¶17} Parties shall be prepared to discuss any potential legal issues and procedural concerns at pre-trial hearings.

Days of Week Pre-Trial to Be Conducted

{¶18} Generally, matters shall be scheduled for pre-trial hearings on Fridays. Upon request of counsel and at availability of the Court, matters will be scheduled for pre-trial on alternative days of the week.

Setting the Case for Trial

{¶19} At the first pre-trial hearing, the case shall be set for trial. Trial dates will not be continued absent extraordinary circumstances. Parties and counsel should carefully consider their availability when setting pre-trial and trial dates.

Final Pre-trial

{¶20} A final pre-trial will be scheduled two weeks prior to trial. This date shall be set at the initial hearing in the matter.

{¶21} The State shall have a restitution determination to the Defendant at the final pre-trial. One week prior to the sentencing hearing, the parties shall notify the Court whether there is an agreement on the restitution amount. If there is no agreement, the Court shall schedule the matter for a restitution hearing prior to the sentencing hearing.

TRIAL PROCEDURES

Days of Week Trial to Begin

{¶22} Generally, matters shall proceed to trial beginning on Monday and Wednesday beginning at 8:30 AM. Counsel and their clients are expected to be present for trial beginning at 8 AM.

Motions to Continue

{¶23} No motion to continue a trial date will be granted without a written motion supported by affidavit or appropriate documentation, and shall include the signature of the client. The court requires strict adherence to Superintendence Rule 41. The unavailability of a witness, expert or otherwise, will not be grounds to continue the trial date. All date conflicts shall be documented by either copies of the conflicting notice or statement enumerating the case number, jurisdiction, judge, and date of scheduling. In determining priority, all scheduled dates shall relate back to the date the first notice was issued by this court for the trial.

Juror Questionnaires

{¶24} When the court's prospective jurors are summoned, they are provided a questionnaire to fill out. To assist counsel as they prepare for jury selection, the court will make the completed juror questionnaires available to them shortly after the Court receives them from the jury commissioner.

Jury Selection Method

{¶25} The jury will be selected using the "struck" method, as opposed to the "strike and replace" method. In the "struck" method, all prospective jurors are given numbers and are questioned simultaneously. After questioning by the court and counsel, all challenges are exercised out of the presence of the jurors. First, the court will entertain challenges for cause. Then, in alternating order, counsel will exercise their four peremptory challenges, plus one challenge for each two alternates expected to be seated. If a party "passes" on the exercise of a peremptory challenge, that challenge is waived. After the challenges, the jury consists of the first 13 or more remaining persons (including one or more alternates) in numerical order.

Alternate Selection

{¶26} Immediately prior to the jury retiring to deliberate, the alternate(s) will be selected at random from the panel of jurors seated in the case. The court will use the following procedure to select the alternate: plaintiff's counsel shuffles a set of playing cards corresponding to the number of jurors who have been seated, and defense counsel selects one (or more, depending on the number of alternates seated). The number on the card corresponds to the number of the juror who will serve as the alternate during deliberations (in the order drawn, if more than one alternate is seated). After giving the jury the final charge of jury instructions, the court will not discharge any alternate. Rather, the court will sequester the alternate juror(s) in the courthouse while the jury is deliberating. If one of the regular jurors cannot complete his or her service, the court will put an alternate into the jury room, in the order selected if there is more than one alternate juror, and the jury will then recommence its deliberations anew.

Jury Instructions

{¶27} The Court will provide the jury with written jury instructions using OJI. The Court will use OJI wherever possible, but counsel may submit instructions outside of OJI for special situations or areas that OJI does not cover. Any requested instructions must be presented to the Court by e-mail (tderoma@loraincommonpleas.us) one week before trial.

Juror Note Taking

{¶28} Jurors will not ordinarily be permitted to take notes during trial subject to review of the Court.

Juror Questions

{¶29} Jurors usually shall not be permitted to submit written questions to the witnesses, subject to review of the Court.

Trial Motions and Objections

{¶30} When the jury is present, and counsel wishes to make an oral motion or objection to evidence or to procedure, the motion or objection must not be accompanied by any explanation or reason that the jury can hear. The court may request a one-word explanation of the objection to facilitate the court's ruling. If counsel wishes to explain the basis for the motion or objection, or to argue against it, then counsel must request a sidebar discussion. The court liberally will permit counsel to place objections or opposition to objections, or other matters, on the record and out of the hearing of the jurors at most breaks.

Exhibits & Witness Lists

{¶31} At least two working days prior to trial, all documents and exhibits must be marked for identification purposes, together with an index, and must be shared with opposing counsel. A copy of the index of exhibits and a copy of the witness lists in anticipated order must also be provided to the judge's office prior to jury selection. The plaintiff must mark exhibits using numbers, and the defendant must mark exhibits using letters, to avoid confusion. Prior to trial, the parties should not copy the court with the actual trial exhibits, especially voluminous or medical records. All exhibits consisting of firearms, bladed instruments, blunt instruments, or any other thing which can be used as a weapon shall be unloaded and secured so that the exhibit(s) cannot readily be rendered capable of being used as a weapon.

Trial Briefs & Proposed Instructions

{¶32} No later than two weeks prior to the trial, the parties must file their trial briefs and any motions in limine. Proposed jury instructions, jury interrogatories, and verdict forms also must be submitted no later than two weeks prior to trial. The jury instructions, interrogatories, and verdict forms must be submitted via e-mail to tderoma@loraincommonpleas.us, in WordPerfect or Word format.

Post-Verdict Meeting

{¶33} After the jury has been discharged, the judge will meet with the jurors to give them an opportunity to ask questions about the trial or post-trial procedure. The court may invite the jurors to talk to the attorneys for the purpose of providing the attorneys an opportunity to improve their advocacy skills and receive constructive feedback on their trial techniques. The court will inform the jurors that this is voluntary on their part; that they have no duty to talk to the attorneys or anyone about their experience as jurors. Counsel shall not criticize or argue with jurors about their verdict, and in that regard, shall comply with the code of professional conduct. A violation of this provision shall subject a self-represented party to contempt of court.

IT IS SO ORDERED.

JUDGE GIOVANNA V. BREMKE

1-6-2025

COPIES TO:

Prosecuting Attorney
Attorney for Defendant / Defendant