



COURT OF COMMON PLEAS – GENERAL & DOMESTIC DIVISIONS

LOCAL RULES

Rules of Civil Procedure

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Rule 1: Pleadings

All pleadings and other papers filed in a case shall be typewritten and left unfolded for the purpose of filing in flat folders and shall be on 8½" x 11" paper securely bound at the top if containing more than one sheet.

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 "A"](#), 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 a leave to plead by one of the following procedures:

(a) 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 theretofore obtained a leave to plead in that case. Such leave to plead may not be for more than twenty-eight (28) 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 and all parties not represented by counsel.

(b) When no previous leave to plead has been taken other than the automatic leave to plead referred to in subparagraph (a), the party may obtain one additional leave to plead by the filing of a certification to the effect that he has obtained only one prior leave to plead and which request is approved by counsel for all parties who have entered an appearance in the case and all parties not represented by counsel who have entered an appearance in the case. Such leave to plead may not be for more than twenty-eight (28) 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 and all parties not represented by counsel who have entered an appearance in the case.

(c) Any leave to plead other than those as described in subparagraphs (a) and (b) may be obtained by a party only by the filing of a written motion, which shall be served upon counsel for all parties who have entered an appearance in the case and all parties not represented by counsel who have entered an appearance in the case. This motion shall be filed with the Clerk at least seven (7) days prior to the otherwise applicable expiration of time in which the party has to file the desired pleadings. Such motion shall set forth good cause as to why an additional leave to plead is necessary.

In the event any party objects to the granting of any leave to plead to any other party, such objecting party may move the Court to shorten the otherwise applicable time, as extended, which motion shall be heard at the earliest opportunity with telephone notice to opposing counsel given by the Assignment Commissioner.

All certifications or motions for leave to plead must be filed with the Clerk before the expiration of the otherwise applicable time limit.

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: Appropriations; Appeals from administrative agencies, boards, bureaus and commissions; Injunction actions; Partitions and Foreclosures; and any other cases as determined by the Court. The judge shall make the order only after consulting with all counsel of record at a scheduling conference, which may be conducted in person or by telephone.

The scheduling order shall 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, provided that pretrial conferences shall be set no more than thirty (30) days before the trial date. Pretrial conferences will 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. Upon the filing of the motion, the Court will fix a "hearing" date as required by Rule 56(C) of the Rules of Civil Procedure, using the form journal entry marked as Exhibit "B" and attached to these rules.

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 fourteen (14) days after receipt of the motion. Reply or additional briefs or memorandums shall be submitted only with the approval of the Court.

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 continuance. Requests for continuance shall be submitted to the judge assigned to the case at least fourteen (14) days prior to the trial or hearing date. 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 one attorney only 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 for special reasons the Court permits otherwise.

D. Attorneys will not be permitted to take part in any proceedings in this Court except in appropriate attire.

Rule 6: Judgment Entries

Except as to certifications and entries granting leave to plead and matters in which the Court prepares a judgment entry, counsel for the prevailing party shall prepare a judgment entry which reflects the previously announced decision of the Court and/or Jury verdict. Such proposed judgment entry shall be submitted to counsel for all parties and all parties unrepresented by counsel who have entered an appearance in the case, who shall approve or object to the proposed entry within seven (7) days after its service and return said entry to the counsel who prepared it. Failure to so respond shall be deemed approval of the proposed entry. If all counsel and parties unrepresented by counsel approve the proposed entry within the time limit set forth herein, upon return of the proposed entry to counsel who prepared it, said counsel shall cause the judgment entry to be delivered to the Court which, when approved and signed by the Court, shall be entered forthwith by the Clerk upon the journal.

If any objection is made to the proposed judgment entry within the aforesaid seven (7) day period, the objecting party shall state his objection in writing and attach these objections to the entry and file the same with the Clerk. In the alternative, the objecting party may file with the Clerk an alternative proposed judgment entry which he feels properly reflects the matter at issue. Both an objection and an alternative proposed entry shall be served upon all counsel and all parties unrepresented by counsel. The Court may resolve the matter of the objections or alternative proposed judgment entry without a hearing or may schedule a hearing upon notice to all parties.

In the event no one party is clearly the prevailing party, the Court shall designate which counsel shall prepare the proposed judgment entry and, in the absence of such designation, the parties may request the Court to make such designation.

All such proposed judgment entries shall be submitted to all counsel of record and all parties unrepresented by counsel within seven (7) days after the decision reflected in the judgment entry.

If, by reason of the number of counsel and parties, it would be too time consuming to circulate the judgment entry to each for direct approval, the counsel preparing the proposed judgment entry may submit the original entry directly to the Court for approval. This shall be appropriate if four (4) or more approvals would be required. Such proposed entry shall, in lieu of the approval of other counsel, contain a certificate of the submitting counsel that on a specified date he mailed a copy of the judgment entry to all counsel or parties whose approval is not endorsed thereon. The Court will withhold approval and filing of the proposed judgment entry until seven (7) days from the date copies were sent to other counsel or parties has expired, which fact shall be reflected in the certificate of service of such proposed entry. If no written objections or alternative proposed judgment entries are filed by the end of such period, and the judgment entry is otherwise acceptable to the Court, the same shall be approved and signed forthwith. In the event of objection or alternative proposed judgment entry, the Court may decide the matter as stated above.

Rule 7: Default Judgment

In addition to the requirements of Civil Rule 55, a party seeking a default judgment shall file a written motion and serve it on the party in default by ordinary mail at his last known address and to the party's attorney, if any, and it shall state that a default judgment is being requested. A default judgment may be granted on or after ten (10) days from the mailing of the notice.

Rule 8: 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 the amount specified in Exhibit "A" with the Clerk of Courts before the transportation shall be provided. In the event both parties request such a view, each party shall deposit one-half the amount specified in Exhibit "A". 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 9: 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 be begun and transcribed 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 10: 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 11: Notary Public Commissions

No applicant for Notary Public Commission, except attorneys at law, will be approved by the Court until the applicant has received a certificate of qualification from a committee consisting of attorneys appointed by the Wayne County Bar Association with the approval of the Court. The committee will hear and examine the applicants at least one day each week. The provisions of this rule will be waived by the Court in the case of renewal applications provided the renewal

application is made before the expiration of the applicant's current commission and the application is approved by the committee.

Rule 12: 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 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 above 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 13: 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.

**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 July 17, 2015, 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."

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 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 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 visitation, any action involving divorce, dissolution, legal separation, 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's Office 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, answers, counterclaims, 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 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 Agreements filed with the Court must be on separate paper (not included in the body of the pleadings) and styled as Shared 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 and address of each counsel or party 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 or Magistrate's secretary 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 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 entry. 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 before a Magistrate or Judge 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 *pro se* party was contacted or a good faith attempt to contact was made, and that the opposing counsel or party either objects or does not object to the continuance.

4.02 JOURNAL ENTRY

The motion for continuance must be accompanied by a proposed entry containing a new hearing date previously obtained by the moving party and cleared with opposing counsel or party's calendar, and signature lines for the appropriate Magistrate or Judge. If the motion is granted, the Clerk shall serve the entry 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 court's office, 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 he/she files 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 visitation based upon the affidavits submitted therein, and/or schedule the matter for a hearing. The moving party shall submit a journal entry for use by the court in the event the motion is granted. The journal entry 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 ten (10) 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 journal entry for use by the court in the event the motion is granted. The journal entry 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 vacation order. Said hearing shall be scheduled within ten (10) 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* RESTRAINING ORDERS**

6.01 MUTUAL RESTRAINING ORDER

A mutual temporary restraining order shall be issued by the Magistrates forbidding both parties from harassing, abusing or annoying one another and enjoining both parties from transferring or encumbering their assets, upon the submission of an appropriate written entry prepared by either party or their counsel. The entry shall be captioned as a 'Magistrate's Order' with a signature line for use by the Magistrates. 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 child 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 his absence, an available Judge) and depositing them with the court's secretary. The Magistrate 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 ten (10) calendar days, if possible. *Ex parte* motions not granted will be set for hearing.

The moving party shall submit a journal entry for use by the court in the event the motion is granted. The journal entry 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 *ex parte* order. Said hearing shall be scheduled within ten (10) days of the issuance of the *ex parte* order, if possible.

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 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 precept to the assigned official court reporter. All transcripts shall be filed with the clerk of courts office within thirty (30) days of the filing date of the precept. 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 1-28 are available online at:

<http://www.sconet.state.oh.us/JCS/CFC/DRForms/default.asp>.

All other forms required under this rule are available online at:

<http://www.waynecourts.org/courtofcommonpleas/domesticrelations>.

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 | 46 |
| COMPLAINT FOR DIVORCE | 7 |
| * AFFIDAVIT OF INCOME AND EXPENSES | 1 |
| AFFIDAVIT OF PROPERTY | 2 |
| MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making deposit) | 44 |
| INDIGENCY AFFIDAVIT (if not making a deposit) | 35 |
| PARENTING PROCEEDING AFFIDAVIT | 3 |
| * CHILD SUPPORT WORKSHEET COMPLETED CORRECTLY | 31 or 32 (as appropriate) |
| MOTION AND AFFIDAVIT OR COUNTER AFFIDAVIT FOR TEMPORARY ORDERS WITHOUT ORAL HEARING (if requesting temporary orders) | 5 |
| REQUEST FOR SERVICE (#28) or WAIVER OF SERVICE OF SUMMONS (#27) | |
| * APPLICATION FOR CHILD SUPPORT SERVICES FORM | 30 |
| FINAL JUDGMENT ENTRY OF DIVORCE WITH CHILDREN | 12 |

*** 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 | 46 |
| COMPLAINT FOR DIVORCE WITHOUT CHILDREN | 6 |
| AFFIDAVIT OF INCOME AND EXPENSES | 1 |
| AFFIDAVIT OF PROPERTY | 2 |
| MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making deposit) | 44 |
| INDIGENCY AFFIDAVIT (if not making deposit) | 35 |
| MOTION AND AFFIDAVIT OR COUNTER AFFIDAVIT FOR TEMPORARY ORDERS WITHOUT ORAL HEARING (if asking for temporary orders) | 5 |
| REQUEST FOR SERVICE (#28) OR WAIVER or SERVICE (#27) | |

10.02 UNCONTESTED DIVORCES

If any case is to be 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 at which to finalize the parties' divorce. Counsel for the party(ies) shall notify the court of their request for an uncontested final hearing to be scheduled.

10.03 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 filing of the initial complaint.

All attorneys of record shall appear at the first status conference, unless the court schedules the first status conference as a telephone conference. Parties are not required but may attend

the first status conference. If the first status conference is held by telephone, only attorneys of record shall participate in telephone conferences with court assignment of responsibility to initiate the conference call.

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 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 277 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.

Propounding of interrogatories, requests for documents and requests for admissions and the responses thereto shall be completed 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 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) Pretrial: The parties and all counsel must be present at the pretrial.

All depositions and supplements to other discovery shall be completed by the final pretrial. Valuation of debts and assets shall be as of the date closest to the 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 court with a copy of the party's exhibit list together with copies all marked exhibits at the pretrial.

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 stipulations shall be reduced to writing and submitted to the court.

Any exhibit not disclosed at status conference two shall not be admitted and any witness not disclosed at status conference two shall not be permitted to testify at the final divorce hearing, except as provided in paragraph B) of this rule.

D) Final Divorce Hearing: At the final divorce hearing each party shall prepare and file with the court a trial memorandum stating the party's position with respect to each disputed issue and briefing any disputed point of law.

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 | 46 |
| PETITION FOR DISSOLUTION | 14 |
| * AFFIDAVIT OF INCOME AND EXPENSES | 1 |
| AFFIDAVIT OF PROPERTY | 2 |
| MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT | 44 |
| INDIGENCY AFFIDAVIT (if not making a deposit) | 35 |
| SEPARATION AGREEMENT with PARENTING PLAN (if not asking for | 16 and 18 |

| | |
|---|---------------------------|
| shared parenting) | |
| SHARED PARENTING PLAN (only if asking for shared parenting) | 17 |
| PARENTING PROCEEDING AFFIDAVIT | 3 |
| *CHILD SUPPORT WORKSHEET (completed correctly) | 31 or 32 (as appropriate) |
| WAIVER OF SERVICE OF SUMMONS | 27 |
| *APPLICATION FOR CHILD SUPPORT SERVICES FORM | 30 |

*** 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 | 46 |
| PETITION FOR DISSOLUTION OF MARRIAGE AND WAIVER OF SERVICE OF SUMMONS | 14 |
| SEPARATION AGREEMENT | 16 |
| AFFIDAVIT OF PROPERTY | 2 |
| AFFIDAVIT OF INCOME AND EXPENSES (if requesting spousal support) | 1 |
| MOTION TO PROCEED WITHOUT ADVANCING A FILING FEE DEPOSIT (if not making a deposit) | 44 |
| INDIGENCY AFFIDAVIT (if not making deposit) | 35 |

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 Sections 3119.23 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 continue the hearing or dismiss the matter.

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# 15) shall be presented to the court 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 Sections 3119.23 and 3119.24 ORC. 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. A judgment shall not contain only a recital of pleadings, the Magistrate's Decision in a referred manner, or the record of prior 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 if health insurance is provided, the amount when health insurance is not provided, 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. 3119.30 through 3119.31 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 entry or that party's own proposed 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 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 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 entry.

12.06 MAGISTRATE APPROVAL

All judgments or journal entries pertaining to matters that were referred to a Magistrate shall be approved and signed by the same 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, 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 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 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, as outlined by Ohio Civil Rules of Procedure Rule 53(C)(3)(a), are subject only to appeal by filing a motion to set the order aside. 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 in an appeal of

a magistrate's order. The magistrate's order remains in effect during the consideration of a motion to set aside unless the magistrate or the court grants a stay.

13.04 MAGISTRATE'S DECISION

Pursuant to Ohio Civil Rule 53(E) the Magistrates 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(E)(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 precept for the transcript with the clerk 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 Local Rule 8.02. 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. If either counsel wishes to review or copy the transcript it may be obtained from the clerk 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

The Court may set post-decree motions for pretrial hearing at the discretion of the Court, except for contested modifications or parental rights and responsibilities as set forth by Rule 14.03. In all other post-decree motions, a party may request a pretrial hearing date from the Magistrates' secretaries prior to filing the motions, if a pretrial hearing is desired by either party. Each post-decree motion that has a pretrial hearing requested must include a "Notice of Pretrial Hearing" with the hearing date and time on the original and copies for service.

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.

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 2705.031 O.R.C. 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 MODIFICATION OF PARENTAL RIGHTS AND RESPONSIBILITIES (Contested)

Motions for contested modifications of parental rights and responsibilities shall be served in accordance with Civil Rules. If one or more of the parties is represented a pretrial may be set on the motion. If both parties are unrepresented the court may set a pretrial. Unless otherwise ordered, the child(ren) will not be interviewed at the pretrial and should not be brought to Court if other child care arrangements can be made. At the pretrial:

- A) The Court will schedule interviews of the children in accordance with the provisions of O.R.C. 3109.04 and 3109.051, or their successors.
- B) Motions for a guardian *ad litem* and psychological examinations will be considered.
- C) A final hearing date will be set. The Court may set a second pretrial in its discretion.

14.04 AGREED CHANGE OF RESIDENTIAL PARENT

The residential parent designated by a prior decree allocating parental rights and responsibilities for the care of the children or by a shared parenting decree may be changed by 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 in the best interest of the child or children;

B) The agreed entry must be accompanied by child parenting affidavits executed by each parent pursuant to Ohio Revised Code 3109.27;

C) 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 [visitation], and all other modified provisions, if relevant to the care of the child or children, and the name and address of each party's employer. (See Form #37) 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 Sections 3119.23 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.

If the court cannot determine whether the agreed change of the residential parent is in the best interest of the child or children from the documents submitted or if the parties fail to fully comply with this rule, the court shall set the motion for change of residential parent for hearing before the Magistrates.

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 visitation 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 \$1000.00 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 child'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. Initial 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 final 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 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 Magistrate's assistant shall upon receipt, deliver 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 and to each of the attorneys of record directly by the psychological examiner. Parties are permitted to read the report in its entirety. A party may receive a hard copy of the report from the Magistrate's assistant or their counsel, in its entirety, on condition that the party sign and file with the Court a Notice of Compliance as set forth in 16.05 hereinafter. Parties, shall not disseminate, nor allow any third party to disseminate the report to anyone except a party may furnish a copy of the report to his/her own mental health counselor or attorney. A violation of this rule shall be punishable by contempt.

16.03 RELEASE OF REPORT

With the Court's permission, the Guardian ad Litem may release the psychological evaluation or custody evaluation to a child's counselor or a party's counselor for therapeutic purposes.

16.04 NOTICE

The Court shall attach a copy of Title 16 to each order compelling psychological or custody evaluations, and the final decree in divorce when a psychological evaluation or custody evaluation has been prepared.

16.05 NOTICE OF COMPLIANCE

The parties and their counsel, if represented, and the Guardian ad Litem shall file with the Court, a Notice of Compliance with this Rule in every case wherein a psychological evaluation or custody evaluation has been ordered.

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.

B) 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 COUNSELING FOR PARENTS WITH CHILDREN

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.

When divorced parties file post-decree motions for change of custody or visitation, the court may require the parties to attend the three-hour counseling program and pay the counseling fee as set forth above.

TITLE 18

PARENTING TIME/COMPANIONSHIP/VISITATION SCHEDULES

18.01 PARENTING TIME/COMPANIONSHIP/VISITATION SCHEDULES

Liberal visitation is encouraged by the court, taking into account the number of children, their ages, and the geographic proximity of the parties. The visitation schedule, to the extent possible, should encourage periods of visitation 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 visitation. If they cannot agree, the court will normally order visitation as set forth in the schedule attached to this Rule unless the particular circumstances indicate that such visitation would not be in the best interests of the children.

In split custody situations, this Rule shall not apply. When split custody is involved, visitation 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 periods of visitation.

- 1) Flexibility and cooperation by the parents in handling all aspects of visitation 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 visitation. The parties may, from time to time, mutually agree to visitation that varies from the ordered schedule of visitation to accommodate their needs and the needs of the children.
- 2) Basic Visitation Schedule:
 - (a) Alternate weekends from Friday to Sunday for a period of forty-eight (48) consecutive hours. If the parties are unable to agree otherwise, said visitation shall commence at 6:00 P.M. on Fridays and end at 6:00 P.M. on Sundays;
 - (b) The nonresidential parent shall have one midweek visitation per week. If the parties are unable to agree, then this midweek visitation shall be every Wednesday evening from 4:30 P.M. (or as soon thereafter as the nonresidential parent is available) until 8:00 P.M.
 - (c) For the purpose of visitation, there are seven (7) holidays as follows:

- (1) Martin Luther King Day
- (2) President's Day
- (3) Easter
- (4) Memorial Day
- (5) Fourth of July
- (6) Labor Day
- (7) Thanksgiving

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

Any holiday falling on Monday or Friday shall be deemed as including the immediately preceding or immediately subsequent weekend, commencing at 10:00 a.m. (on Fridays) and ending at 8:00 P.M. on Mondays.

Thanksgiving shall always be deemed as commencing on the Wednesday before Thanksgiving (after school) until the subsequent Sunday at 6:00 P.M.
All other holiday visitation shall be from 10:00 a.m. until 8:00 P.M. on the day of the holiday.

- (d) The non residential parent shall have the children for one-half of the Christmas break. "Christmas break" shall be deemed as commencing the day after the last day of school at 10:00 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 nonresidential parent shall have the children for the extra day. The nonresidential parent's choice of dates during Christmas break has priority over the residential parent's Christmas break schedule if the nonresidential parent notifies the residential parent of the dates not later than October 1st. of the applicable year. Absent timely notification by the nonresidential 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 nonresidential 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 nonresidential 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 visitation, the children will be

with the appropriate parent. Visitation shall begin at 10:00 A.M. and continue until 6:00 P.M.

(g) Five (5) weeks, consecutively or separately (for the nonresidential parent), during the school summer recess to be scheduled as early in the calendar year as possible, subject to the following:

(i) The non-residential parent's choice of the duration and dates of summer visitation has priority over the residential parent's summer vacation schedule if the nonresidential parent notifies the residential parent of the duration and dates of summer visitation not later than April 1 of the applicable year. Absent timely notification by the nonresidential parent, the residential parent's vacation schedule shall have priority.

(ii) 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 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. A complete itinerary with contact telephone numbers must be given to the other parent no later than ten (10) days prior to departure.

(iii) During the extended summer visitation (except the fourteen (14) day away-from-home vacations) children should continue to spend alternate weekends with each parent on the same schedule as the rest of the year. In addition, the residential parent shall enjoy companionship time with the children on the same midweek visitation schedule granted to the nonresidential parent during the balance of the year.

(iv) "School summer recess" is defined as beginning the day after the last day the children attend school and ending the day before school reconvenes.

(h) The child shall celebrate his/her birthday in the home of the residential parent unless it falls on a visitation day. The other parent can make up for the birthday with a separate birthday party, if desired.

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

(i) Visitation at Christmas time;

(ii) Thanksgiving visitation;

(iii) Extended summer visitation;

(iv) Mother's Day and Father's Day

(v) Other holiday visitation;

(vi) Weekend visitation;

(vii) Midweek visitation;

(j) The continued participation in extracurricular activities (school related or otherwise) shall continue uninterrupted regardless of this visitation 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. 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 visitation.

(k) Absent agreement otherwise, the nonresidential parent shall pick up the children at the beginning of each visitation and the residential parent shall pick up the children at the end of each visitation for return to their residence.

(1) If a nonresidential parent is unable to exercise visitation, 24 hours' notice must be provided to the residential parent, absent exigent circumstances. A nonresidential parent more than thirty (30) minutes late for visitation forfeits that visitation. The court may consider frequently missed visitation, with or without notice, as grounds for modification of the visitation schedule and/or contempt.

A residential parent may cancel scheduled visitation due to a child's illness and should give 24-hours' notice, if possible. Any visitation canceled due to illness shall be made up as soon as is practicable.

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

(n) Open and free communication by telephone and otherwise shall be permitted between the children and the parent with whom they are not then residing. If long distance telephone charges are involved, calls should be generally limited to not more than 15 minutes.

(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 Visitation 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 nonresidential parent shall have

two (2) weekly visits with the child(ren).

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 visitation set forth in subparagraphs (i) through (n) of the Basic Visitation Schedule shall apply.

When the oldest child of the parents has attained the age of eighteen months, the visitation 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 visitation shall not apply. When the oldest child of the parents is age eighteen months to three years, the nonresidential parent shall have two (2) weekly visits, with one (1) being an overnight visit with the child(ren).

If the parents cannot agree, these visits shall be every Wednesday from 5:30 p.m. to 8:30 p.m. and every Saturday from 12:00 noon to Sunday at 6:00 p.m.

The general rules of visitation set forth in subparagraphs (i) through (n) of the Basic Visitation Schedule shall apply.

When the oldest child of the parents has attained the age of three years, visitation shall be pursuant to the basic visitation 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 Visitation Schedule shall not apply. If the parties cannot agree on a visitation schedule (unless the court otherwise orders), the following will normally be ordered as the visitation schedule by the court:

(a) Five (5) consecutive weeks for the nonresidential 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 visitation. This weekend of visitation for the residential parent shall be exercised in the geographic area of the nonresidential parent's residence, unless the parents otherwise agree. The parents shall agree upon the designated weekend with priority given to the nonresidential parent's vacation plans.

(b) Each year at Christmas, the nonresidential parent shall have the children not less than seven (7) consecutive days over the Christmas school vacation. In odd-numbered years, the nonresidential parent shall have the children on Christmas Day in addition to the seven (7) consecutive days provided for herein.

(c) In even-numbered years, the nonresidential 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 nonresidential parent shall have the children every spring school break from the last day of school (after school) until the day before school reconvenes at 8:00 p.m.

(e) If travel time, by car, is less than three (3) hours one way, the nonresidential 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).

(f) Open and free communication by telephone and otherwise shall be permitted between the children and the parent with whom they are not then residing. Long distance telephone calls should be generally limited to not more than 15 minutes. To the extent possible, the parties should arrange to place or receive said calls in a manner that will result in each party bearing approximately equal telephone charges.

(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 visitation as a factor in deviating from child support calculations.

(h) 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, visitation shall be as ordered by the court, consistent with the philosophy of visitation set forth by this Rule.

(i) 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 visitation schedule shall be as set forth in this Rule unless the court otherwise orders.

(j) Upon either parent learning or determining, whichever first occurs, 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.

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 appropriate processing fee or as designated by the court.

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) IRS offset collections will be credited immediately upon receipt to an obligor's arrears if the tax return is an individual return. However, if the obligor is remarried and the tax refund is a joint return, the CSEA will hold the offset monies for up to six (6) months to allow the obligor's spouse the opportunity to file a request and receive his/her portion of the tax refund. If the current spouse is willing to sign an affidavit to waive his/her rights to the offset, the monies received will be credited upon receipt of the affidavit.

E) 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.

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

G) 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 weekly, alimony must be weekly.

H) Monthly support obligations will be prorated for the first month's obligation if the effective date of the order is not the 1st 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 R.C. 3115.01 *et seq.*

B) Procedure. An action to register a foreign child support order for enforcement purposes only is governed by R.C. 3115.39 through R.C. 3115.45. An action to modify a foreign child support order is governed by R.C. 3115.46 through 3115.51. 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 R.C. 3115.39:

(1) 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.

(2) 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;

(3) The name, address, sex, social security number and date of birth of each child for whom support is sought;

(4) A certified copy of all orders to be registered, including any order which modified a previous order;

(5) An affidavit of the party seeking registration, or of the custodian of the records, stating the amount of any arrearage;

(6) A statement notifying the obligor of his or her right to contest the validity and/or enforcement of the foreign child support order pursuant to R.C. 3115.42 (B);

(7) A notice of hearing.

(8) An Application for Child Support Services [Form #30]

(9) A copy of all documents filed shall be sent to the initiating court.

C) Spousal Support. Pursuant to R.C. 3115.01(T) 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 R.C. 3115.43.

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 R.C. 3115.48 *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. [R.C. 3115.48(A) (1)]

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 R. C. 3115.31.

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 # 30]
- (8) A copy of all documents shall be sent to initiating court.

20.03 SPECIAL RULES OF EVIDENCE AND PROCEDURE – FOREIGN SUPPORT ORDERS

A) Telephonic Presentation of Evidence. Pursuant to R.C. 3115.27(F), a party and/or witness in another state may be deposed or testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. The witness shall be placed under oath by an appropriate officer physically present with the party and/or witness.

B) 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.

C) Attorney Fees and Costs. An obligee who files a petition pursuant to R.C. 3115.01 through 3115.59 is not required to pay administrative 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. (R.C. 3115.24)

20.04 UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT (UCCJEA)

(A) When Applicable. Child custody orders from another state may be filed in accordance with 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. 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 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 #30]

(C) Notice to Respondent. Notice of filing of a parenting decree from another state shall be made in accordance with 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.

COMBINED UIFSA AND UCCJEA ACTIONS

20.05 COMBINED ACTIONS – FOREIGN SUPPORT AND PARENTING ORDERS

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

RULE 23 - MEDIATION

23.01 Upon order of the court, a civil action filed in this court may be submitted to mediation as provided in this rule.

23.02 Any civil case may be referred to mediation.

23.03 The case is referred to mediation by order of the court. The court may issue the order on its own motion, upon the motion of counsel, or upon agreement of the parties.

23.04 Continuances shall be granted only for good cause shown. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be rescheduled prior to the scheduled trial date.

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

23.06 CONFIDENTIALITY

(A) Pursuant and subject to RC 2317.023, the Rules of Evidence and any other pertinent judicial rule, all written or verbal communications related to the mediation or made during the mediation process shall be confidential.

(B) 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.

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

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

23.08 The efforts of the mediator shall not be construed as giving legal advice.

23.09 DUTIES OF ATTORNEYS/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.

23.10 Failure to mediate may result in sanctions being imposed by the court. Such sanctions may include attorney fees and other sanctions the court deems appropriate.

23.11 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, the court may dismiss the case administratively.