



## COURT OF COMMON PLEAS

### GENERAL & DOMESTIC DIVISIONS LOCAL RULES

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## **Rule 1: Filings and Exhibits**

- (A) Where practicable, all filings are to be filed electronically. Filings via facsimile are not accepted.
- (B) Upon the filing of a new matter the complaining party and each responding party shall complete [Exhibit A](#) and file it with the Clerk of Courts.
- (C) All exhibits are to be numbered numerically. Once an exhibit is numbered, it shall not change its number, regardless of when it may later be used with any additional filings and/or at trial.

## **Rule 2: Cost Deposits**

The party or parties filing a civil action or proceeding shall deposit a sum to secure the payment of the costs that may accrue in such action or proceeding, except as otherwise provided by law. Such deposit shall be in accordance with the attached schedule marked [Exhibit B](#), as it shall be amended from time to time.

## **Rule 3: Time Extensions**

When a party desires an extension of time to file a pleading, including an answer, motion, reply to a counterclaim, answer to a cross-claim, answer to a third party complaint, answer to interrogatories, and response to request for admissions, such party may obtain leave to plead by order of the Court.

When no previous leave to plead has been taken, the party may obtain one automatic leave to plead by filing with the Clerk a certification in which such party certifies that he has not previously obtained a leave to plead in that case. Such leave to plead may not be for more than twenty-eight days, measured from the date of filing with the Clerk, and shall be in written form with a provision for approval by the Court. A copy shall be served upon all counsel of record all parties not represented by counsel.

## **Rule 4: Case Management**

### **A. Preface**

The goal of this rule is the prompt but fair disposition of litigation. This goal can only be accomplished by early and continuing judicial control and management of each case assigned to the judge's docket. This rule will establish a general framework for management of cases, leaving to the discretion of the individual judge the use of additional procedures to accomplish the goal of this rule.

### **B. Scheduling Order**

After service of the complaint, the judge assigned to the case shall make a scheduling order. Excepted from the requirement of a scheduling order are the following cases: (1) Appropriations; (2) Appeals from administrative agencies, boards, bureaus and commissions; (3) Injunction actions; (4) Partitions and Foreclosures; and (5) any other cases as determined by the Court.

The scheduling order may limit the time:

- (a) To join new parties and to amend the pleadings;
- (b) To file and hear motions;
- (c) To complete discovery.

It also may include:

- (d) The trial date and pretrial date. Pretrial conferences may be scheduled on the Court's own motion or upon written request of counsel;
- (e) Any other matters appropriate to the particular case.

The schedule shall not be modified except by order of the Court.

### C. Motions

#### 1. Summary Judgment

Motions for summary judgment will be decided without oral hearing unless oral argument is requested and determined necessary by the Court.

#### 2. All Other Motions

All other motions will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. The moving party shall file with the motion a brief supporting memorandum containing the authorities relied upon and any affidavits or other supporting documents required or appropriate to file with the motion. Each party opposing the motion shall file a written response within twenty-eight days after receipt of the motion.

### D. Continuances

Rule 7(A) and (B) of the Rules of Superintendence for Courts of Common Pleas is incorporated as part of this rule and shall apply to all requests for continuances. Requests for continuances shall be submitted to the assigned judge as early as possible. Requests for continuance shall be by motion and proposed journal entry, which shall include:

- (a) The reason for the request. If the reason is another case scheduled on the same date in another court, the motion shall include the name of the court, the case caption, the date and time of the conflicting case, and the date that the conflicting case was assigned for trial;
- (b) The time and date of the current assignment;

(c) new date obtained from the Assignment Commissioner in the event the Court grants the motion for continuance.

#### **E. Trial**

1. Motions *in limine* shall be filed not less than three (3) days prior to trial, except for good cause shown.

2. At least one (1) day prior to trial, if requested by the Court, the parties shall file trial briefs with the judge stating their respective cases, both factual and legal, and bring to the Court's attention and anticipated legal issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial.

#### **Rule 5: Conduct in the Court Room**

A. All counsel in the trial of matters before the Court shall conduct themselves in the manner required by the ethics of the legal profession and, in addressing the Court, they shall stand.

B. Except by permission of the Court, only one attorney on each side will be permitted to speak on any motion or upon any question arising during the trial of a case or proceeding and only one attorney on each side will be permitted to examine the same witness in any trial or proceeding before the Court.

C. In the final argument to the Court or Jury during any trial, only two attorneys on each side will be heard unless the Court permits otherwise.

D. Attorneys will not be permitted to take part in any proceedings in this Court except in appropriate attire. What constitutes appropriate attire shall be determined at the discretion of the hearing officer.

#### **Rule 6: Judgment Entries**

The Court may elect to have counsel prepare a proposed judgment entry. Such proposed judgment entry shall be filed and sent to all parties and/or their counsel for review. If any party objects to the proposed judgment entry, they shall file their objection within seven days of receipt of the proposed judgment entry. Absent any objection the Court will, at its discretion, adopt the proposed judgment entry.

#### **Rule 7: Jury View**

In any case where a jury view of the premises is requested and commercial transportation is required, the party making the request shall deposit an amount as specified by the Court. This amount shall be deposited with the Clerk of Courts before the transportation will be provided. In the event both parties request such a view, each party shall deposit one-half the amount specified by the Court. The deposit will be applied by the Clerk to the transportation cost and the amount applied will be charged in the court costs against the party ordered to pay the costs.

#### **Rule 8: Transcripts**

The furnishing of transcripts by the official court reporters and the amount and method of paying the compensation for them shall be fixed by Court order and as provided by R.C. §2301.21 - 2301.25.

The transcript of proceedings in any case shall not initiated by an official reporter for the Court until there is deposited with her or him a sum equal to the estimated cost thereof as the same shall be estimated by the official reporter. In the event the deposit is not sufficient to cover the entire cost of the transcript, the unpaid balance shall be paid to the official reporter before the transcript is delivered to the party ordering it. In the event the deposit exceeds the cost of the transcript, the unused portion thereof shall be returned by the official reporter to the party ordering and paying for the transcript.

#### **Rule 9: Attorneys Not Accepted as Sureties**

No attorney or officer of this Court, unless a party to the action, shall furnish bail or act as a surety in any action or matter filed or pending in this Court. This rule shall cover but is not limited to costs and any other undertaking, bond or recognizance required to be given or entered into by a party in any case, civil or criminal, and the Clerk shall not receive or approve any such undertaking, bond or recognizance given or entered into by any attorney as surety.

#### **Rule 10: Judicial Sales of Real Estate**

1. Any party seeking a judicial sale of real estate shall file with the Clerk certifications, in the form attached hereto as "Judicial Sale Certifications," at each of the following stages of the proceedings:

- a. Filing of the Complaint (or other pleading seeking a judicial sale of real estate): Wayne County Judicial Sale Certification 13-A;
- b. Submission of the proposed Order or Judgment Entry ordering the sale of the real estate (Decree of Foreclosure, Order of Partition, etc.): Wayne County Judicial Sale Certification 13-B;
- c. Filing of the Precipe for Order of Sale: Wayne County Judicial Sale Certification 13-C; and
- d. Submission of the proposed order confirming the sale (Order of Confirmation and Distribution, etc.): Wayne County Judicial Sale Certification 13-D.

2. In an action seeking the judicial sale of real estate, all real estate other than residential real estate consisting of one to four single-family residential units shall be subject to the title requirements set out in ORC Section 2329.191(C).

3. This rule shall not be applicable to tax foreclosures instituted by the county Treasurer pursuant to Chapter 323 and Chapter 5721 of the Ohio Revised Code.

4. An additional fee of \$600.00 will be required at the time of the filing of each Alias Precipe for Order of Sale.

### **Rule 11: Attorney Fees in Partition Cases**

The attorney(s) in an action before this Court for the partition of real estate pursuant to R.C. §5307.01 - 5307.25 inclusive, who have rendered services in connection with such partition litigation shall be allowed compensation for services rendered taxed as costs out of the fund created by virtue of said services. Further, all other counsel representing parties to the action may likewise be compensated out of the fund, taxed as costs for services rendered in accordance with the relationship said services have to the creation of the fund for the common benefit of all parties. All counsel requesting compensation for their services shall submit an itemized statement under oath to the Court which shall contain the following information:

1. The attorney's usual hourly rate and a designation as to whether he represents a plaintiff or defendant.
2. A detailed accounting of the time which the attorney has been involved in the case.
3. The amount the attorney expects to be compensated for said services.

The Court, in arriving at the fee to be allowed any counsel, shall consider the following criteria:

1. The extent to which the attorney's services contributed to the creation of the fund.
2. The time required to conclude the matter.
3. The complexity of the issues of fact and law involved.
4. The skill required of counsel.
5. The usual and ordinary hourly charge made by attorneys.

These criteria shall not be construed to limit the matters which the Court may consider in determining fees.

A proposed fee of five percent (5%) of the first Twenty Thousand Dollars (\$20,000) of the sale proceeds and two percent (2%) of the remainder about Twenty Thousand Dollars (\$20,000) may be approved by the Court. This rule shall also apply to proceedings for the sale of real estate by fiduciary or for any other action for the sale of real estate in which attorney fees are allowed by law for services performed in such proceedings.

### **Rule 12: Mediation**

This Local Rule incorporates by reference R.C. 2710 ("Ohio Uniform Mediation Act").

#### **12.01 – Cases Eligible for Mediation**

(A) General. The Court has discretion to encourage parties to use mediation in any civil action filed in this Court. A case may be submitted to mediation as provided in this rule. The Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator.

(B) Exceptions. Mediation is prohibited in the following instances:

- (1) As an alternative to the prosecution or adjudication of domestic violence;

- (2) In determining whether to grant, modify, or terminate a protection order;
- (3) In determining the terms and conditions of a protection order;
- (4) In determining the penalty for violation of a protection order.

## **12.02 – Domestic Violence Screening**

In referring parties to mediation, the Court shall effectively screen and assess the parties relating to problems involving domestic violence convictions or allegations of domestic violence. If the case proceeds to mediation, the screening shall continue throughout the mediation process. The parties and counsel shall cooperate with all portions of the domestic violence screening process.

All parties and counsel shall advise the Court and Mediation Department of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following the referral to mediation, but before the conclusion of the mediation proceedings.

Where there is a need, the Mediator shall provide referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.

When violence or fear of violence is alleged, suspected, or present, mediation may proceed when the following conditions are satisfied:

- (1) The person who is or may be the victim of domestic violence is fully informed about the mediation process, right to decline participation in the mediation process, and of the option to have a support person, in addition to an attorney present at the mediation session.
- (2) The parties have the capacity to mediate without fear of coercion or control.
- (3) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- (4) Procedures are in place for the mediator to terminate mediation if he or she believes there is a continued threat of domestic violence or coercion between the parties.
- (5) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052 to refer certain cases involving domestic violence to mediation.

## **12.03 – Confidentiality**

(A) General. All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. This Court may impose penalties for any improper disclosures made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator where possible.

By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

(B) Exceptions. The confidentiality of mediation communications is subject to the following

exceptions:

(1) To the extent necessary to complete the mediator's status report pursuant to Local Rule 13.07.

(2) Parties may share all mediation communications with their attorneys.

(3) Certain threats of abuse or neglect of a child or an adult.

(4) Statements made during the mediation process to plan or hide an ongoing crime.

(5) Statements made during the mediation process that reveal a felony.

(C) This provision does not affect the admissibility of a written summary of agreement signed by the parties and/or counsel.

#### **12.04 – Impact on Case Scheduling**

All scheduling orders shall remain in effect. Discovery shall continue during the mediation process in accordance with the Civil Rules of Procedure.

#### **12.05 – Duties of Attorneys and Parties**

(A) Trial counsel responsible for each party's case shall personally attend the mediation conference and shall be prepared and authorized to discuss all relevant issues, including settlement. All parties and, if applicable, insurance adjusters, all with authority to settle without further consultation, shall personally attend all mediation conferences. A party other than a natural person must be represented by a person other than counsel, with authority to agree to a settlement.

(B) All necessary discovery, including documents, medical records, and bills should be exchanged by the parties five (5) days prior to the conference.

(C) Upon reaching agreement, the parties shall reduce the essential terms to writing in summary form and sign it along with the counsel.

(D) If the parties fail to dismiss a settled case within 60 days of the filing of the status report that gave the Court notice of the settlement, prepared pursuant to Local Rule 13.07, the Court may dismiss the case administratively.

#### **12.06 – Sanctions**

A violation of this rule may result in sanctions being imposed by the Court. Such sanctions may include attorney fees and other sanctions the Court deems appropriate.

#### **12.07 – Status Report**

The mediator shall inform the Court who attended the mediation and whether the case settled. If the case did not settle, the mediator shall inform the Court whether the case is scheduled for further mediation or is returned to the Court for further proceedings. No other information shall be communicated by the mediator to the Court.



## **12.08 – Immunity**

The mediator acting pursuant to this local rule shall have all immunity conferred by statute, rule, and common law.

## **12.09 – Mediator Qualifications**

Mediators shall meet the qualifications in Sup.R. 16.23(A).

## **12.10 – Evaluation, Comments, and Complaints**

It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution, and to provide a process that is timely and flexible that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of a mediator to the Court Administrator, or where the Court Administrator is serving as Mediator, to the Jury Commissioner.

## **12.11 – Referral to Resources**

The Court Administrator will maintain information for the public, mediators, and other staff as appropriate, including attorney referral contact information, information regarding Children Services, and resource information for local domestic violence prevention, counseling, substance abuse, and mental health services.

## **Rule 13: Specialized Docket for Drug Offenders**

In order to provide supervision and effective treatment of high risk drug offenders, the Court hereby establishes the “Wayne County Common Pleas Drug Court.”

A Judge may refer an individual to the Drug Court Team for consideration for participation in the Specialized Docket Program. The Drug Court Team will determine appropriateness for participation in the program based upon specific eligibility criteria and make recommendations to the assigned Drug Court Program Judge. The Drug Court Program Judge shall then determine whether to accept the individual into the program. If admitted, the case shall be transferred to the specialized docket of the Drug Court Program Judge for further proceedings. The Drug Court Program Judge is authorized to accept any plea from the offender, sentence the offender, and shall have supervision responsibility over the offender. If terminated from the Drug Court Program, the individual shall be sentenced by the Drug Court Program Judge according to the criminal sentencing laws as contained in the Ohio Revised Code.

Individuals found to be in violation of their community control terms may be referred to the Drug Court Team for Program consideration

**Wayne County Rules of Civil Procedure for Court of Common Pleas General  
Division and Domestic Relations Division**

**Rule 14: Domestic Relations**

**TITLE 1: GENERAL RULES**

1.01 AUTHORITY

The following rules are promulgated by the Wayne County Court of Common Pleas pursuant to Article IV, Section 5(B), of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Common Pleas. They are adopted to provide for the efficient and expeditious management of business before this Court.

1.02 EFFECTIVE DATE

These rules become effective November 1, 2023 and are subject to review and amendment, if necessary.

1.03 CITATION

As used in these rules, "Civ.R." is a reference to the Ohio Rules of Civil Procedure. These rules shall be known as the Local Rules of the Court of Common Pleas of Wayne County, Domestic Relations Division, and may be cited as "Local Rules" or "D.R.Rule 14."

1.04 POSTING SITES FOR SERVICE BY POSTING

Pursuant to Ohio Civil Rule 4.4(A)(2) when the Clerk of Courts causes notice to be made by posting, said notice shall be posted in a conspicuous place in the Wayne County Courthouse at 107 West Liberty St., Wooster, OH 44691 and in two additional public places in the county as follows: (1) the Wayne County Municipal Courthouse at 215 N. Grant St., Wooster, OH 44691 and the Wayne County Administration Building at 428 West Liberty St., Wooster, OH 44691.

**TITLE 2: APPLICATION AND COMPLIANCE WITH RULES OF CIVIL  
PROCEDURE**

2.01 APPLICATION

These rules apply only to proceedings before the Wayne County Court of Common Pleas regarding divorce, dissolution, annulment, legal separation, allocation of parental rights and responsibilities, temporary orders, modification of prior orders and decrees, contempt, child support, and all other matters relating to domestic relations. Local Rules of the Wayne County Court of Common Pleas that apply to other civil matters do not

apply to domestic relations matters unless specified herein, and if a conflict exists, the domestic relations rules shall apply to domestic-related filings and shall take precedence over other local rules.

## 2.02 COMPLIANCE WITH RULES OF CIVIL PROCEDURE

Unless otherwise provided in these rules, all pleadings, motions and other filings shall comply in form and content with the Ohio Rules of Civil Procedure.

## 2.03 CIVIL PROTECTION ORDER FILINGS AND OTHER RELIEF

In order for Court rulings to be consistent regarding allocation of parental rights and responsibilities, custody, child support, and parenting time, any action involving divorce, dissolution, legal separation, child support, spousal support or a request for issuance of a civil protection order for the same parties, either pending or post decree, shall have the same Judge assigned to the case. The Clerk of Courts shall assign the cases accordingly and the first action filed shall determine the assignment of a Judge by random and all further cases shall be assigned to the same Judge by priority.

# **TITLE 3: PLEADINGS AND MOTIONS**

## 3.01 FORM

The caption of all complaints, petitions, counterclaims, initial post-decree motions, final orders and decrees shall set forth the name, address, and the date of birth of each party. The pleadings shall also contain the names and birth dates of any minor children at issue in the proceedings. The caption in all subsequent pleadings shall state the names of the parties, the case number and the name of the Judge, and Magistrate if applicable, to whom the case is assigned.

Separation Agreements filed with the Court must be on separate paper (not included in the body of the pleadings) and styled as Separation Agreement. Shared Parenting Plan or Parenting Plan Agreements filed with the Court must be on separate paper (not included in the body of the pleadings) and styled as Shared Parenting Plan or Parenting Plan.

With regard to all post-decree motions filed subsequent to a decree of dissolution of marriage, the first party appearing in the caption on the original petition for dissolution of marriage shall be listed as the plaintiff and the second party appearing in the caption on the original petition for dissolution of marriage shall be listed as the defendant.

## 3.02 CERTIFICATE OF SERVICE

The Certificate of Service for all pleadings filed after the initial pleading must state the name of each counsel or party served, the date of service, and depending on the manner of service, either the street address, email address or fax number served.

### 3.03 NOTICE OF HEARINGS

Every motion for which a hearing is requested shall contain a Notice of Hearing signed by the moving party or his/her attorney. Prior to filing the motion, the moving party or his/her attorney shall obtain a hearing date and time from the assigned Judge's or Magistrate's scheduler and include the same in the Notice of Hearing, together with the name of the Judge or Magistrate who will hear the matter, the time allotted for the hearing on the Court's calendar, and the Courtroom number or Zoom information for where the hearing will be held.

If further issues are brought to the Court for hearing through timely filed motions before the hearing begins, the moving party shall request additional time with the hearing officer and clear additional time on the Court's calendar at the time of the filing of the additional motions.

### 3.04 WITHDRAWAL OF COUNSEL

Attorneys seeking to withdraw as counsel shall file a written motion and a proposed order. The attorney's client and opposing counsel or party must be served, and that service must be reflected in the certificate of service. Permission to withdraw may not be granted within 30 days of the scheduled trial or hearing, except for good cause shown.

## **TITLE 4: CONTINUANCES**

### 4.01 REQUIREMENTS

No continuances of any hearing shall be considered unless the movant complies with the following requirements:

- A) Motions must be in writing and state the specific reason for the request.
- B) The motion must contain a statement that the opposing counsel or self-represented party was contacted or a good faith attempt to contact was made, and that contact was unable to be made, the opposing counsel or party either objects object to the continuance, or the opposing counsel or party agrees to the continuance.

### 4.02 PROPOSED ORDER

The motion for continuance must be accompanied by a proposed Order containing a new hearing date previously obtained by the moving party and cleared with opposing counsel or party's calendar and the Magistrate or Judge's scheduler, and signature lines for the appropriate Magistrate or Judge. If the motion is granted, the Clerk of Courts shall serve the Order on the moving party and all other parties listed in the certificate of service of the motion.

## **TITLE 5: TEMPORARY ORDERS**

### **5.01 EX PARTE ORDERS (Generally)**

When temporary orders, on an *ex parte* basis, are sought at the time of the filing of a new case:

A) When a party files a divorce, legal separation or annulment petition, a motion for temporary orders, or any other domestic relations pleading which may permit the Court to act on an *ex parte* basis pursuant to Rule 75 of the Ohio Rules of Civil Procedure, such pleading or motion shall first be filed with the Clerk of Courts, time-stamped, and assigned to a Judge before additional action is taken. Motions for *ex parte* relief and/or temporary orders shall then be sent to the Magistrate from the Clerk of Courts, who shall, after reviewing the appropriate pleadings and supporting affidavits, issue a Magistrate's Order granting or denying, in whole or part, the relief requested, and/or scheduling the matter for a hearing.

B) Whenever an attorney files any complaint or pleading with the Court in which *ex parte* relief is sought and the attorney knows that the adverse party is represented by counsel, the party seeking such relief shall notify the Court at the time of filing the request for relief of the other attorney's involvement by including the name, address and telephone number of opposing counsel in the motion for *ex parte* relief. Before the pleading is filed, the attorney of the party seeking *ex parte* relief must also make a good faith effort to notify the adverse attorney that *ex parte* relief will be requested.

### **5.02 TEMPORARY CHILD CUSTODY ORDERS**

When a party requests designation as the temporary residential parent, the requesting party shall submit an affidavit demonstrating the appropriateness of such order. The assigned Magistrate or Judge shall designate the temporary residential parent and order temporary support and parenting time based upon the affidavits submitted therein, and/or schedule the matter for a hearing. The moving party shall submit a proposed order for use by the Court in the event the motion is granted. The proposed order shall include blank spaces for the insertion of a hearing date and time so the opposing party can have a review hearing before the Magistrate who issued the custody order. Said hearing shall be scheduled within fourteen (14) days of the issuance of the *ex parte* order.

### **5.03 REQUESTS FOR EXCLUSIVE POSSESSION OF RESIDENCE**

All motions requesting an order for one party to vacate the marital residence shall be handled on a case by case basis. In order to secure a vacation of premises order on an *ex parte* basis, the party seeking such order must move the Court for such relief and provide an affidavit with information concerning the appropriateness of such order. This includes the reasons for needing the order, the alternative living arrangements which the party sought to be excluded may have, and the relative income of the parties. The moving party shall submit a proposed order for use by the Court in the event the motion is granted. The proposed order shall include blank spaces for the insertion of a hearing date and time so

the evicted party can have a review hearing before the Magistrate who issued the order. Said hearing shall be scheduled within fourteen (14) days of the issuance of the order to vacate.

#### 5.04 REQUESTS FOR ORAL HEARING

If a party disagrees with *ex parte* temporary orders or has additional information which may cause a change in the temporary orders, that party, within fourteen (14) days after service, shall request an oral hearing as provided in Civil Rule 75(N)(2). Requests filed after fourteen (14) days will be treated as a motion to modify the temporary order. All hearings to change or modify the temporary orders issued *ex parte* shall be before the Magistrates, unless otherwise directed by the Court.

### **TITLE 6: *EX PARTE* MUTUAL RESTRAINING ORDERS**

Upon request and submission of an appropriate written order prepared by either party or counsel, a mutual temporary restraining order shall be issued by the Magistrate forbidding both parties from:

- a) harassing, abusing, annoying, or otherwise interfering with the other party;
- b) selling, damaging, destroying, removing, disposing, transferring, encumbering or otherwise lessening the value of the assets of either party;
- c) altering, modifying or otherwise changing in any manner, the beneficiaries, insured persons, or owners of any life insurance, health insurance or annuity policies, financial accounts, profit sharing plans, pensions or other accounts;
- d) incurring debt or credit in the name of the other party or in the joint name of the parties;
- e) filing a separate tax return without the prior approval of the other party or leave of Court, and enjoining the parties from cashing, disposing, or concealing any stimulus benefit payments received for either party until further order of Court or consent of the other party; and if applicable,
- f) from interfering with the other party's relationship with the minor children.

The entry shall be captioned as a 'Magistrate's Order-Mutual Restraining Order' with a signature line for the assigned Magistrate. An affidavit in support of such an order shall not be required for the issuance of such an order provided the order restrains both parties.

## **TITLE 7: EMERGENCY *EX PARTE* ORDERS**

### **7.01 PROCEDURE**

- A) Emergency *ex parte* orders shall be requested by written motion with a supporting affidavit.
- B) Emergency *ex parte* orders will only be granted where there are circumstances which may result in irreparable harm for which there is no other adequate remedy.
- C) Where there are circumstances which require a party to seek an emergency *ex parte* order (e.g., threat to remove the children from the jurisdiction of the Court or allegations of physical or sexual abuse), the party seeking the emergency order may move the Court for the issuance of such order on an *ex parte* basis by forwarding the motion, supporting affidavits, and self-authenticating documents, to the appropriate Magistrate (or in the Magistrate's absence, an available Judge) and/or depositing them with the Court's secretary. The Magistrate or Judge will then rule upon the request for an *ex parte* order based upon the pleadings, sworn testimony, affidavits, and accompanying documents submitted therewith. If an emergency *ex parte* order is granted, the Court will require and set an emergency review hearing within fourteen (14) calendar days, if possible. *Ex parte* motions not granted will be set for hearing.

The moving party shall submit a proposed Order for use by the Court in the event the motion is granted. The proposed Order shall include blank spaces for the insertion of a hearing date and time so the opposing party can have a review hearing regarding the *ex parte* order.

## **TITLE 8: COURT REPORTER**

### **8.01 COURT REPORTER**

The record of all Court hearings shall be kept by digital recording. In all matters requiring an evidentiary hearing, if a Court reporter or videographer is requested by any party, the Court reporter or videographer shall be provided by the requesting party and all costs thereof shall be prepaid by the requesting party. These costs may be reviewed for allocation of payment by the Court upon the request of either party in writing at least seven (7) days prior to the hearing date.

### **8.02 PREPARATION AND FILING OF WRITTEN TRANSCRIPTS**

All requests for the preparation of written transcripts of proceedings before the Court shall be made by written praecipe to the assigned official Court reporter. All transcripts shall be filed with the Clerk of Courts within thirty (30) days of the filing date of the praecipe. The time for the filing of the written transcript shall not be extended without leave of the Court.

### 8.03 SEALING OF *IN CAMERA* INTERVIEWS OF MINOR CHILDREN

Unless otherwise ordered by the Court, all transcripts prepared from *in camera* interviews of minor children shall be delivered to the Court secretary for filing outside of the Court case file. Said transcripts shall not be read, copied, nor removed from the Court's possession for any reason by any person, party or attorney.

## **TITLE 9: DISCOVERY**

### 9.01 CIVIL RULES

The voluntary exchange of information between counsel is encouraged. Ohio Rules of Civil Procedure 26 through 37 shall apply to any Domestic Relations action.

### 9.02 MANDATORY AUTHORIZATION

Immediately upon request, all parties shall sign any authorization necessary for the opposing party to obtain full and detailed information of wages and benefits, including but not limited to, public benefits, private benefits, pensions, disability benefits and life insurance.

### 9.03 MOTIONS TO COMPEL AND SANCTIONS

All motions to compel or for sanctions must be filed by the pretrial or other date set by the Court. Each motion shall have attached an affidavit of counsel setting forth the attempts made to obtain compliance with discovery requests. The responding party shall have seven (7) days to respond in writing. The Court shall then rule upon said motions without oral hearing, unless otherwise ordered at the discretion of the Court.

## **TITLE 10: PRETRIAL PROCEDURE FOR DIVORCES**

**Pursuant to Rule 84 of the Ohio Civil Rules of Procedure, this Court will accept the forms contained in the Appendix of Forms to the Ohio Civil Rules of Procedure that have been approved by the Ohio Supreme Court. Litigants may also use other forms that are substantially similar to the forms required in this rule.**

**Forms 1-31 are available online at:** <https://www.supremeCourt.ohio.gov/forms/all-forms/domestic-relations-and-juvenile-standardized/1>

**All other forms required under this rule are available online at:**  
<https://www.wayneCourtofcommonpleas.org/resources/domestic-relations-required-documents> **and**  
<https://www.wayneCourtofcommonpleas.org/resources/domestic-relations-templates>

### 10.01 PLEADINGS IN DIVORCE WITH CHILDREN

In all initial divorce filings involving minor children of the marriage, the parties shall file



the following forms:

REQUIRED DOCUMENTS FOR DIVORCE WITH CHILDREN

<u>Name of Form</u>	<u>Form Number</u>
NEW CASE DESIGNATION FORM	49
COMPLAINT FOR DIVORCE	7
AFFIDAVIT OF INCOME AND EXPENSES	1
AFFIDAVIT OF PROPERTY AND DEBT	2
MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making deposit)	47
INDIGENCY AFFIDAVIT (if not making a deposit)	38
PARENTING PROCEEDING AFFIDAVIT	3
HEALTH INSURANCE AFFIDAVIT	4
CHILD SUPPORT WORKSHEET (Completed Correctly) *	34 or 35
MOTION AND AFFIDAVIT OR COUNTER AFFIDAVIT FOR TEMPORARY ORDERS WITHOUT ORAL HEARING (if requesting temporary orders)	5
REQUEST FOR SERVICE or WAIVER OF SERVICE OF SUMMONS	31 or 30
APPLICATION FOR CHILD SUPPORT SERVICES FORM*	33

**\* EVEN IF PARENT IS NOT REQUESTING CHILD SUPPORT**

10.02 PLEADINGS IN DIVORCE WITHOUT CHILDREN

In all initial divorce filings without minor children of the marriage, the parties shall file the following forms:

REQUIRED DOCUMENTS FOR DIVORCE WITHOUT CHILDREN

<u>Name of Form</u>	<u>Number of Form</u>
NEW CASE DESIGNATION FORM	49
COMPLAINT FOR DIVORCE WITHOUT CHILDREN	6
AFFIDAVIT OF INCOME AND EXPENSES	1
AFFIDAVIT OF PROPERTY AND DEBT	2
MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making deposit)	47
INDIGENCY AFFIDAVIT (if not making deposit)	38
MOTION AND AFFIDAVIT OR COUNTER AFFIDAVIT FOR TEMPORARY ORDERS WITHOUT ORAL HEARING (if asking for temporary orders)	5
REQUEST FOR SERVICE or WAIVER or SERVICE	<u>31 or 30</u>

### 10.03 UNCONTESTED DIVORCES

If a case is resolved by agreement of the parties on an uncontested basis, the remainder of these rules regarding the pretrial procedure in case management shall not apply. In those instances, the Court shall schedule, in accordance with the provisions of the applicable Ohio Rules of Civil Procedure, a hearing date to finalize the parties' divorce. Counsel shall contact the Court scheduler for an uncontested hearing date or notify the Court scheduler to convert an already scheduled hearing date to an uncontested hearing date in advance of any scheduled hearing. A proposed Judgment Entry shall be submitted to the Clerk of Courts, along with any Separation Agreement, and if applicable Parenting Plan or Shared Parenting Plan Plan, at least seven (7) days prior to the uncontested hearing. Form 14, Form 15 and Form 40 may be used.

### 10.04 CASE MANAGEMENT PLAN

In all contested divorce actions, the Court shall schedule two status conferences, a pretrial and a final divorce hearing. The Court has discretion to alter this schedule, as it may deem appropriate.

A) Status Conference One: The Court shall set the first status conference approximately 90 days after the service of the initial complaint.

All attorneys of record shall appear at the first status conference. Parties are not required, but may attend the first status conference. If the first status conference is held by videoconference, counsel and if applicable, the parties, shall be provided the sign in information for the meeting by notice from the Court.

Motions for the appointment of a guardian ad litem, motions for psychological evaluations, motions for mediation, and other pretrial motions should be filed prior to or requested at the first status conference.

The Court shall schedule the second status conference, the pretrial and the final divorce hearing in accordance with this schedule: status conference two, approximately 210 days following the filing of the complaint; the pretrial approximately 270 days following the filing of the complaint; and the final divorce hearing approximately 291 days following the filing of the complaint.

The Court shall also schedule any necessary hearings on any pretrial motions of the parties or otherwise address any pending pretrial motions.

B) Status Conference Two: All parties and attorneys of record shall appear at the second status conference. At the Court's discretion, the second status conference may also be held by videoconference. If the second status conference is held by videoconference, counsel and parties shall be provided the sign in information for the meeting by notice from the Court.

Propounding of interrogatories, requests for documents and requests for admissions

and the responses thereto, shall be in progress prior to the second status conference, subject to the duty to supplement.

At the second status conference, the parties shall provide each other and the Court with a descriptive list of proposed exhibits and witnesses (together with their addresses, phone numbers and a brief description of their proposed testimony). Copies of exhibits not previously provided through discovery shall be provided to the opposing party.

All parties are required to provide the opposing party with a written statement of opinion from any expert they intend to call expressing said expert's opinion on or before status conference two. In the event there is no written opinion prepared by said expert, the party proposing to utilize said expert shall cause a brief statement of the expert's opinion to be provided to the opposing party at status conference two.

The parties shall also provide each other and the Court with a complete list of assets and liabilities, along with corresponding values of each.

Undisputed matters, including but not limited to grounds, identity of assets and debts, values of each, and admissibility of documents and reports without foundational testimony shall be stipulated by the parties at the second status conference. At the final divorce hearing, failure of a party to stipulate to undisputed matters may be considered by the Court in any award of attorney fees to the party required to prove the matter.

In the event a party fails to disclose to an opposing party any evidence or witnesses as required by this rule, the non-disclosed evidence shall not be admitted and non-disclosed witnesses shall not be permitted to testify at the final divorce hearing, absent a showing of good cause. "Good cause" includes newly discovered evidence which by due diligence could not have been discovered prior to the second status conference or is developed after the second status conference based on or in rebuttal to evidentiary or witness disclosures of the other party at the second status conference.

C) Final Pretrial: The parties and all counsel must be present at the final pretrial, unless otherwise ordered. At the Court's discretion, the final pretrial may be in person or by videoconference. If the final pretrial is held by videoconference, counsel and parties shall be provided the sign in information for the meeting by notice from the Court.

All depositions and discovery shall be completed by the final pretrial. Valuation of debts and assets shall be as of the date closest to the final pretrial date.

Each party shall prepare an exhibit list identifying all exhibits intended to be introduced at the final divorce hearing and shall mark all exhibits (plaintiff alpha and defendant numeric). Each party shall provide the opposing party and the Clerk of Courts with a copy of the party's exhibit list and provide opposing counsel copies all marked exhibits at the final pretrial. All admitted exhibits that are capable of being filed shall be electronically filed with the Clerk of Courts after the trial, with the balance submitted directly to the Court at trial.

Each party shall provide the opposing party and the Court with a complete list of witnesses, in the anticipated order they will be presented. Any exhibit not disclosed by final pretrial shall not be admitted and any witness not disclosed by final pretrial shall not be permitted to testify at the final divorce hearing, except as provided in paragraph B) of this rule.

If any item of property (personal or real) is in dispute as to its division, then the item(s) in dispute shall either be appraised or have an agreed value reduced to writing. If the item(s) in dispute are not appraised or do not have a written agreed value, then that particular item may be liquidated (sold or auctioned) and the net proceeds divided. If child support is in issue, then each party shall file a proposed child support worksheet at least 10 days prior to the trial with proof of income attached thereto. Each party shall file an updated financial affidavit and updated property affidavit at least 10 days prior to the trial. Failure-to comply with these orders could result in dismissal of claims, as well as any previously listed sanction.

D) Final Divorce Hearing: At the final divorce hearing, each party shall prepare and file with the Clerk of Courts a trial memorandum stating the party's position with respect to each disputed issue and briefing any disputed point of law. Any stipulations shall be reduced to writing and submitted to the Court prior to the commencement of final hearing.

## **TITLE 11: DISSOLUTIONS**

### **11.01 PLEADINGS IN DISSOLUTIONS WITH CHILDREN**

In all initial dissolution filings with minor children of the marriage, the parties shall file the following forms:

#### **REQUIRED DOCUMENTS FOR DISSOLUTION WITH CHILDREN**

<u>Name of Form</u>	<u>Number of Form</u>
NEW CASE DESIGNATION FORM	49
PETITION FOR DISSOLUTION AND WAIVER OF SERVICE OF SUMMONS	17
AFFIDAVIT OF INCOME AND EXPENSES	1
AFFIDAVIT OF PROPERTY AND DEBT	2
MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT	47
INDIGENCY AFFIDAVIT (if not making a deposit)	38
SEPARATION AGREEMENT	19
PARENTING PLAN (if not in Separation Agreement) or SHARED PARENTING PLAN	20 or 21
PARENTING PROCEEDING AFFIDAVIT	3
CHILD SUPPORT WORKSHEET (Completed Correctly)*	34 or 35
APPLICATION FOR CHILD SUPPORT SERVICES FORM *	33
HEALTH INSURANCE AFFIDAVIT	4

PROPOSED JUDG MENT ENTRY OF DISSOLUTION (shall be submitted prior to or at final hearing)	18
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**\* EVEN IF PARENT IS NOT REQUESTING CHILD SUPPORT**

**11.02 PLEADINGS IN DISSOLUTION WITHOUT CHILDREN**

In all initial dissolution filings without minor children of the marriage, the parties shall file the following forms:

**REQUIRED DOCUMENTS FOR DISSOLUTION WITHOUT CHILDREN**

<u>Name of Form</u>	<u>Number of Form</u>
NEW CASE DESIGNATION FORM	49
PETITION FOR DISSOLUTION OF MARRIAGE AND WAIVER OF SERVICE OF SUMMONS	17
SEPARATION AGREEMENT	19
AFFIDAVIT OF PROPERTY AND DEBT	2
AFFIDAVIT OF INCOME AND EXPENSES	1
MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making a deposit)	47
INDIGENCY AFFIDAVIT (if not making deposit)	38
PROPOSED JUDGMENT ENTRY OF DISSOLUTION (shall be submitted prior to or at final hearing)	18

**11.03 CHILD SUPPORT CALCULATIONS**

If Ohio statutory child support guideline calculations indicate that a child support obligation must be imposed upon one of the parties, but the parties have agreed either: (1) not to exchange child support (which must be referred to as a “\$0 support order”, as opposed to a “no support order”) or (2) deviate from the calculated amount, the pleadings must state with particularity, the reasons for said deviation as specified in O.R.C. §3119.22, §3119.23, § 3119.231, and §3119.24 as applicable, and further the reasons the deviation is in the best interests of the minor children. The Court, in its discretion, may impose the full, calculated child support obligation upon a finding that the parties' agreement is not in the best interests of the children.

**11.04 INCOMPLETE PLEADINGS**

If the filings are incomplete, the Court, in its discretion, may issue an order requiring the moving party to correct the filings or the action may be dismissed.

**11.05 NOTICE**

The Court will mail notice of the hearing date to unrepresented parties and counsel of record.

#### 11.06 DECREE

A proposed JUDGMENT ENTRY OF DISSOLUTION OF MARRIAGE (Form# 18) shall be presented to the Court prior to or at the dissolution hearing. A copy of the signed SEPARATION AGREEMENT in its final form, including all addenda and exhibits, and a copy of the signed PARENTING PLAN or SHARED PARENTING PLAN, if applicable, shall be attached to the final JUDGMENT ENTRY OF DISSOLUTION OF MARRIAGE.

In any case wherein the child support guidelines are not imposed as calculated, the SEPARATION AGREEMENT and the proposed JUDGMENT ENTRY OF DISSOLUTION OF MARRIAGE must state with particularity, the reasons for the deviation as per O.R.C. §3119.22, §3119.23, §3119.231 and §3119.24. In addition, the JUDGMENT ENTRY OF DISSOLUTION OF MARRIAGE shall contain the finding that the amount of child support calculated by the statutory child support guidelines are unjust, unfair, and not in the best interest of the children.

#### 11.07 POST DECREE FILING IN DISSOLUTION

In any post-decree filing relating to contempt, enforcement, modification or interpretation of a Judgment Entry in a dissolution case, the petitioner named first on the petition shall be referred to as the plaintiff, and the petitioner named second on the petition shall be referred to as the defendant.

### **TITLE 12: JUDGMENT ENTRIES**

#### 12.01 WHEN JOURNALIZED

The Judgment Entry required by Rule 58 of the Ohio Rules of Civil Procedure shall be journalized within thirty (30) days of the date the decision is announced by the Judge, or within thirty (30) days of the date of a Magistrate's Decision if no objections are filed. The Judgment Entry shall reflect the Court's ruling on all issues raised at the time of trial before the Magistrate and raised at the objections hearing, but not those expressly reserved for further proceedings. All attachments and exhibits incorporated into a document must be affixed to the incorporating document.

#### 12.02 CHILD AND SPOUSAL SUPPORT ORDERS

All judgment entries containing an order for child support or spousal support shall state the effective date of each order. Each Judgment Entry containing an order for child support shall state the support in terms of the amount per month, and the amount of cash medical support, all without processing charge. Each Judgment Entry containing an order for spousal support shall state the support in terms of the amount per month, without processing charge.

### 12.03 ORDER TO OBTAIN HEALTH INSURANCE FOR CHILDREN

Each judgment containing an order for child support (including orders where support is set at \$0) shall include provisions for health insurance coverage for the children as provided in O.R.C. §3119.29 through §3119.371 inclusive.

### 12.04 PREPARATION OF JUDGMENT ENTRY

The Court may order or direct either party or counsel to prepare and present for journalization the Judgment Entry required by subsection 12.01 of this rule. Such party or counsel shall prepare a proper entry and submit same to the opposing party or counsel. The opposing party or counsel shall have five (5) days to approve or reject the Judgment Entry. In the event of rejection, the opposing party or counsel shall file with the Court, at the time of such rejection, either a written statement of the objections to the proposed Judgment Entry or that party's own proposed Judgment Entry. This subsection shall not apply to uncontested matters where the opposing party has made no answer or appearance, or dissolutions of marriage.

Upon the failure of the opposing party or counsel to approve or reject any submitted Judgment Entry as provided in D.R. Rule 12.04, the preparer of the entry may unilaterally present the Judgment Entry to the Court for journalization with a certification thereon that the provisions of D.R. Rule 12.04 have been complied with and the date on which such compliance occurred.

### 12.05 FAILURE TO PREPARE OR SUBMIT JUDGMENT ENTRY

Upon failure of the ordered party to prepare a Judgment Entry, the other party may prepare the Judgment Entry and submit it to the Court subject to the requirements of D.R. Rule 12.04.

Failure of a party or counsel to prepare a Judgment Entry when ordered or directed to do so may subject said party or attorney to the contempt powers of the Court and/or the vacating of any award of attorney fees. In addition, the Court may grant an award of attorney fees to a party who prepared a Judgment Entry in accordance with the above paragraph. If neither party prepares the Judgment Entry, the Court, in its discretion, may prepare the Judgment Entry.

### 12.06 MAGISTRATE APPROVAL

All Judgment Entries pertaining to matters that were referred to a Magistrate shall be approved and signed by the Magistrate prior to their submission to the Judge.

### 12.07 QUALIFIED DOMESTIC RELATIONS ORDERS

A Qualified Domestic Relations Order (QDRO), or other comparable order must be submitted with the Judgment Entry of Divorce or Dissolution or as soon as possible thereafter, where applicable.



A Qualified Domestic Relations Order (QDRO), or other comparable order must be first submitted to the Magistrate assigned to the case for review and approval before being referred to the assigned Judge. Each proposed QDRO, or other comparable order must include an approval line for the Magistrate assigned to the case.

## **TITLE 13: MAGISTRATES**

### **13.01 POWERS**

The powers of the Magistrates are governed by Rule 53, Ohio Rules of Civil Procedure. The order of reference is available from the Clerk of Courts.

### **13.02 HEARING BY MAGISTRATE**

All issues pertaining to divorce, dissolution, annulment, legal separation, parenting, temporary orders, modification of prior orders and decrees, contempt, child support, and all other matters relating to domestic relations shall be first heard or considered by the Magistrates appointed by this Court and proceed pursuant to Ohio Civil Rule 53, except the following, which shall be heard by the Judge assigned to the case:

- A) Cases or motions which the Magistrate requests the assigned Judge to hear or consider because of a conflict or other just cause;
- B) When ordered by the Court, cases or motions which a party requests the assigned Judge to hear or consider because of a conflict or other just cause, provided however, that any request made hereunder shall be by written motion setting forth the reasons for the request;
- C) When otherwise ordered by the Court.

### **13.03 PRETRIAL MAGISTRATE'S ORDERS**

All Magistrate's orders entered during pretrial matters without judicial approval are subject to review by the Judge by filing a motion to set aside the order, as outlined by Ohio Civil Rules of Procedure Rule 53(D)(2). Motions to set aside a Magistrate's order shall be filed no later than ten (10) days after the Magistrate's order is entered and must state, with specificity, the party's objections to the Magistrate's Order and whether or not a transcript of the hearing has been requested to be prepared in support of the motion. Transcripts are not required when filing a motion to set aside a Magistrate's order. The Magistrate's order remains in effect during the consideration of a motion to set aside unless the Court grants a stay.

### **13.04 MAGISTRATE'S DECISION**

A Magistrate shall prepare a final Magistrate's Decision on the referenced matter.



Objections to a Magistrate's Decision shall be in accordance with Ohio Civil Rule 53(D)(3) and the following local procedures:

- A) The objecting party shall specifically state in his/her objections that he/she has or has not requested a transcript of all or part of the proceedings before the Magistrate.
- B) If the responding party wants all or part of a transcript, he/she shall notify the Court in writing within ten (10) days of the date on which the objections were filed.
- C) Any party requesting a transcript shall, concurrent with the filing of his/her objections or notification with the Court, file a praecipe for the transcript with the Clerk of Courts and Court reporter and deposit, within five (5) days, an amount equal to the estimated costs of the transcript with the Court reporter.
- D) Preparation of transcripts of proceedings shall be in accordance with Wayne County Common Pleas Court Local Rule 8. Upon completion of all transcripts, the Court reporter shall notify counsel for all parties, notify the secretary of the assigned Judge, and file the transcript with the Clerk of Courts. If either counsel wishes to review or copy the transcript it may be obtained from the Clerk of Courts for that purpose.
- E) Counsel for all objecting parties shall file a memorandum in support of objections within ten (10) days of the filing of all transcripts. The opposing party shall file his/her responding memorandum within ten (10) days of the date on which the objecting party's memorandum was filed.
- F) If neither party requests a transcript, a supporting memorandum must accompany objections. The opposing party shall file his/her responding memorandum within ten (10) days of the date on which the objections were filed.
- G) For good cause shown, the Court may extend or modify the timetable set forth herein upon written request of either party.
- H) Unless the Court otherwise orders, objections will be ruled upon without oral hearing or argument.

## **TITLE 14: POST DECREE MOTIONS**

### **14.01 POST-DECREE MOTIONS**

- A) At the time of filing a post-decree motion, a party or attorney shall request a pretrial hearing date from the Magistrate or Judge's scheduler prior to filing the motions. Each post-decree motion that has a pretrial hearing requested must include a "Notice of Pretrial Hearing" with the hearing date and time and method of hearing on the original and copies for service.

B) In any post-decree filing related to a dissolution case, the petitioner named first on the petition shall be referred to as the plaintiff, and the petitioner named second on the petition shall be referred to as the defendant.

C) Motions for the appointment of a Guardian *ad litem*, *in camera* interview of the children, and/or psychological/custody evaluation will be considered at the pretrial or upon filing of a motion by a party.

D) *In Camera* Interviews of children shall be scheduled in accordance with the provisions of O.R.C. §3109.04 and §3109.051, or their successors.

E) Unless otherwise ordered by the Court, a Witness List and Exhibit List shall be filed no later than fourteen (14) days prior to final hearing.

#### 14.02 CONTEMPT

All motions for contempt must be served on the alleged contemnor in accordance with Civil Rules and must also be accompanied by a Summons and Order in a form that complies with O.R.C. §2705.031 or its successor, where applicable.

Regardless of the provisions of Ohio Civil Rule 5 regarding service of pleadings subsequent to the original complaint, all motions for contempt shall be served upon the alleged contemnor by service by United States certified or express mail or service by commercial carrier service, personal service, or residential service.

#### 14.03 AGREED CHANGES TO PRIOR COURT ORDERS

Parties may modify their prior Court orders by submission of an agreed entry, without hearing, so long as all of the following apply:

A) The agreed entry must be accompanied by a motion requesting the change with affidavits attached and executed by each parent indicating their agreement and setting forth specific facts from which the Court can make a determination of whether the agreed change is voluntary, fair, and if it involves minor children, is in the best interest of the children;

B) If it involves minor children, the agreed entry must be accompanied by parent proceeding affidavits executed by each parent (Form #3);C) If the agreed entry includes a change in financial responsibilities for the children, the agreed entry must be accompanied by a child support calculation worksheet with attached verification of income executed by each parent. D) The agreed entry must specifically set forth modified provisions regarding child support, payment of medical expenses, medical support, tax dependency exemption, parenting time and all other modified provisions, if relevant to the care of the child or children, and the name and address of Obligor's employer. (See Form #40) If Ohio statutory child support guideline calculations indicate that a child support obligation must be imposed upon one of the parties, but

the parties have agreed either: (1) not to exchange child support (which must be referred to as a “\$0 support order”, as opposed to a “no support order”) or (2) deviate from the calculated amount, the pleadings must state with particularity, the reasons for said deviation as specified in O.R.C. §3119.22, §3119.23, §3119.231, and §3119.24 as applicable, and further the reasons the deviation is in the best interests of the minor children.

If the Court cannot determine whether the agreed modification is in the best interest of the children from the documents submitted or if the parties fail to fully comply with this rule, the Court shall set the motion for hearing before the assigned Magistrate.

## **TITLE 15: GUARDIANS *AD LITEM***

### **15.01 REQUESTING THE APPOINTMENT OF A GUARDIAN *AD LITEM***

- A) When a party requests the appointment of a Guardian *ad litem* pursuant to Ohio Revised Code §3109.04, or when the appointment of a Guardian *ad litem* is deemed appropriate by the Court, the Court shall enter an Order appointing a Guardian *ad litem*.
- B) Any party who requests the appointment of a Guardian *ad litem* shall file a written request no later than ninety days prior to the hearing scheduled to determine custody or parenting time issues. The Court, in the interest of justice, may adjust the time for making a request for the appointment of a Guardian *ad litem*.
- C) Unless otherwise ordered by the Court, the party requesting the appointment of a Guardian *ad litem* shall deposit the sum of \$1,000.00 with the Clerk of Courts with his/her request.

### **15.02 PERSONS QUALIFIED TO BE A GUARDIAN *AD LITEM***

- A) Any person who wishes to serve as a Guardian *ad litem* shall submit to the Court a letter of intention together with any and all documents as are required in Rule 48 of the Ohio Supreme Court Rules of Superintendence.
- B) In order to be appointed as a Guardian *ad litem*, all persons must satisfy the requirements found in Rule 48 of the Ohio Supreme Court Rules of Superintendence.

### **15.03 RESPONSIBILITIES OF THE GUARDIAN *AD LITEM***

- A) In order to provide the Court with relevant information and an informed recommendation regarding the children’s best interest, a Guardian *ad litem* shall perform, at a minimum, the responsibilities as set forth in Rule 48 of the Ohio Supreme Court Rules of Superintendence or any subsequent rules enacted.
- B) The Guardian *ad litem* shall file and serve a final report at least 30 days prior to the date of the final hearing and in the event that the report is not timely provided, a continuance may be granted upon the request of either party.
- C) The Guardian *ad litem* may prepare interim reports as deemed necessary.

- D) The Guardian *ad litem* shall attach an itemized bill of time spent to the final report.
- E) Any written report prepared by the Guardian *ad litem* shall be served on counsel of record to each party in the action and if a party is unrepresented, to the party directly. The attorneys may provide a copy of the Guardian *ad Litem*'s report to his/her client.
- F) Failure of a Guardian *ad litem* to timely prepare and serve his/her final written report upon all parties as provided for in this rule may result in the Guardian *ad litem* fees being reduced by one-half.

#### 15.04 FEES

- A) A person appointed by the Court to serve as Guardian *ad litem* in a domestic relations matter should be paid at the rate of not more than \$50.00 per hour and should not be paid more than a total of \$1,000.00 unless unusual circumstances presented in the case warrant additional fees.
- B) The Court may fix the compensation for the services of the Guardian *ad litem*, tax the same as part of the Court costs and assess them against the parties.
- C) At the close of the case, the Guardian *ad litem* shall submit a billing statement for review by the Court and all fees must be Court approved. With the Court's permission, a Guardian *ad litem* may submit a partial bill before the close of the case and the Court may require the parties to deposit additional sums with the Clerk of Courts.
- D) The Guardian *ad Litem* fees shall be in the nature of child support for purposes of dischargeability in bankruptcy.

### **TITLE 16: PSYCHOLOGICAL EVALUATIONS/CUSTODY EVALUATIONS**

#### 16.01 COSTS

When psychological evaluations and/or custody evaluations are ordered, the cost shall be paid directly by the parties to the service provider, and shall not be taxed as Court costs. Allocation of the responsibility for the initial deposits to the service provider shall be made by the Court at the time of the order and on a case by case basis. The allocation of the responsibility of the payment of psychological evaluations and/or custody evaluations may be reviewed at the final hearing upon the request of either party.

#### 16.02 REPORTS

The original report shall be transmitted to and held by the assigned Judge's or Magistrate's assistant (*not* the Clerk of Courts) by the date ordered by the Court but, in any event, no later than forty-five (45) days before the scheduled final hearing. The Judge's or Magistrate's assistant shall upon receipt, submit a notification of receipt of the report to the Clerk of Courts to be time-stamped and docketed and the Magistrate's assistant shall retain the report. A copy of the report shall be sent to the Guardian *ad Litem*. Parties and counsel may contact the Magistrate's assistant to make an appointment

to review the psychological evaluation/custody evaluation. Parties and counsel are permitted to read the report in its entirety. Parties shall not disseminate, nor allow any third party to disseminate the report to anyone. A violation of this rule shall be punishable by contempt.

#### 16.03 RELEASE OF REPORT

The Guardian ad Litem may not release the psychological evaluation or custody evaluation to anyone without a specific Court order.

### **TITLE 17: GENERAL TRIAL AND HEARING PROCEDURES**

#### 17.01 GENERAL TRIAL AND HEARING PROCEDURES

The following shall apply to all trials and hearings:

A) Arrearages for support accruing under a temporary order for support shall be reduced to a sum certain payable through the Child Support Enforcement Agency unless specifically waived by the obligee. However, if the obligee is receiving or has received public assistance during the pendency of the action, such arrearage shall be reduced to a sum certain judgment payable through the Child Support Enforcement Agency and cannot be waived.) It must be determined at trial if there is any issue born during the marriage or expected 300 days after trial.

C) A request for an award of attorney's fees may be supported by testimony from the party at trial and an affidavit submitted by the requesting attorney containing an itemized statement describing the services rendered, the time for such services, and the hourly rates charged. Expert testimony shall not be necessary. The statement of attorney's fees, as contained in the submitted affidavit, shall be presumed reasonable, subject to evidence to the contrary and Rule 1.5 of the **OHIO RULES OF PROFESSIONAL CONDUCT**.

#### 17.02 REQUIRED PARENTING SEMINAR

When parents of minor children file a divorce or dissolution, they shall be required to attend a program as designated by the Court focusing on children's rights when the marriage is terminated.

Upon demonstrating that a party is entitled to relief for good cause shown, the Court may waive all or part of the counseling fee or relieve the party of his or her obligation to attend the program on a case-by-case basis.

#### 17.03 KIDS FIRST PROGRAM

When parents of minor children file a divorce, dissolution, or complaint for legal separation, they shall be required to send their children ages 8-12 to a program designated by the Court focusing on giving the children coping skills to successfully

overcome difficulties associated with changes in their family structure.

On a case-by-case basis, for good cause shown, the Court may relieve a party of the obligation to send their children to the program.

## **TITLE 18: PARENTING TIME / PARENTING SCHEDULES**

### **18.01 PARENTING TIME SCHEDULES**

Liberal parenting time is encouraged by the Court, taking into account the number of children, their ages, and the geographic proximity of the parties. The parenting time schedule, to the extent possible, should encourage periods of parenting time of significant duration and minimize frequent shifting of the children back and forth between their parents.

The parties are encouraged to agree upon a schedule of parenting time. If they cannot agree, the Court will normally order parenting time as set forth in the schedule herein, unless the particular circumstances indicate that such parenting time would not be in the best interests of the children.

In split custody situations, this Rule shall not apply, and parenting time shall be as ordered by the Court, consistent with the philosophy of this Rule and provide, to the extent possible, that siblings shall be together during parenting time.

1) Flexibility and cooperation by the parents in handling all aspects of parenting time is in the best interests of the children. The parties shall make reasonable efforts to accommodate each other's needs, as well as the needs of the children, in implementing the ordered schedule of parenting time. The parties may, from time to time, mutually agree to a schedule that varies from the ordered schedule of parenting time to accommodate their needs and the needs of the children.

#### **2) Basic Parenting Time Schedule:**

- a) Alternate weekends from Friday to Sunday. If the parties are unable to agree otherwise, said parenting time shall commence at 6:00 P.M. on Fridays and end at 6:00 P.M. on Sundays. This schedule shall be followed year-round;
- b) The non-residential parent shall have one midweek parenting time per week. If the parties are unable to agree, then the midweek parenting time shall be every Wednesday evening from 4:30 P.M. (or as soon thereafter as the non-residential parent is available) until 8:00 P.M. If the children are in a child care arrangement, the parent may pick up the children from the caretaker.
- c) For the purpose of parenting time, there are seven (7) holidays as follows:

(1) Martin Luther King Day (Friday at 10:00 A.M. until Monday at 8:00 P.M.)

- (2) President's Day (Friday at 10:00 A.M. until Monday at 8:00 P.M.)
- (3) Easter (Sunday at 10:00 A.M. until 8:00 P.M.)
- (4) Memorial Day (Friday at 10:00 A.M. until Monday at 8:00P.M.)
- (5) Fourth of July (10:00 A.M. until 8:00 P.M.)
- (6) Labor Day (Friday at 10:00 A.M. until Monday at 8:00 P.M.)
- (7) Thanksgiving (Wednesday before Thanksgiving after school or 3:00 P.M.  
until Sunday at 8:00 P.M.)

In the odd-numbered years, the Mother shall have the children on the odd-numbered holidays; and the Father shall have the children on the even-numbered holidays. In the even-numbered years, the Father shall have the children on odd-numbered holidays; and the Mother shall have the children on even-numbered holidays.

d) Except as otherwise provided herein, each parent shall have the children for one-half of the Christmas break or Winter break. "Christmas/Winter break" shall be deemed as commencing the day after the last day of school at 9:00 A.M. until the day before school reconvenes at 6:00 P.M. (including weekends) but not including December 24 and December 25. In the event there is an odd number of days during Christmas break, the non-residential parent shall have the children for the extra day. The non-residential parent's choice of dates during Christmas break has priority over the residential parent's Christmas break schedule if the non-residential parent notifies the residential parent of the dates not later than October 1 of the applicable year. Absent timely notification by the non-residential parent, the residential parent's Christmas break schedule shall have priority. For purposes of this paragraph a "day" is all or any portion of one calendar day.

e) In even-numbered years, the non-residential parent shall have the children from 9:00 P.M. on December 24 until 6:00 P.M. on December 25. In odd-numbered years, the non-residential parent shall have the children from 10:00 A.M. until 9:00 P.M. on December 24 and from 6:00 P.M. to 11:00 P.M. on December 25. The children shall be with the residential parent on December 24 and December 25 at all other times not otherwise specified on these dates.

f) On Mother's Day and Father's Day, no matter whose turn for parenting time, the children will be with the appropriate parent from 10:00 A.M. until 6:00 P.M.

g) "School summer recess" is defined as beginning at 6:00 P.M. on the Friday immediately after the last day the children attend school and ending at 6:00 P.M. on the Friday one week before school reconvenes.



i) The parents shall alternate weeks with the children from Friday at 6:00 P.M. until the following Friday at 6:00 P.M., continuing to alternate weekends with the children according to the year-round schedule.

ii) However, each parent shall be entitled to take the children on vacation away from that parent's residence for a period of up to fourteen (14) consecutive days upon thirty (30) days advanced written notice to the other parent, accompanied by written agenda indicating the vacation destination, phone numbers where he or she can be reached, times of arrival and departure and method of travel. An itinerary with contact telephone numbers must be given to the other parent no later than ten (10) days prior to departure. This time shall not interfere with or conflict with the holiday or days of special meaning schedule and does not have to be made up. Seven (7) of the fourteen (14) days must include the parent's week of parenting time.

h) The children shall celebrate their birthday in the home of the parent who has parenting time on that day.

i) When conflicts arise under this Basic Parenting Time Schedule, the following priority schedule shall apply (in descending order) with lowered-numbered items taking priority over high-numbered items:

1) Parenting Time at Christmas time;

2) Thanksgiving parenting time;

3) Extended summer parenting time;

4) Mother's Day and Father's Day

5) Other holiday parenting time

6) Weekend parenting time;

7) Midweek parenting time;

j) The continued participation in extracurricular activities (school related or otherwise) shall continue uninterrupted regardless of this parenting time schedule. It shall be the responsibility of the parent with whom the children are with at the time of the activity to provide physical and reasonable economic costs of transportation to these activities. Each parent shall provide the other parent with notice of all extra-curricular activities (school related or otherwise) in which the children participate. The parent enrolling the children in the activity shall provide to the coach, leader or facilitator of the activity, the other parent's name, telephone number, email and contact information. Schedules of extracurricular activities (handwritten by the parent if no formal schedule is provided by the activity) and



the name of the activity leader (including address and telephone number if reasonably available) shall also be provided to the other parent. Extracurricular activities of the children shall not be scheduled by the residential parent so as to unreasonably interfere with parenting time.

k) Absent agreement otherwise, the non-residential parent shall arrange for the pick up the children at the beginning of each parenting time and the residential parent shall arrange for the pick up the children at the end of each parenting time for return to their residence. The transportation provider shall be the parent or any individual known to the children. Any person driving the children must comply with all child restraint laws. No person transporting the children may be under the influence of drugs or alcohol. Only licensed drivers may transport the children.

l) If a non-residential parent is unable to exercise parenting time, 24 hours' notice must be provided to the residential parent, absent exigent circumstances. A non-residential parent more than thirty (30) minutes late for parenting time forfeits that parenting time. The Court may consider frequently missed parenting time, with or without notice, as grounds for modification of the parenting time schedule and/or contempt. A residential parent may cancel scheduled parenting time due to a child's illness and should give 24-hours' notice, if possible. Any parenting time canceled due to illness shall be made up as soon as is practicable.

m) Parenting time is a time for the children to be and do things with the parent with whom they do not live. During parenting time, the children should not be left with babysitters, except for short durations or to facilitate work schedules.

n) Open and free communication by telephone, FaceTime, videochat and otherwise shall be permitted between the children and the parent with whom they are not then residing for a reasonable duration.

o) Upon either parent learning or determining, whichever occurs first, that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by Ohio Revised Code §3109.051(G) and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information that is necessary to effectuate a smooth transition for the children.

3) When the Oldest Child Is less than Eighteen Months. The Basic Parenting Time Schedule shall not apply when the oldest child of the parents is less than eighteen months of age. When the oldest child of the parents is less than eighteen months of age the non-residential parent shall have two (2) weekly visits with the children.

If the parents cannot agree, these visits shall be every Wednesday from 5:30 P.M. to 8:30 P.M. and every Sunday from 12:00 P.M. to 6:00 P.M.

The general rules of parenting time set forth in subparagraphs (i) through (o) of the

Basic Parenting Time Schedule shall apply.

When the oldest child of the parents has attained the age of eighteen months, the parenting time schedule shall be pursuant to paragraph (4) of this rule.

4) When the Oldest Child is Eighteen Months to Three Years. When the oldest child of the parents is age eighteen months to three years, the Basic Parenting Time Schedule shall not apply. When the oldest child of the parents is age eighteen months to three years, the non-residential parent shall have two (2) weekly visits, with one (1) being an overnight visit with the children.

If the parents cannot agree, this parenting time shall be every Wednesday from 5:30 P.M. to 8:30 P.M. and every Saturday from 12:00P.M. to Sunday at 6:00 P.M.

The general rules of parenting time set forth in subparagraphs (i) through (o) of the Basic Parenting Time Schedule shall apply.

When the oldest child of the parents has attained the age of three years, parenting time shall be pursuant to the Basic Parenting Time schedule as to all children of the parents.

5) Travel Distance of 100 Miles or More. If the parents reside 100 miles or more from each other, the Basic Parenting Time Schedule shall not apply. If the parties cannot agree on a parenting time schedule (unless the Court otherwise orders), the following will normally be ordered as the parenting time schedule by the Court:

a) Five (5) consecutive weeks for the non-residential parent, commencing the first Sunday of the summer school vacation.

The residential parent shall be permitted to have the children, overnight, one (1) weekend from Saturday at 9:00 A.M. until Sunday at 6:00 P.M. during the five (5) weeks of parenting time. This weekend of parenting time for the residential parent shall be exercised in the geographic area of the non-residential parent's residence, unless the parents otherwise agree. The parents shall agree upon the designated weekend with priority given to the non-residential parent's vacation plans.

b) Each year during Christmas break, the non-residential parent shall have the children seven (7) consecutive days over the Christmas school vacation, not including Christmas Day, which shall be spent with the residential parent. In odd-numbered years, the non-residential parent shall have the children on Christmas Day, in addition to seven (7) additional consecutive days.

c) In even-numbered years, the non-residential parent shall have the children from the Wednesday preceding Thanksgiving (after school) until the Sunday subsequent to Thanksgiving at 8:00 P.M.

d) The non-residential parent shall have the children every spring school break from the last day of school (after school) until the day before school reconvenes at 8:00P.M.

e) If travel time, by car, is less than three (3) hours one way, the non-residential parent shall have the children from Friday at 8:00 P.M. until Sunday at 8:00 P.M. the last weekend of each month during the school year. If said weekend is preceded on Friday by a holiday or followed on Monday by a holiday, said weekend shall be deemed as including the holiday and shall commence at 10:00 A.M. (on Fridays) and end at 8:30 P.M. (on Mondays).

Open and free communication by telephone, FaceTime, videochat and otherwise shall be permitted between the children and the parent with whom they are not then residing for a reasonable duration (g) Responsibility for transportation costs shall be included in the Court's order. If the parents cannot agree on costs of transportation, costs shall be ordered by the Court. The Court may consider the costs of transportation to effectuate parenting time as a factor in deviating from child support calculations.

f) When a child or children of parents residing more than 100 miles from each other has not yet attained the age of five (5) years, parenting time shall be as ordered by the Court, consistent with the philosophy of parenting time set forth by this Rule.

g) When a child or children of parents residing more than 100 miles apart from each other has attained the age of fourteen (14) years, the parenting time schedule shall be as set forth in this Rule unless the Court otherwise orders.

## **TITLE 19: CHILD SUPPORT ENFORCEMENT AGENCY**

### **19.01 WAYNE COUNTY CHILD SUPPORT ENFORCEMENT AGENCY**

The following rules shall apply to effectuate the collection of child support and spousal support:

A) All child support and spousal support (if child support is also ordered) ordered, both temporary and permanent, shall be paid through the Wayne County Child Support Enforcement Agency (CSEA), plus 2% processing fee or other fee determined by statute.

B) The parties (obligor and obligee) affected by any support order shall keep the CSEA informed of any change of address, employment, or other conditions that may affect the administration of a support order.

C) Any direct payments between the parties shall be considered as "gifts" by the Court with no credit given, unless otherwise agreed to by the parties. When a support order is issued or modified, payments shall be made to the Wayne County CSEA until the appropriate withholding order becomes effective.

D) The CSEA will accept an affidavit from an obligee granting credit for payment of support made just prior to a Court order requiring payments through the CSEA. The affidavit will state when the CSEA should begin charging support against the obligor.

E) The CSEA will not give credit against current support and/or an arrearage other than the above-mentioned without a Court order.

F) Pursuant to O.R.C. §3121.51, all child support and spousal support payments owing on the same case will be due at the same time frequency, i.e., child support is owed monthly, spousal support must be monthly.

G) Monthly support obligations will be prorated for the first month's obligation if the effective date of the order is not the 1<sup>st</sup> day of the month.

## **TITLE 20: SPECIAL PROCEEDINGS-REGISTRATION OF ORDERS OF OTHER STATES OR COUNTRIES**

### **20.01 UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)/ REGISTRATION OF FOREIGN SUPPORT ORDER**

A) **When Applicable.** A child support order issued by another state or country may be registered in this Court for purposes of enforcement and/or modification in accordance with O.R.C. §3115.101 *et seq.*

B) **Procedure.** An action to register a foreign child support order for enforcement purposes only is governed by O. R.C. §3115.601 through O.R.C. §3115.608. An action to modify a foreign child support order is governed by O. R.C. §3115.609 through §3115.616. The pleading must set forth the nature of the remedy sought. The following items shall be included in and/or attached to the petition pursuant O. R.C. §3115.602:

- 1) A letter of transmittal to the tribunal requesting registration and enforcement;
- 2) Two copies, one of which must be certified, of all orders to be registered, including any order which modified a previous order;
- 3) An affidavit of the party seeking registration, or of the custodian of the records, stating the amount of any arrearage;
- 4) The name, address and social security number of the obligor; the obligor's employer (if known) and a list of any property located in Ohio which is owned by obligor and which is not exempt from execution;
- 5) A statement listing any agency or person to whom child support payments are to be sent if payments are not to be remitted to the obligee;
- 6) The name, address, sex, social security number and date of birth of each child for whom support is sought;
- 7) An Application for Child Support Services; [ Form #33]
- 8) A proposed Judgment Entry adopting the foreign child support order.
- 9) Per O.R.C. §3115.605, a notice must accompany the pleadings and be sent to the non-registering party that includes:
  - (a) That a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;
  - (b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice

unless the registered order is under §3115.707 of the Revised Code;

- (c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages;
- (d) The amount of any alleged arrearages.

**C) Spousal Support.** Pursuant to O.R.C. §3115.102(Y)) spousal support may be subject to an action under UIFSA

**D) Contest of Registration.** The obligor may contest the validity and/or the enforcement of the foreign support order at the hearing or in accordance with O.R.C. §3115.607.

**E) Modification of Child Support Order.** If the originating state has either lost or relinquished jurisdiction, a modification of a foreign child support order is possible and shall be strictly governed by O.R.C. §3115.611 *et seq.*

**F) Procedure when both parties reside in Ohio.** When both parties to a support order issued by another state or country reside in the State of Ohio, this Court has jurisdiction to enforce or modify the issuing state or country's child support order in a proceeding to register such order. [O.R.C. §3115.611]

## **20.02 ESTABLISHMENT OF CHILD SUPPORT ORDER – FOREIGN DECREE**

**A) When Applicable.** In the event a Court of another state or country conducts a divorce or similar proceeding dissolving a marriage but does not issue a child support order; a verified petition for a temporary or permanent child support order may be filed in this Court pursuant to O.R. C. §3115.401.

**B) Procedure.** A petition requesting the establishment of a child support order shall contain a description of the relief sought and shall include the following:

- 1) The name and address of the party seeking establishment of a child support order;
- 2) The name and address of the party from whom the child support is sought;
- 3) A statement indicating either that the party seeking the child support order resides in another state or country, or, that the child support order is being sought by the support enforcement agency of another state;
- 4) An Affidavit of Financial Disclosure or approved UIFSA form;
- 5) Certified copies of any Court orders which relate to child custody, paternity, or prior support orders;
- 6) A hearing notice.
- 7) An Application for Child Support Services [Form #33]
- 8) A copy of all documents shall be sent to initiating Court.

### **20.03 SPECIAL RULES OF EVIDENCE AND PROCEDURE – FOREIGN SUPPORT ORDERS**

A) **Physical Presence Not Required.** Pursuant to O.R.C. §3115.316, the physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

B) **Admissible Documents.** Pursuant to O.R.C. §3115.316 An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

C) **Certified Copy of Payment Records.** A certified copy of any out-of-state payment record provided by the custodian of the records is admissible as evidence of payment history.

D) **Attorney Fees and Costs.** An obligee who files a petition pursuant to O.R.C. §3115.601 through O.R.C. §3115.616 is not required to pay filing fees. If the obligee prevails the Court may award the obligee his or her attorney fees, costs, and necessary travel expenses incurred by the obligee and/or the obligee's witnesses. (O.R.C. §3115.313)

### **20.04 UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT (UCCJEA)**

A) **When Applicable.** Child custody orders from another state may be filed in accordance with O.R.C. §3127.01 *et seq.* in order to enforce or modify orders pertaining to custody or parenting time. Orders pertaining to child support or any other monetary obligation of any person are not included in a proceeding under this rule.

B) **Procedure.** A verified petition requesting enforcement or modification of a parenting decree of another state shall be filed with the Clerk of Courts. The petition shall set forth the nature of the relief sought. The petition shall also state whether there is a pending parenting proceeding in any other state. In the initial pleading or in an affidavit attached to that pleading, the moving party shall provide the facts to be pleaded pursuant to O.R.C. §3127.23. The following shall be attached to the petition:

- (1) A certified copy of the parenting decree;
- (2) A Parenting Proceeding Affidavit [Form # 3].
- (3) A notice of hearing with a hearing date which is **not less than twenty days after the date of service.**
- (4) An Application for Child Support Services [Form #33]

C) **Notice to Respondent.** Notice of filing of a parenting decree from another state shall be made in accordance with O.R.C. §3127.07 and §3127.19.

D) **Motions.** A motion for relief shall be filed at the same time the petition for registration is filed, unless otherwise ordered.

E) A copy of all documents filed shall be sent to the initiating Court.

## **20.05 COMBINED ACTIONS – FOREIGN SUPPORT AND PARENTING ORDERS**

An action pursuant to O.R.C. § 3127.01 *et seq.* (UCCJEA) and an action pursuant O.R.C. §3115.01 *et seq.* (Foreign Support Orders) may be combined in appropriate circumstances.

## **TITLE 21: MEDIATION IN DOMESTIC RELATIONS COURT**

A) **Applicability.** Unless otherwise specified, the rules governing mediation in Wayne County Common Pleas Court Local Rule 21 are fully applicable to mediation in Domestic Relations Court. Further, the provisions of the Ohio Uniform Mediation Act under O.R.C. Chapter 2710 shall apply.

B) **When Ordered.** The Court, upon its own motion or upon motion of either or both parties, may order both parties to participate in mediation at any time after service of summons in any action for divorce, legal separation, annulment, allocation of parental rights and responsibilities, parenting time, child-related matter, and child support, or at any time after the filing of any post decree motion. Parties who have agreed to use the services of an outside mediator shall prepare and submit an order designating the mediator and allocating the responsibility for payment of the selected individual. In the absence of such an order, an order for mediation shall refer the parties to the Court's Mediation Services.

C) **Scope.** The Court shall not permit the use of mediation in any of the following situations:

- 1) As an alternative to the prosecution or adjudication of domestic violence;
- 2) In determining whether to grant, modify, or terminate a protection order;
- 3) In determining the terms and conditions of a protection order; and
- 4) In determining the penalty for violation of a protection order.

Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order.

D) **Procedure.** If it is determined that mediation is appropriate, the Court shall ensure that both parties are permitted to participate in the mediation process with a mediator who meets the qualifications set forth in this rule. Existing Court orders are not stayed or suspended during the mediation process. The parties shall be advised that either can withdraw from the mediation process at any time without fear that



terminating the process will adversely affect his or her standing before the Court. Within 45 days of the date of the order referring the parties to mediation or upon the termination of mediation, whichever occurs last, the mediator shall file a mediation report. Any agreement reached during mediation shall not be binding upon the parties until approved by the Court, who shall consider the best interests of the children when allocating parental rights and responsibilities and establishing a parenting time schedule.

E) Qualifications. Mediators shall meet the qualifications in Sup.R. 16.23.

## **TITLE 22: PARENTING COORDINATION**

A) Parenting Coordination Defined. “Parenting coordination” means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. “Parenting coordination” is not mediation subject to O.R.C. Chapter 2710, O.R.C. §3109.052, or Sup.R. 16 nor arbitration subject to O.R.C. Chapter 2711 or Sup.R. 15.

B) Parenting Coordinator Defined and Qualifications. “Parenting coordinator” means an individual appointed by the Court to conduct parenting coordination for the resolution of disputes related to the allocation of parental rights and responsibilities or parenting time orders outside of Court. Parenting Coordinators shall meet the qualifications, continuing education, training, and reporting requirements set forth in Sup.R. 16.60 through 16.66.

C) Appointment of Parenting Coordinator. The Court may order a Parenting Coordinator, *sua sponte* or upon written or oral motion by one or both parties, when one or more of the following factors are present:

- 1) The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need assistance;
- 2) There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which the children of the parties are adversely affected;
- 3) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an Order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- 4) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an



order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;

- 5) One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;
- 6) Any other factor as determined by the Court.

D) Limitations of a Parenting Coordinator. A parenting coordinator may not determine the following:

- 1) Whether to grant, modify, or terminate a protection order;
- 2) The terms and conditions of a protection order;
- 3) The penalty for violation of a protection order;
- 4) Changes in the designation of the primary residential parent or legal guardian of a child; or
- 5) Changes in the primary placement of a child.

E) Fees. A parenting coordinator shall be paid \$200.00 per hour, unless otherwise ordered by the Court or agreed to by the parties and the parenting coordinator. If the Court determines that the parties are indigent, some of the fees associated with the parenting coordinator may be waived. The parenting coordinator has the right to suspend all services until payment of any unpaid balances.

F) Confidentiality and Privilege. Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

G) Public Access. The files maintained by a Parenting Coordinator but not filed with the Clerk of Courts or submitted to the Court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

## **TITLE 23: NEUTRAL EVALUATION**

A) Defined. "Neutral Evaluation" is a Court-ordered dispute resolution process in which Early Neutral Evaluators provide an evaluation of the probable outcome of any dispute. Neutral Evaluation is not mediation.

B) Qualifications. An Evaluator shall meet the qualifications, continuing education, training, and reporting requirements set forth in Sup.R. 16.51 through 16.55.

C) Limitations. Neutral Evaluation is not to be used in domestic violence cases under O.R.C. §2919.25, §2919.26, §2919.27 and §3113.31.

D) Confidentiality and Privilege. Except as provided by law, the files maintained by an evaluator but not filed with the Clerk of Courts or submitted to the Court shall not be available for public access under Sup.R. 44 through 47.