

## **Rule 5**

### **ATTORNEYS**

(A) Only attorneys regularly admitted to the practice of law in the State of Ohio, and registered and in good standing with the Supreme Court of Ohio, or those certified to specially practice by the Supreme Court of the State of Ohio or those authorized by the court, are permitted to practice in the Toledo Municipal Court.

(B) This rule does not prohibit an individual from acting as his or her own counsel in any proceeding in this court. Corporations, partnerships, and an agent of the real party in interest shall, however, be represented by counsel.

(C) In civil cases, the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the Clerk of Court.

(D) An attorney who has entered an appearance as counsel of record must appear at all proceedings in the case unless an oral or written motion is granted by the judge assigned to the case, or by the duty judge in an unassigned case.

(E) Attorneys are directed to the Toledo Legal News which is the official daily journal of the Toledo Municipal Court.

(F) Appointed Counsel. In criminal or traffic cases where the potential for a jail sentence exists, indigent defendants may be appointed a public defender as counsel. However, if there is a conflict with the Public Defender's Office, the court may appoint alternate counsel.

(1) Any attorney eligible as outlined below may apply to the Toledo Municipal Court to be included in the appointment rotation for non-OVI cases. Eligible attorneys must have:

(a) Within two years prior to the appointment, completed a minimum of six hours of continuing legal education, certified by the Ohio Supreme Court Commission on Continuing Legal Education, in criminal practice and procedures; or

(b) Successfully completed a clinical education program focusing on criminal defense; or

(c) At least one year of experience as an attorney.

(2) Any attorney eligible as outlined below may apply to the Toledo Municipal Court to be included in the appointment rotation for OVI cases. Eligible attorneys must have within two (2) years prior to the appointment, completed a minimum of six (6) hours of continuing legal education, certified by the Ohio Supreme Court Commission on Continuing Legal Education, focused on OVI practice and procedure.

(3) Attorneys seeking inclusion on the appointed counsel list shall maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct.

(4) Attorneys who desire to be included shall make application in writing to the Toledo Municipal Court, Court Administrator's Office. Applications to be included on the court's list of appointed counsel may be found on the court's website. In order to be included and maintained on the appointed counsel list, attorneys must complete and turn in all required forms. In accordance with Ohio Administrative Code 120-1-10, the court shall maintain a process for application, inclusion, review, advancement in qualifications, and removal from the appointed counsel list. In addition, the court shall also maintain a record of all appointments of counsel, counsel qualifications, and counsel declination of appointments.

(5) In making an appointment of counsel the court shall take into account:

- (a) The anticipated complexity of the subject case;
- (b) Any educational, mental health, language, or other challenges facing the party for whom the appointment will be made;
- (c) The relevant experience of those persons available to accept appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;
- (d) The avoidance of conflicts of interest or other situations that may potentially delay timely completion of the case.
- (e) Intangible factors, including the court's view of a potential appointee's commitment to providing timely, quality, cost-effective representation to each prospective client.

(6) Upon appointment, an attorney shall perform duties as warranted by the facts of the case. The appointed attorney must personally represent the client for whom appointed counsel. The appointed attorney must be present at all hearings. Repeated failures to appear for hearings or personally represent the client will result in removal from the list of appointed counsel. If a criminal charge, serious traffic charge, or a formal disciplinary complaint is filed against an attorney on the appointed counsel list, the attorney may be removed temporarily from the appointment rotation. Attorneys have a duty to self-report to the Court Services Department in such instances.

(7) At the conclusion of a case, appointed counsel shall submit within thirty (30) days the forms prescribed in the Office of the Ohio Public Defender's Standards and Guidelines for Appointed Counsel Reimbursements. In order to process forms for payment, they must be complete. Incomplete or incorrect forms will be returned for adjustment. Forms shall be submitted to the Court Services Department for processing. In the event the individual for whom counsel is appointed is unavailable for longer than thirty (30) days, an interim application for fees may be made. Counsel will be paid at the rate of \$75 per hour. Total bills in excess of the maximum prescribed fees prescribed by the Board of County Commissioners must include a motion for extraordinary fees. Such motions shall outline the basis for eligibility for extraordinary fees.