

## TWELFTH JUDICIAL DISTRICT

### LINCOLN AND OTERO COUNTY MAGISTRATE COURT LOCAL RULES

#### 12-MCLR-102 – Procedure for Disposing of Cases Without a Hearing by Court Clerks.

- A. **Authority.** This Local Rule is enacted pursuant to Rules 6-103 and 6-503, NMRA.
- B. **Scope.** In accordance with Rule 6-503, NMRA, this local rule establishes the procedure for disposing of cases without a hearing by court clerks for penalty assessments.
- C. **Appearance, Plea, and Waiver (APW).** Defendants shall be offered the opportunity to fill out the Appearance, Plea, and Waiver (APW) form.
- D. **Guilty or No Contest Plea Procedure.** If defendant pleads guilty or no contest on the APW form for a penalty assessment, the clerk shall:
1. Enter the plea(s).
  2. Assess fines as listed above and associated fees or court costs.
  3. Collect all monies due or generate a payment plan for defendant with minimum \$50.00 payments monthly.
  4. Generate a Judgment and Sentence for judge's review and final signature.
  5. Provide copies of the APW, Judgment and Sentence, and Agreement to Pay to defendant while defendant is present in the court.
- E. **Not Guilty Plea Procedure with Evidence of Compliance.** If the defendant pleads not guilty on the APW and tenders proof which if accepted will result in dismissal, the clerk shall:
1. Make a photocopy of the tendered proof. The photocopy shall be date-stamped and filed in the case.
  2. Prepare an order of dismissal following the form of the attached order.
  3. Generate an order of dismissal for judge's review and final signature.
  4. Provide copies of the signed APW and order of dismissal to defendant while defendant is present in the court.
- If the offered evidence does not meet the standard set in paragraph E – Evidence of Compliance of Local Rule 101, the clerk shall refer the matter to the judge. If the judge is available, the judge may hear the matter immediately without scheduling a hearing. If the judge is not available the clerk shall set the matter for a hearing.
- F. **Not Guilty Plea Procedure – No Evidence of Compliance.** If the defendant pleads not guilty on the APW and does not provide evidence of compliance, the clerk shall:

1. Enter the plea(s).
2. Update the defendant's personal identifying information in the case management system.
3. Schedule the case for a hearing.
4. Provide all parties with the Notice of Hearing or Trial.

G. **Discretion.** Court clerk's do not have discretion to determine guilt or innocence, nor in determining the amount of the fine or court costs.

H. **Habitual Traffic Offender.** Should a defendant have three (3) or more violations for the same offense within a twenty-four (24) month period, the defendant shall be deemed a habitual offender. Habitual traffic offenders shall be required to go before a judge for arraignment.

I. **Juveniles.** Any citations issued to **juveniles seventeen (17) years of age or younger** shall be required to appear before the Magistrate Judge with a parent or legal guardian at arraignment or initial appearance. If a parent and juvenile submit an APW, it may only be accepted and filed with the Clerk's office if approved by the Magistrate Judge.

APPROVED:

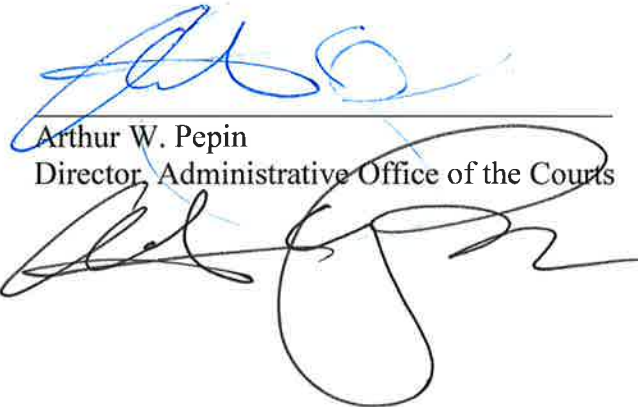
Feb. 6, 2020  
Date



\_\_\_\_\_  
Angie K. Schneider  
Chief Judge

APPROVED:

3-6-2020  
Date



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Arthur W. Pepin  
Director, Administrative Office of the Courts