COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
CUYAHOGA COUNTY, OHIO

LOCAL RULES OF PRACTICE

(As of February, 2025)

Title 1: General Provisions

Title II: Pre-trial and Case Management Procedures; Discovery

Title III: Motion Practice

Title IV: Ex Parte Orders

Title 1: General Provisions

Rule 1: Pleadings and Motions

(A) Form. All pleadings, motions, briefs and other papers shall be legibly typewritten or printed on paper of letter size (approximately 8 ½" x 11") and without backing or cover. The caption in every complaint or petition shall state the name and address, if known, of each party. The caption of subsequent pleadings, motions and other papers shall state the case number, the name of the judge to whom the case is assigned, and the name of the first party plaintiff and the first party defendant. All captions shall briefly describe the general nature of the action. Every pleading, motion and other paper filed in the cause shall be identified by title and shall bear the name, address, telephone number and fax number of the attorney or the party filing the same. If the filing is made by an attorney, the Supreme Court registry number of the attorney and the name of the firm with which the attorney is affiliated, if any, must also be included. In all cases, a blank space of at least four (4) inches shall be left at the top of the first page for endorsements thereon.

(B) Case Designation Sheets. A case designation sheet shall be completed and filed with all original complaints and petitions.

(C) Time Limitations. Time limitations set forth in the Ohio Rules of Civil Procedure shall apply. However, parties may obtain an initial extension of time, not to exceed 30 days, in which to answer, plead, or otherwise move, by filing with the Clerk of Courts a written stipulation approved by all counsel. The stipulation shall affirmatively state that no prior extension has been granted. If no such stipulation is obtained, or if an additional extension is requested, approval of the Court must be obtained.

(D) Amendments. Pleadings, motions and other papers may be amended as provided in the Ohio Rules of Civil Procedure, but no amendment may be made by interlineation or obliteration, except with Court approval.

(E) Removal from Files. Nothing, including pleadings, motions, other papers, and any amendments thereto, shall be removed from any file without Court order. Further, no person shall remove a file from the possession of court personnel without the express permission of the assigned judge.

(F) Parenting Proceeding Affidavit. All parties involved in a proceeding concerning the allocation of parental rights and responsibilities, companionship or visitation shall file a parenting proceeding affidavit pursuant to O.R.C.3127.23(A). The affidavits shall be attached to, and filed with, each party's initial pleading or motion regarding parenting, companionship or visitation. A party who filed no pleading, motion or other paper regarding parenting, companionship or visitation, shall nonetheless file the affidavit. All Parenting Proceeding Affidavits shall be served upon the parties as provided under the civil rules.

(G) Security for Costs. Advance deposit to secure the payment of costs that may accrue in any action or proceeding in Domestic Relations Court shall be in accordance with the following schedule:

Divorce - Children	$300.00
Counterclaim - Children	$250.00
Divorce - No Children	$200.00
Counterclaim - No Children	$200.00
Dissolution - Children	$200.00
Dissolution - No Children	$150.00
Legal Separation	$200.00
Annulment	$150.00
Foreign Decree	$200.00
Service by Publication	$200.00
Request for Parenting Modification, or Shared Parenting Modification	$200.00
Motion to Convert from Dissolution to Divorce	$50.00
Post Decree Motion, Motion to Modify, Motion for Relief from Judgment, Motion for Attorney Fees, Motion for Termination	$50.00

The Clerk is also authorized to charge $1.00 per page for certified copies of pleadings, process, record or files including certificate and seal and to charge $.25 per page for copies of pleadings, process, record or files without certificate and seal.

(H) Electronic transmission to the court (FAX or E-MAIL) of pleadings, motions and other papers shall not constitute filing.

(Effective July 1, 1991. Amended effective January 1, 1993; January 1, 1995; January 8, 1995; January 1, 1999; November 20, 2000; August 1, 2005; July 17, 2016; December 1, 2010; August 19, 2013; September 1, 2013; June 9, 2016.)

Rule 2: Assignment of Judge and Consolidation of Cases

(A) Assignment

Actions filed in Domestic Relations Court shall be assigned to a judge by the Clerk of Courts through a manual or electronic process that ensures a random selection of the judge and preserves the identity of the judge until selected.

(B) Reassignment

(1) Actions filed in which the same parties have been previously engaged in litigation in this Court shall be reassigned to the previously assigned judge or the successor judge.

(2) When it is necessary for a case already assigned to a judge to be reassigned due to a recusal, the Administrative Judge will reassign a judge, at random, and record the reassignment on the docket.

(C) Consolidation of Cases and Partial Dismissal of Claims

(1) When both parties have filed complaints for divorce, legal separation, or annulment, the court shall consolidate the cases. The matter shall proceed under the case number of the complaint upon which service was obtained first. The other complaint shall operate as a counterclaim when it is served. Any orders issued prior to consolidation shall remain in full force and effect.

(2) When two or more domestic family cases are originally filed or are transferred from another court involving children of the same parents, the cases will be consolidated into the lowest case number, as provided in Civ.R. 42(A)(1)(b).

(3) When a domestic family case is originally filed or transferred from another court that relates to a pending or previously decreed divorce, legal separation, annulment, or dissolution of marriage, the domestic family case will be consolidated into the pending or previously decreed case as provided in Civ.R. 42(A)(1)(b).

When a domestic family case originally filed in this court has been consolidated into a pending divorce, legal separation, annulment or dissolution of marriage action, and the pending action is dismissed without final orders regarding child support or custody, the domestic family claim shall proceed under the consolidated case number.

(4) The transfer of a domestic family case is rendered incomplete when the pending action into which the domestic family case was consolidated is dismissed without final orders on child support and custody. The domestic family case will be returned to the originating court as required by R.C. 2151.235(E).

(5) Domestic violence cases shall not be consolidated with any other case type.

(6) No case shall be consolidated into a previously dismissed action.

Rule 2.1: Administrative Judge and Unavailability of Assigned Judge

(A) Election of Administrative Judge

The judges of the court shall elect an administrative judge by a majority vote. The term shall begin on January 1 of the year immediately following the election. The administrative judge shall serve for a two-year term, unless the judges agree otherwise, and may serve more than one consecutive term. The administrative judge shall have such powers and duties as set forth in Sup.R. 4.01.

(B) Reduction of Administrative Judge's Docket

Pursuant to Sup.R. 4.03, the administrative judge may be relieved of a portion of the judge's case or trial duties in order to manage the calendar and docket of the court.

(C) Duty Judge

The administrative judge shall appoint one judge each week who shall be designated the Duty Judge. The order of appointment shall be recorded in the Minute Book maintained by the Clerk of Courts. The duty judge may handle routine matters in a case when the assigned judge is not available. The administrative judge shall assume the role of the duty judge if the duty judge is absent. If both the duty judge and the administrative judge are not available, the most senior judge available shall assume the role of duty judge.

Rule 2.2: Scheduling of Cases

(A) Scheduling of Cases

The scheduling of a case for hearing or trial will be at the direction of the assigned judge or magistrate.

Attorneys who persistently request continuances and extensions may be ordered by the administrative judge to submit detailed calendar information to the assigned judge for the purpose of scheduling and shall be required to provide substitute counsel.

(B) Failure to Answer

A divorce or legal separation case shall be deemed to be "uncontested" unless an answer, motion or stipulation for leave to plead, is filed within 28 days of completion of service. If a defendant appears at the uncontested hearing, the assigned judge, in the judge's discretion, may go forward with the hearing, may accept testimony or evidence from the defendant, or may continue the hearing to allow the defendant time to file an answer.

(C) Hearing or Trial Date

(1) Pursuant to Civ.R. 75(K), no action for divorce, annulment, or legal separation may be heard and decided until the expiration of 42 days after service of process or 28 days after the service of a counterclaim, which may be designated a cross-complaint, unless the plaintiff files a written waiver of such 28 day period.

(2) Pursuant to R.C. 3105.64, no action for dissolution of marriage will be heard less than 30 days or more than 90 days after the filing of the petition for dissolution of marriage, except in the case of a conversion from a divorce action or in the case of a successful collaborative family law process.

Spouses who have successfully completed a collaborative family law process in accordance with R.C. 3105.43 may request an immediate hearing by filing a Notice of Collaborative Process with Request for Expedited Hearing contemporaneously with the filing of the petition for dissolution of marriage.

The notice with request must be signed by both parties and counsel and must include telephone numbers for both parties and their counsel. Failure to do so will result in the hearing being scheduled more than 30 days after the filing.

(3) Notice of any pretrial, case management conference, hearing, or trial date will be sent by electronic mail to all counsel of record or mailed to the parties, if not represented by counsel, no less than 14 days before the day set for pretrial, case management conference, hearing, or trial. The court may shorten the notice time if required by statute or rule, by agreement of both parties or counsel, or in its discretion.

Rule 4: Nonappearance of a Party on Trial or Hearing Date; Failure to be Prepared for Trial

(A) Nonappearance. If a party seeking relief fails to appear on the scheduled trial or hearing date, either in person or by counsel, the Court may enter an order dismissing the action for want of prosecution. If the other party fails to appear, either in person or by counsel, and the party seeking relief does appear, the Court may allow the case to proceed and hear and determine all matters.

(B) Unprepared for Trial or Hearing. If a party and/or counsel thereof appears on the scheduled trial date or hearing date and shows good cause why he is not ready for trial or hearing, the Court shall make such orders as are proper. If a party and/or counsel therefore appears, but is not ready for trial or hearing and fails to show good cause for his not being ready, the Court may enter an order dismissing the action for want of prosecution, if the party is the person seeking relief, or proceed with the case and determine all matters, if the party is the person not seeking the relief.

(Effective July 1, 1991.)

Rule 3. Advancing and Passing of Cases

(A) Advancement. No case shall be advanced for pretrial/case management conference, trial or hearing out if its regular order except upon order of the judge to whom the case is assigned. All motions to advance must be accompanied with a brief citing in detail the reasons for the request.

(B) Continuances. No case in which a date certain had been fixed for pretrial/case management conference, trial or hearing shall be passed without the authorization of the assigned judge.

For good cause shown a case awaiting trial may be continued provided a written motion is submitted to the judge. The motion shall state specifically:

1. The reason(s) for the continuance; and
2. The number of previous continuances granted and at whose request.

If the reason for the continuance is due to a conflict of trial assignment dates, the attorney must file the motion for continuance as soon as the conflict is discovered and attach a copy of the conflicting assignment thereto. The motion for continuance may be denied if the Court determines the notice of the conflict was not reasonably timely.

The motion shall contain the written endorsement of the moving party, as well as the moving party's attorney, if represented. This requirement may be waived for good cause shown, provided that the motion states the reason why the attorney has been unable to obtain the endorsement of the party's and the reason why the requirement should be waived.

A copy of the motion must be served upon opposing counsel, or the opposing party if not represented, prior to submission to the assigned judge. If the case has been referred to a magistrate for hearing, the motion must be submitted to the magistrate for approval prior to the submission to the judge. If the motion is not granted by the assigned judge, the case shall proceed as originally scheduled.

(Effective July 1, 1991; . Amended effective December 11, 2000; September 9, 2024)

Rule 5: Concurrent Jurisdiction with other Courts

(A) Obligation to Notify. It shall be the obligation of the party initiating an action involving parenting or support of minor children to inform the Court of the status of any prior or pending action in any domestic relations or juvenile court, including the amount of any prior support orders. Any action involving parenting or visitation, whether pending or post-decree, and whether raised by complaint, counterclaim, or motion, must be accompanied by a parenting proceeding affidavit pursuant to O.R.C. 3109.27(A). If any parenting or support order has been entered by any other court in this state, no order regarding such issue(s) will be entered by this Court except upon order from the court previously acquiring jurisdiction to this Court.

(B) Jurisdiction with courts outside the state. If any parenting or support order has been entered by any court outside this state, an order regarding such issue(s) will be entered only upon a showing that jurisdiction properly lies with this Court pursuant to the Uniform Child Custody Jurisdiction Act if the issue is parenting and/or visitation, or upon a showing that this Court otherwise had jurisdiction to entertain an action including personal jurisdiction over both parties, if the issue is other than parenting and/or visitation. (See Local D.D.R. Rules 30 and 31).

(Effective July 1, 1991.)

Rule 6: Communications with Judges and Magistrates

No attorney or party shall discuss the merits of any case either orally or in writing, with any judge or magistrate presiding over the matter without all legal counsel of record or self-represented parties participating in the discussion.

(Effective July 1, 1991. Amended effective December 11, 2000; April 2, 2019.)

Rule 7: Attorney of Record

(A) Entry of Appearance. An attorney representing a party in an action shall file an entry of appearance with the Clerk of Courts. The entry of appearance shall set forth the party being represented, the attorney's address, telephone number, Supreme Court Registration Number, and e-mail address. The entry of appearance shall be served on all self-represented parties and counsel of record.

(B) Withdrawal during Active Case. Upon entering an appearance as counsel for any party, an attorney shall not be relieved of responsibility unless:

1. The attorney timely files a motion stating the grounds for withdrawal from the case;
2. The motion complies with Rule 1.16 of the Ohio Rules of Professional Conduct;
3. The attorney certifies that the client has been notified of the request for withdrawal;
4. The court grants the motion.

The court may deny an attorney's request to withdraw for failure to comply with this rule or if a trial or final hearing date has been scheduled prior to the motion being filed.

(C) Withdrawal at End of Case

An attorney who has appeared as attorney of record in a case may file a Motion to Withdraw as attorney of record after litigation has ended. Upon the granting of the motion, the Clerk of Courts will remove the attorney as current counsel of record, and the attorney will no longer receive future notifications from the Clerk of Courts related to subsequent litigation.

(D) Limited Appearance by Attorney. By agreement with the client, an attorney's new or existing representation may be limited consistent with Prof.Cond.R. 1.2(c) and Civ.R. 3(B). The attorney must file and serve a "Notice of Limited Appearance" that clearly describes the scope of the limited appearance and states that the limitation has been authorized by the client.

When an attorney has entered a limited appearance, any pleading, order, notice, brief or other paper that Civ.R. 5 requires to be served must be served on both the attorney and the attorney's client.

As provided by Civ.R. 3(B), an attorney's limited appearance may be terminated by filing and service of a "Notice of Completion of Limited Appearance." By signing the Notice of Completion of Limited Appearance an attorney certifies under Civ.R. 11 that all of the services for which the attorney was retained have been completed. If no objection to the Notice of Completion of Limited Appearance is filed and served within 10 days, the attorney's withdrawal is complete without the need for leave of court.

(Effective July 1, 1991. Amended effective July 1, 2010; January 16, 2019; February 3,2025.)

Rule 8: Child Support Schedule; Enforcement; Medical and Dental Expenses

(A) Source and Use. Effective June 30, 2007, O.R.C. 3119.05 sets out the Ohio Basic Child Support Schedule which must be applied in all cases where child support is an issue, both at the time of an initial award of support and of any subsequent modification thereof. A Child Support Computation Worksheet shall be completed and submitted prior to the time of any hearing where support of a minor child is an issue. A Child Support Computation Worksheet shall be attached to and incorporated by reference in every judgment entry wherein child support is ordered.

(Effective July 1, 1991. Amended effective July 1, 2010.)

Rule 9: Court Reporters

No hearing shall proceed without the presence of a court reporter if requested by either party. If no court reporter is available, a party may provide for a private court reporter to record the proceedings. Whenever a private court reporter is used, an order shall be entered appointing him/her as the official court reporter for purposes of the proceedings. The fees of any private court reporter shall be advanced by the party desiring same and may be assessed against one or more of the parties at the conclusion of the case.

(Effective July 1, 1991.)

Rule 10: Property Division Guidelines

(Repealed)

Title II: Pre-trial and Case Management Procedures; Discovery

Rule 11: Pretrial and Case Management Conferences

(A) When held. A pretrial/case management conference will be held as soon as possible after an answer has been filed. At the discretion of the assigned judge, the case may be accelerated and scheduled for trial without a pretrial or case management conference.

(B) Purpose. The purpose of the initial case management conference shall be to achieve an amicable settlement of the controversy and, in the event settlement is not possible, to expedite trial of the action. At the time of the pretrial/case management conferences, the attorneys shall be prepared to:

(1) narrow the legal issues in controversy;

(2) admit to facts not in dispute;

(3) stipulate to the genuineness of documents and other exhibits to be introduced at trial;

(4) advise the Court on the need and time required for additional discovery and establish a binding discovery schedule;

(5) exchange medical reports, psychological reports, and hospital records;

(6) exchange reports of expert witnesses expected to be called at trial;

(7) address issues of asset valuation

(8) discuss referral to Family Conciliation Service [nka FES], the Investigation Department, and/or any available alternative dispute resolution program.

(9) discuss allocation of parental rights and responsibilities for the care of the child(ren);

(10) discuss content of proposed shared parenting plans; and

(11) determine if additional pretrial conferences are necessary

(C) Attendance; Failure to Appear.

(1) All attorneys of record and all parties, if within the jurisdiction of the Court, shall be present at any pretrial/case management conference. In the event that a party is not within the jurisdiction or has been excused by the assigned judge for good cause shown, that party shall provide his/her attorney with a telephone number at which such party may be reached during pretrial/case management conference. Counsel attending a pretrial/ case management conference must have complete authority to stipulate on items of evidence and admissions.

(2) Failure of an attorney to be prepared for pretrial/case management conference, and failure of a party or attorney to appear, or to cooperate in good faith in the conduct of the pretrial/case management conference, may subject said attorney or party to any sanctions provided by Ohio Rule of Civil Procedure 37(D), including an award of expenses and/or attorney fees to any party prejudiced by such conduct.

(Effective July 1, 1991.)

Rule 12: Pretrial Statements; Exchange of Witness Lists

(A) Pretrial Statements.

(1) All pretrial statements shall be on forms provided or approved by the Court and shall include an itemization of the party's income and expenses and a full description of the nature and value of the assets of the parties and the nature and amount of the liabilities of the parties.

(2) Each party shall file a pretrial statement with the Clerk of Courts and serve a copy on the opposing party or his counsel no later than 7 days prior to the pretrial conference/case management conference, if one is held. If no pretrial conference is held, such statement shall be filed and served no later than 14 days prior to the trial date or 3 days after the receipt of notice of the trial date, whichever is later.

(B) Witness Lists.

(3) Each party shall submit to the opposing party or his counsel a list with the names and addresses of all witnesses, including expert witnesses, expected to be called during trial. A copy of each list shall be filed with the Court. Such witness lists shall be exchanged no later than 14 days prior to the trial date or 3 days after the receipt of notice of the trial date, whichever is later. Any witness list shall be supplemented anytime prior to two business days before the trial date.

(4) No party shall be permitted to call any witness, except rebuttal witnesses, whose name was not included on the witness list or any supplement thereto, unless good cause can be shown as to why the need for such witness was not known to the party until after the time for supplementing his witness list expired, or unless the identity of the witness was otherwise known to the opposing party. The Court may however, in its discretion allow either party to call any witness whose name is not included on a witness list, when doing so will serve the interests of justice.

(5) This rule shall apply to motion hearings as well as trials.

(Effective July 1, 1991.)

Rule 13: Discovery Procedures

(A) In general. Ohio Rules of Civil Procedure 26 through 37 shall apply to any action in Domestic Relations Court, including post-decree motions filed pursuant to Ohio Rule of Civil Procedure 75(I).

(B) Filings Pertaining to Discovery. All papers, after the Complaint, required to be served upon a party shall be filed with the Court within 3 days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court or for use as evidence or for consideration of a motion in the proceeding. Papers filed with the Court shall not be considered until proof of service is endorsed thereon or separately filed. The proof of service shall state the date and manner of service and shall be signed in accordance with Ohio Rule of Civil Procedure 11.

(C) Motions for Protective Order. A motion for protective order shall be filed no later than 14 days prior to the date on which response to a discovery request is due or the date of a scheduled deposition, unless it can be shown that it was not possible to file such a motion within such time period. The motion shall state, with specificity, the basis for the protective order and shall state clearly on its face the date on which a response to the discovery request is due or the date of a scheduled deposition. Sanctions may be imposed for sham or frivolous motions.

(Effective July 1, 1991.)

Rule 13.1: Depositions

(A) Witnesses, parties, and counsel shall conduct themselves at depositions in a temperate, dignified and responsible manner.

(B) Scheduling.

Counsel and parties are expected to make a timely and good faith effort to confer and agree to schedules for the taking of depositions. Unless otherwise stipulated or ordered by the court, depositions are limited to one day of seven hours. Except for good cause, counsel for the deponent or a self-represented deponent shall not cancel or limit the length of a deposition to less than one day of seven hours without stipulation of the party taking the deposition or order of the court.

(C) Decorum of parties and counsel.

The deponent and opposing counsel shall be treated with civility and respect. The party taking the deposition shall not embarrass, harass, or badger the deponent or engage in repetitive questioning. The deponent shall be permitted to complete an answer without interruption. The court expects that all counsel and self-represented parties shall conduct themselves in accordance with the "Deposition Dos and Don'ts" published by the Ohio Supreme Court's Commission on Professionalism.

(D) Objections.

Objections shall be limited to:

(a) Those which would be waived if not made pursuant to Civ.R. 32(B) and (D),

(b) Those necessary to assert a privilege,

(c) Those necessary to enforce a limitation on evidence directed by the court,

(d) Those necessary to present a motion under Civ.R. 30(D),

(e) Those necessary to preserve a proper evidentiary objection should the deposition be used as evidence, or

(f) Those necessary to assert that the questioning is repetitive, embarrassing, harassing or badgering.

(E) Speaking Objections.

An objection may be made by stating "objection," and the legal grounds for the objection. The reasons for the objection beyond what is necessary to provide the legal basis shall not be made on the record. Counsel are prohibited from making speaking objections that suggest an answer to the deponent.

(F) Refusing to answer questions.

A deponent may refuse to answer a question only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, to present a motion under Civ.R. 30(B), or to terminate repetitive, embarrassing, harassing or badgering questioning. If privilege is claimed, the examiner may

ask the basis for asserting the privilege. If the ground for not answering is that the questioning has become repetitive, embarrassing, harassing or badgering, the examiner shall move on to other areas of inquiry reserving the right to pursue the objected-to questions at a later time. If the examiner believes that further questioning on the subject is necessary and proper, the examiner may apply to the judge or magistrate presiding over the case through a motion to compel or a motion filed under Civ.R. 30(D) for the right to pursue such questioning at a later date.

(G) Conferring During Questioning.

A deponent and the deponent's counsel shall not confer during the deposition, except for the purpose of deciding whether to assert a privilege.

(H) Documents.

The examiner shall provide copies of all documents shown to the deponent to counsel or self-represented party during the deposition.

(I) Violations.

The Court may order any remedy, including sanctions, available under Civ.R. 26(C) or Civ.R. 37 for the violations of these rules by a witness, party or counsel.

(Effective October 10, 2011. Amended effective April 2, 2019.))

Rule 14: Mandatory Disclosure

In every new action for divorce or legal separation, the Clerk of Courts will issue a Mandatory Disclosure Order on DR FORM 3.0 at the time the action is filed. Plaintiff shall be deemed served with the Mandatory Disclosure Order upon the initial filing. The Mandatory Disclosure Order shall be served on the defendant with the summons. Within 30 days of the filing of an Answer, each party shall disclose to the other all of the following:

(1) All real estate deeds;

(2) All vehicle titles;

(3) Most recent statements regarding pensions, profit sharing plans, retirement benefits and IRA's including the most recent summary plan description;

(4) All life insurance policies and most recent cash value statement;

(5) Last three year's income tax returns;

(6) Proof of year to date current income from all sources;

(7) Health, dental and vision insurance coverage available along with all plan options and costs including the marginal costs for covering the minor children;

(8) COBRA benefits to which either party may be entitled, including cost estimates; 9. Child care/day care expenses;

(10) Most recent statements regarding all liabilities including, but not limited to mortgages, lines of credit, loans, and credit card accounts;

(11) Financial Disclosure Statement completed pursuant to Local Rule 12;

(12) Antenuptial/Prenuptial agreements;

(13) Any court order involving the minor children or the marriage including administrative support orders.

The disclosure required above shall be made by electronic mail, facsimile, regular mail, or hand delivery to the other party's attorney, or party if unrepresented. Documents disclosed are not filed with the Court.

Failure to comply with the Mandatory Disclosure Order may result in sanctions, including, but not limited to the following: a finding of contempt, award or attorney fees, dismissal of claims; and restrictions upon the submission of evidence.

[Effective October 1, 2018]

Rule 14.1: Trial and Hearing Procedures

(Vacated)

Title III: Motion Practice

Rule 15: Submission of and Response to Motions

(A) Contents of Motion.

(1) All motions shall be made in writing and filed with the Clerk of Courts, unless made during a hearing, pretrial conference or trial. The motion shall include a concise written statement of the relief sought and the supporting grounds. A party seeking more than one type of relief shall file a separate motion for each type of relief sought. Any post-decree motion invoking the continuing jurisdiction of the court shall contain the current addresses of both parties in the caption. All motions shall be individually captioned as set forth below:

Mary Doe Case No. 000001

Plaintiff Judge James Smith

v. Motion to Show Cause _____

John Doe

Defendant

(2) A motion to show cause or motion for contempt must identify the specific court order(s) the non-moving party is alleged to have violated. The motion must be supported by an affidavit.

(3) A motion to modify must state the specific change of circumstance(s) on which the motion is based. The motion must be supported by an affidavit.

(4) A motion to compel discovery must specify whether the moving party alleges a failure to respond, or an incomplete/evasive response. A motion alleging incomplete or evasive response(s) must identify the specific request(s) for production, interrogatory(ies), or request(s) for admission(s) for which the response was incomplete or evasive.

(B) Opposing a Motion. Any party opposing a motion may file and serve a concise written statement of the reasons, including citation to any authority relied upon, within 14 days from service of the motion.

(C) Additional Briefs. Reply or supplemental briefs will not be considered unless filed with leave of court after showing the necessity therefor.

(D) Service. It is the responsibility of the party filing the motion to perfect service on the opposing party.

(1) Pending Cases. In pending cases, all motions shall be filed with the Clerk of Courts and served on opposing counsel, on the self-represented party, and on the guardian ad litem, where one has been appointed.

(2) Post-Decree. All post-decree motions invoking the continuing jurisdiction of the court shall be accompanied by Instructions for Service. Service through the Clerk of Courts shall be made pursuant to Civ.R. 4 through 4.6.

(Effective July 1, 1991. Amended effective September 1, 1995; April 2, 2018.)

Rule 16: Assignment of Motions for Hearing

(A) Processing. Each motion shall be forwarded from the Clerk of Courts' office to the Assignment Commissioner who shall assign a motion number and enter said motion in the computer. The motion shall then be forwarded to the assigned judge.

(B) Notice of Hearing Date; Passing of Cases: Nonappearance or Failure to be Prepared at Hearing. D.D.R Rules 2(E), 3 and 4 shall apply to all motion hearings.

(Effective July 1, 1991. Amended effective September 1, 1995.)

Rule 17: Parenting and Visitation Proceedings

(A) Ex Parte Orders. No ex parte orders of parenting or visitation shall be granted except where appropriate under the provisions of D.D.R. Local Rule 26.

(B) Referral to Family Conciliation Service [nka FES].

(1) Any referral to Family Conciliation Service [nka FES] shall be made at the discretion of the assigned judge upon motion of any party, the Court's own motion, or the recommendation of a magistrate. Costs for services rendered by Family Conciliation Service [nka FES] shall be adjudged against one or more of the parties after consideration of their respective ability to pay. No referral to Family Conciliation Service [nka FES] shall be refused due to the inability of any party to pay for such services.

(2) Family Conciliation Service [nka FES] does not provide mediation services under O.R.C. 3109.052. Conciliators are not mediators as that term is used in O.R.C. 3109.052. Therefore, the rules governing the conduct of the mediation procedure, the content of mediation reports or any other aspect of the mediation process do not apply to conciliators.

(3) If a report is prepared by Family Conciliation Service [nka FES], it shall be maintained in a separate file and not be made part of the Court file unless admitted into evidence at time of hearing.

Upon completion of the report all attorneys of record, or any party not represented, shall be notified of the availability of such report for review. Any represented party shall not be permitted to review the report. Such review shall take place at any time in the offices of Family Conciliation Service [nka FES]. Upon reviewing the report, each attorney or unrepresented party shall be required to sign an acknowledgment that such review occurred.

Upon request of an attorney of record or any unrepresented party, a copy of the report shall be made available. Such copies shall be obtained at the office of Family Conciliation Service [nka FES], except that where the parenting and/or visitation issues have been resolved through conciliation or where the parties have been referred to Family Conciliation Service [nka FES] for marital evaluation, a copy of any report resulting therefrom shall be forwarded to all parties, or their attorney of record.

The report shall be forwarded to the judge or magistrate hearing the parenting/ visitation issue after all attorneys of record have reviewed it or two business days prior to the scheduled hearing date, whichever is earlier. Any party desiring the presence of a conciliator at hearing may issue a subpoena therefor or the conciliator can be required to appear at the direction of the Court.

(C) Referral to Investigation Department.

(1) Any referral to the Investigation Department shall be made at the discretion of the assigned judge upon motion of any party, the Court's own motion, or the recommendation of a magistrate.

(2) The investigator's report shall be maintained in a separate file and not be made part of the Court file unless admitted into evidence at time of hearing. Upon completion of the report all attorneys of record, or any party not represented shall be notified of the availability of such report for review. Any represented party shall not be permitted to review the report. Such review shall take place in the offices of the Investigation Department. Upon reviewing the report, each attorney or unrepresented party shall be required to sign an acknowledgment that such review occurred. Upon request of any attorney of record or any unrepresented party, a copy of the report shall be made available at the offices of the Investigation Department.

The report shall be forwarded to the judge or magistrate hearing the parenting/ visitation issue after all attorneys of record have reviewed it or two business days prior to the scheduled hearing date, whichever is earlier. Any party desiring the presence of an investigator at hearing may issue a subpoena therefor or the investigator can be required to appear at the direction of the Court.

(D) Modification of Parenting Order.

(1) Any request for a modification of an existing parenting order shall be by motion. The motion shall set forth the last order of parenting, the reasons for requesting the change, and the names and present ages of the child(ren) and shall be supported by an affidavit setting forth the specific facts on which said motion is based. A Parenting Proceeding Affidavit shall also accompany the motion pursuant to
O.R.C.3127.23.

(2) The first hearing held on any motion to modify a parenting order shall be considered a pretrial conference, unless otherwise directed by the assigned judge. D.D.R. Rules 11 (B) and (C) and 12(B) shall apply to any proceeding modifying an allocation of parental rights and responsibilities unless such modification is being made pursuant to subsection (5) of this Rule.

(3) Any order modifying an allocation of parental rights and responsibilities shall also adjust child support obligations and visitation rights to the parent not the residential parent.

(4) Any person who is not already a party who is seeking an allocation of parental rights and responsibilities for the care of a child must file and have granted a motion to intervene prior to filing a motion requesting such allocation. The motion to intervene shall be granted ex parte unless it is determined by the assigned judge that such motion should be set for hearing.

(5) If the modification of a prior parenting order is pursuant to agreement of the parties:

(a) The parties shall file an “Agreed Motion to Modify Parenting Order”, supported by affidavits of both parents and (if applicable) of any third party seeking to become the “legal custodian” of a child and to have the rights and responsibilities for the care of a child allocated primarily to him/her.

(b) The following documents shall accompany the agreed motion and constitute an "agreed motion package"

(1) Parenting Proceeding Affidavits (O.R.C. 3127.23) (one (1) completed by each party);

(2) An Agreed Judgment Entry granting the motion to modify, complying with subsection (c) hereof, and if applicable, ordering a joinder of a third party to whom the rights and responsibilities for the care of a child are being primarily allocated;

(3) An Order to Terminate Child Support, if applicable;

(4) An Order to Post Bond, or Order to Seek Work and Report if applicable (i.e., where no attachable income source exists);

(5) A Health Insurance Investigative Form;

(6) Proof of compliance with Local Rule 34.

(c) The Agreed Judgment Entry shall address and include all of the following:

(1) The allocation of rights and responsibilities for the care of the child(ren), designating the residential parent and legal custodian;

(2) A finding as to the best interest of the child;

(3) Child Support, with the appropriate computation worksheet attached (with a waiver for any deviation therefrom) (NOTE: If a third party is to be made "legal custodian", the worksheet must be completed using incomes of both parents and the orders required in subsection (b) hereof must be the appropriate orders on each parent);

(4) Disposition of arrearages and/or credits;

(5) Health insurance;

(6) Visitation, with specific provisions for regular, holiday, vacation, and special visitation (the parties may attach as an exhibit and incorporate by reference the Court's Standard Visitation Guidelines);

(7) The present residence and mailing address, Social Security numbers, and birth dates of the parties, and the identity and address of the obligor's income source;

(8) An order for the residential parent to file notice of relocation in accordance with O.R.C. 3109.051(G);

(d) If the agreed motion contains a request for shared parenting between the two parents, the "Agreed Motion Package" shall also include the plan for shared parenting.

(e) Procedure: The agreed motion with all the appropriate judgment entries and other documents attached shall be filed. The "Agreed Motion Package" will be given a motion number and forwarded to the assigned judge. If all the required information and documents are provided, the judge may, in his/her discretion, rule on the agreed motion and approve the modification on the pleadings and affidavits alone. Alternatively, the judge may set the matter for hearing. No child shall be present at hearing unless the judge directs otherwise.

(6) Waiver to Probate Court.

(a) This Court will not entertain a motion to waive jurisdiction to Probate Court when the applicant for custody is a relative.

(b) Where this court has continuing jurisdiction over the matter of a child's custody, and the parties agree that it would be in the best interest of the child that guardianship be awarded to a third party who is not a relative, the parents must file with this Court an agreed motion to waive jurisdiction to Probate Court for the purpose of commencing guardianship proceedings. The motion shall be accompanied by affidavits of consent.

(c) If the whereabouts of one parent is not known, then the affidavit of the parent bringing the motion must set forth that fact as well as facts indicating what efforts were made to locate the absent parent.

(d) The motion to waive jurisdiction shall be accompanied by an agreement as to the terms for support of the minor child. This Court will retain jurisdiction to enforce the support agreement.

(E) Modification of Visitation/Companionship Order. Any request for modification of an existing visitation/companionship order shall be by motion. The motion shall set forth the specific language of the last order of visitation/companionship, the date of such order, the specific changes requested and the reasons for requesting the changes. The motion shall be supported by an affidavit setting forth the specific facts on which said motion is based.

(Effective July 1, 1991. Amended effective January 1, 1999.)

Rule 18: Shared Parenting; Parenting Time Guidelines

(A) Shared Parenting Plan.

If the parties are seeking shared parenting as defined in O.R.C. 3109.04(J), the plan that the parties are required to submit to the Court shall include provisions covering all factors that are relevant to the care of the children, including, but not limited to, physical living arrangements, child support obligations, children’s medical and dental care, school placement and parenting time.

(B) Procedure.

In all cases, the plan shall be submitted as a separate exhibit. If the parties to a dissolution of marriage are seeking shared parenting, the plan shall be filed with the petition for dissolution. In other cases, the plan shall be filed at least 30 days prior to the trial or hearing on the allocation of parental rights and responsibilities.

(C) Standard Parenting Time Guidelines.

The Court's Parenting Time Guidelines, as amended from time to time, shall be adopted as the order of parenting time in the absence of an agreement of the parties or other Court order of parenting. The Parenting Time Guidelines are available on the Court's website.

(Effective July 1, 1991. Amended effective January 1, 2008; March 1, 2014.)

Rule 19: Post-Decree Child Support and Spousal Support Modifications

(A) SERVICE.

A motion that requests a change or modification of an existing child support or spousal support order must be filed and served upon the opposing party according to methods of service in Civil Rule 4 through 4.6.

(B) CONTENT OF CHILD SUPPORT MODIFICATION MOTION.

A motion, supported by a sworn affidavit that sets forth the specific facts constituting the alleged change of circumstance, must state the following:

(1) The date of journalization of the judgment entry that sets forth the existing child support order.

(2) The amount of the existing order, the parent(s) designated as the health insurance obligor for the parties' minor child(ren), the parent(s) designated to claim the child(ren) as a tax dependent(s); and each parent's percentage share of responsibility for the child(ren)'s uninsured health care expenses.

(3) The nature of the change of circumstance.

(4) The specific change or modification requested.

(C) CONTENT OF SPOUSAL SUPPORT MODIFICATION MOTION.

A motion, supported by a sworn affidavit that sets forth the specific facts that constitute the alleged change of circumstance, must state the following:

(1) The date of journalization of the judgment entry that sets forth the existing spousal support order;

(2) The amount, duration, and conditions of modification, and termination of the existing order;

(3) Whether jurisdiction to modify the order was retained;

(4) The nature of the change of circumstance;

(5) The specific change or modification requested.

(D) An affidavit in support of a modification motion must state the specific operative facts that form the basis of the alleged change in circumstance. Failure to do so may result in the dismissal of the motion.

(E) HEARING ON CHILD SUPPORT MODIFICATION.

(1) At the hearing, each party must submit documents verifying his or her earnings and other income including their last four (4) paystubs; last year's federal income tax returns with all supporting W-2's,

1099's, schedules and other attachments; copies of existing administrative or court support orders; a Post-Decree Income and Expense Statement; a Health Insurance Affidavit; a completed Child Support Computation Worksheet; and, verification of the following: work-, employment-training-, or education-related child care expenses, marginal out-of-pocket costs necessary to provide child(ren's) health insurance, mandatory work-related deductions, and overtime, bonuses and commissions for the last three years. Other relevant documents may be submitted.

(2) Copies of all documents submitted to the Court must be exchanged with the opposing party or counsel, if represented, before hearing.

(3) Failure of a party to submit the required documents may result in sanctions, including, but not limited to, dismissal of his or her motion or an award of attorney fees.

(4) The Court may change the designation of the health insurance obligor, and the parent entitled to claim the child(ren) as tax dependents, and the parents' percentage share of responsibility for uninsured health care expenses, as part of the modification.

(F) HEARING ON SPOUSAL SUPPORT MODIFICATION.

(1) At the hearing, each party must submit a completed Financial Disclosure Statement, and documents verifying his or her earnings and other income, including last year's federal income tax return with all supporting W-2's, 1099's, schedules and other attachments.

(2) Copies of all documents submitted to the Court must be exchanged with the opposing party, or counsel, if represented, before the hearing.

(3) The moving party must be prepared to present evidence or stipulations as to the statutory spousal support factors.

(4) Failure of a party to submit the required documents may result in sanctions, including, but not limited to, dismissal of his or her motion or an award of attorney fees.

(Effective July 1, 1991. Amended effective December 11, 2000; July 29, 2013.)

Rule 20: Enforcement of Child Support or Spousal Support

(A) SERVICE

A motion that requests enforcement of an existing child support or spousal support order post-decree must be filed and served upon the opposing party according to methods of service in Civ.R. 4 through 4.6. If the motion requests a finding of contempt, the Court will issue a Summons and Order to Appear to the opposing party.

(B) CONTENT OF MOTION.

A motion, supported by a sworn affidavit which sets forth the specific facts constituting the alleged non-compliance, must state the following:

(1) The date of journalization of the judgment entry that sets forth the existing support order.

(2) The specific provisions, referencing paragraph and page numbers, with which a party has allegedly failed to comply.

(3) If the motion pertains to non-payment of periodic support, the amount of the arrears as of the last day of the month before the motion was filed and whether interest is requested.

(4) If the motion pertains to non-payment of health care expenses, the amount of unpaid health care expenses and a statement that copies of the bills were provided to the opposing party and payment was demanded before the motion was filed. If the motion asserts non-payment of child(ren)'s health care expenses, a completed Explanation of Health Care Expenses must be attached to the motion.

(5) The specific relief requested.

(C) An affidavit in support of an enforcement motion must state the specific operative facts that form the basis of the alleged non-compliance. Failure to do so may result in the dismissal of the motion.

(D) **EFFECTIVE DATE.**

For the purpose of computing arrears, the effective date of a support order is the date of journalization of the judgment entry unless the order designates another effective date.

(E) **APPOINTMENT OF COUNSEL FOR INDIGENT PARTY.**

(1) If the motion requests a finding of contempt, an indigent opposing party who requests counsel will be appointed an attorney by the Court.

(2) A party requesting court-appointed counsel must submit a State Public Defender Financial Disclosure/Affidavit of Indigency. A $25.00 application fee will be charged.

(3) The Court will determine whether a party is indigent.

(F) HEARING ON ENFORCEMENT FOR PERIODIC SUPPORT.

(1) At the hearing, the moving party must submit a computation of arrears and a certified copy of the CSEA payment records that support the computation. The computation must state the total months elapsed from the effective date of the order through the last day of the previous month before the hearing, the total amount owed during that period, the total amount paid during that period, and the difference.

(2) Copies of all documents submitted to the Court must be exchanged with the opposing party, or counsel if represented, before hearing.

(3) If interest on unpaid periodic support was requested, the requesting party must submit a simple interest computation consistent with R.C. 1343.03. Failure to submit a computation at hearing will result in denial of the request.

(4) Failure of a party to submit the required documents may result in sanctions, including but not limited to, dismissal of his or her motion or an award of attorney fees.

(G) HEARING ON ENFORCEMENT FOR HEALTH CARE EXPENSES.

(1) At the hearing, the moving party must submit a completed Explanation of Health Care Expenses, all health care bills, explanations of benefits, and any other documents that support the Explanation of Health Care Expenses.

(2) Copies of all documents submitted to the Court must be exchanged with the opposing party before hearing.

(3) Failure of a party to submit the required documents may result in sanctions including, but not limited to, dismissal of his or her motion or an award of attorney fees.

(Effective July 1, 1991. Amended effective July 29, 2013.)

Rule 21: Attorney Fees

(A) How Made.

(1) A request for attorney fees and expenses to prosecute an action shall be included in the body of the motion or other pleading that gives rise to the request for fees.

(2) A request for attorney fees and expenses to defend an action shall be by motion filed at least 14 days prior to the hearing on the motion being defended.

(3) No oral motion for fees shall be entertained unless good cause is shown why the provisions of this rule could not be complied with and jurisdiction is reserved in any order resulting from the hearing.

(B) Evidence in Support of Motion. At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking such fees shall present:

(1) An itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time;

(2) Testimony as to whether the case was complicated by any or all of the following:

(a) new or unique issues of law;

(b) difficulty in ascertaining or valuing the parties' assets;

(c) problems with completing discovery;

(d) any other factor necessitating extra time being spent on the case;

(3) Testimony regarding the attorney's years in practice and experience in domestic relations cases; and

(4) Evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing.

(C) Expert testimony is not required to prove reasonableness of attorney fees.

(D) Failure to comply with the provisions of this rule shall result in the denial of a request for attorney fees, unless jurisdiction to determine the issue of fees is expressly reserved in any order resulting from the hearing.

(Effective July 1, 1991.)

Rule 22: Motion to Vacate Premises

A. **Contents of Motion.** A motion to vacate premises shall state with specificity the reasons for the motion and shall be supported by an affidavit of the moving party setting forth the facts on which the motion is based.

B. **When Granted**. A motion to vacate premises may be granted if the movant establishes that the opposing party:

(1) Attempted to cause or recklessly caused bodily injury by acts of physical violence;

(2) Placed a party, by threat of force, in fear of imminent serious physical harm;

(3) Committed any act with respect to a child that would result in the child being an abused child as defined in O.R.C.2151.031;

(4) Engaged in conduct which causes or is likely to cause emotional and/or mental stress to the spouse and/or minor children of the parties;

(5) Engaged in conduct which creates or is likely to create an environment which significantly endangers the spouse's and/or minor children's physical health or mental, moral or emotional development; or,

(6) Engaged in conduct abusive to the spouse and/or minor children whether by physical acts or verbally.

C. Ex Parte Orders. No motion to vacate premises shall be granted Ex Parte. If circumstances warrant it, a party can be vacated from the premises on an ex parte basis pursuant to a Domestic Violence action, as proposed in D.D.R. Rule 26.

(Effective July 1, 1991. Amended effective May 1, 2011.)

Rule 23: Temporary Support

(A) PURPOSE.

The purpose of a temporary support order is to maintain the present financial status quo of the parties' joint or separate households during the pendency of the divorce proceeding. Each party is required to provide proof of his or her income in order for the Court to issue a temporary support order. Failure to cooperate fully may subject a party to sanctions.

(B) WHEN FILED.

A request for a temporary support order may be filed with the pleadings or at a later time. The allocation of parental rights and responsibilities for minor children of the parties will be addressed in accordance with Local Rule 32.

(C) CONTENT OF MOTION.

(1) A request for a temporary support order must be made by written motion stating the nature and amount of the relief requested (child support, spousal support, payment of specific debts and/or expenses), together with a sworn affidavit of the movant showing the parties' gross and net disposable income(s) and those expenses which the movant is actually paying. A Motion for Temporary Support with Affidavit and Notice is available on the Court's website.

(2) **Opposing a Motion.** A party opposing a motion for temporary support must file and serve a counter-affidavit within fourteen (14) days after receipt of the temporary support motion. The sworn counter-affidavit must contain the parties' gross and net disposable income(s) and those expenses which the non-moving party is actually paying. **A Counter-Affidavit with Notice is available on the Court's website.**

(D) FILING AND SERVICE.

The motion must be filed with the Clerk of Courts. A copy of the motion and affidavit must be served on the opposing party or his/her counsel either with the pleading by the Clerk of Courts or by U.S. mail by the movant. The counter-affidavit must be filed with the Clerk of Courts and a copy served on the moving party or his/her counsel by U.S. mail.

(E) PROCEDURE.

(1) At the Court's discretion, a motion for temporary support will be scheduled before the assigned Judge or a Magistrate. Parties and counsel, if any, must attend the temporary support hearing. No testimony will be taken at the temporary support hearing.

(2) Prior to or at the temporary support hearing each party must submit documents verifying earnings and other income, including a party's last four (4) paystubs and the prior year's federal income tax return, with all supporting W-2's, 1099's, schedules and other attachments. If there are minor children, each party must submit copies of existing administrative or court support orders, a Health Insurance Affidavit, a completed child support computation worksheet and verification of the following: work-, employment-training-, or education-related child care expenses, mandatory work-related deductions, and overtime, bonuses and commissions for the prior three years. Other relevant documents may be submitted.

(3) Copies of all documents submitted to the Court must be exchanged with the opposing party or counsel, if represented.

(4) After the temporary support hearing, the Court shall issue a Temporary Support Order upon the motion, affidavits and documents submitted. The order will be mailed to all parties and counsel, and may be effective as of the filing date of the motion or any other date the Court deems appropriate.

(5) Upon issuance of an order, either party may file a request for oral hearing to modify or change the support order pursuant to Civ.R. 75(N).

(F) ORAL HEARING.

(1) The purpose of the oral hearing required under Civ.R. 75(N) shall be to permit each party to argue why the order issued upon the motion, documents and affidavits should or should not be modified, and to submit additional documents for the Court's consideration. The oral hearing shall not include witnesses or testimony, except under special circumstances and at the discretion of the Court. Each party will be allotted no more than 30 minutes for argument. Additional time may be allowed in the Court's discretion only upon a showing of good cause.

(2) Requests for leave to submit additional documents for consideration after the oral hearing will not be granted, absent special circumstances.

(3) Parties, if represented, shall attend the oral hearing unless, for good cause shown, their attendance is excused by the Court.

(4) Any modification of a temporary support order following oral hearing may be effective as of the date of the original order or any other date the Court deems appropriate.

(G) PARTIES RESIDING TOGETHER.

When the parties are living in the same household, the Court may make an order of Temporary Spousal Support and/or allocating the payment of debt and household expenses. Temporary child support will not be granted when the parties reside in the same household without a showing of special circumstances.

(H) CONTINUANCES.

More than one continuance of a temporary support hearing or oral hearing will only be granted at the Court's discretion upon a showing of good cause. No hearing or issuance of a Temporary Support Order will be delayed to permit parties to conduct discovery specifically related to a temporary support order.

(I) FAILURE TO APPEAR AT HEARING.

Failure of a party, or counsel if represented, to appear at a temporary support hearing or oral hearing without prior leave of Court may result in dismissal of a party's motion or issuance of a Temporary Support Order based upon the affidavits and documents of the party present.

(Effective February 1, 2013.)

Title IV: Ex Parte Orders

Rule 24: Ex Parte Temporary Restraining Orders

A. Mutual Restraining Orders

1. In all cases, upon the filing of the initial complaint for divorce, annulment or legal separation, both spouses shall be restrained from:

a. Obstructing or interfering with the other spouse's parenting time or communication with the minor child(ren), or concealing the whereabouts of the minor child(ren) from the other spouse, except where a protection order has been issued.

b. Disparaging, denigrating or otherwise speaking ill of the other spouse to or in the presence or hearing of the minor child(ren).

c. Using the internet, social networking sites, or mobile applications accessible by a computer or mobile electronic devices for the purpose of posting, commenting, sharing, or disseminating electronically written words, images, and/or videos which threaten, harass, or defame and/or slander the other spouse and which can be viewed by the other spouse, children of the other spouse, any users of the internet, and/or the general public.

d. Selling, removing, transferring, encumbering, pledging, damaging, hiding, concealing, assigning or disposing of any and all property, real or personal, owned by both spouses, or either spouse, or a child, including household goods, vehicles, and the personal property of each, without the prior written consent of the spouse or the court.

e. Voluntarily changing the terms or beneficiary of, terminating coverage of, cashing in, borrowing against, encumbering, transferring, canceling or failing to renew any type of insurance, including health, automobile, life, disability, home or fire insurance that provides coverage for a spouse or child(ren) of the parties.

f. Voluntarily liquidating, encumbering, borrowing against, cashing in, changing the beneficiary, terms or conditions of any retirement or pension plan or program that provides any benefit to a spouse or child(ren) of the parties and/or of either or both spouses.

g. Withdrawing funds from joint or individual bank, savings and loan association, and/or credit union accounts, retirement or pension funds (including IRA, Keogh, deferred compensation, or 401(k) accounts), trust brokerage houses or other financial institution accounts, except if such accounts are business accounts; provided however, that no stock broker is restrained from buying, selling or otherwise dealing with any stock, bond or other investment for the account of either spouse or both spouses. THE MUTUAL RESTRAINING ORDER DOES NOT RESTRAIN MONIES RECEIVED IN THE FORM OF WAGES.

h. Removing from the marital residence tangible personal property, other than a spouse's own clothing and personal effects or tools, equipment, books and papers incidental to the conduct of his/her trade, business or profession.

i. Incurring debt on existing lines of credit or credit cards in the name of the other spouse or in the spouses' joint names, unless by prior written agreement of the spouses or order of court.

2. These mutual restraining orders will be issued by the Clerk of Courts on DR FORM 1.00 at the time a complaint is filed. Plaintiff shall be deemed served with the Mutual Restraining Orders upon the filing of the complaint. The Mutual Restraining Orders shall be served on the defendant-spouse with the summons.

3. The Mutual Restraining Orders shall remain in effect during the pendency of the case unless modified by the court.

B. Ex Parte Temporary Restraining Orders

1. How Requested. A request for ex parte temporary restraining orders not covered by the Court's Mutual Restraining Orders above may be made pursuant to the Ex Parte Temporary Restraining Order Guidelines, as worded in DR FORM 2.00.

a. The request may be contained in the prayer of a complaint, counterclaim or answer in an action for divorce, annulment or legal separation, or by separate motion.

b. The request must be supported by an affidavit of the party seeking the order, which states with specificity the facts to support the request.

c. The person or entity to be restrained must be a party to the action.

d. Ex parte restraining orders shall not duplicate any mutual restraining orders issued pursuant to section (A) of this rule.

2. Procedure.

a. A pleading or motion requesting an ex parte temporary restraining order, along with a supporting affidavit, shall first be filed with the Clerk of Courts.

b. The time-stamped pleading or motion and a proposed judgment entry granting the relief requested shall be presented to the Law Department for review and approval prior to being submitted to the assigned judge.

c. If the request for restraining orders involves child-related issues, a time-stamped copy of the Parenting Proceeding Affidavit must be presented to the Law Department at the same time as the pleading or motion. If the Parenting Proceeding Affidavit is not presented in accordance with this rule, any restraining order that involves child-related issues will not be approved.

d. If a request for an ex parte temporary restraining order is not fully supported by the affidavit, or the order requested is outside the Ex Parte Temporary Restraining Order Guidelines, the Judgment Entry may be modified by interlineations to bring it within the Guidelines as worded in DR FORM 2.00, the order will not be approved by the Law Department.

e. If a third party is to be restrained any requested restraining order must be within either the Ex Parte Temporary Restraining Order Guidelines as worded in DR FORM 2.00 or the Mutual Restraining Orders as worded in DR FORM 1.00.

f. Each restraining order against a third party shall be separately stated under that third party's name in the proposed judgment entry.

g. Once the proposed judgment entry is approved by the Law Department, it shall be presented for signature to the assigned judge or, if the assigned judge is unavailable, to the Duty Judge pursuant to Rule 2(B)(3) of these rules.

h. The signed judgment entry shall be returned to the Clerk of Courts to be journalized, and the pleading or motion and judgment entry shall be served on all opposing parties or their counsel.

3. Post-Decree Orders. Ex parte temporary restraining orders may be granted in post-decree motion proceedings if relevant to the relief sought in an underlying post-decree motion and within the Ex Parte Temporary Restraining Order Guidelines as worded in DR-FORM 2.00 or the Mutual Restraining Orders as worded in DR-DORM 1.00. The underlying motion must be filed prior to the Motion for Ex Parte Temporary Restraining Orders. A time-stamped copy of the underlying motion must be presented with the motion for the ex parte temporary restraining orders before such orders will be approved by the Law Department. Requests for post-decree temporary restraining orders must be supported by an affidavit of the party seeking the order, which states with specificity the facts to support the request.

C. Ex Parte Motion to Prevent the Return of a Spouse to Reside in the Marital Residence

1. When Granted. An ex parte temporary restraining order may be obtained to prevent a spouse from returning to the marital residence to reside, if such spouse no longer resides in the marital residence and has been voluntarily absent from there for more than 30 continuous days immediately prior to execution of the affidavit required in division (C)(3) of this rule.

2. Procedure. A request for a restraining order to prevent the return of a spouse to reside in the marital residence shall be by separate motion not combined with other requests for restraining orders. The motion shall be filed in accordance with the procedure in division (B)(2) of this rule. A proposed judgment entry shall be submitted with the motion.

3. Content of Motion and Affidavit. A motion seeking an ex parte temporary restraining order to prevent a spouse from returning to the marital residence shall state with specificity the reasons for the motion and shall be supported by an affidavit of the movant which states all of the following:

a. The date on which the absent spouse left the marital residence;

b. The number of days or months of continuous absence immediately preceding execution of the affidavit;

c. That the spouse has voluntarily left the residence with the intent to no longer reside there; and,

d. That the movant has resided in the marital residence during the entire 30 day period immediately preceding execution of the affidavit.

D. Disclosure of Other Orders

All requests for ex parte orders in a pleading or motion shall disclose any other orders issued by this Court, or by any other Court, which are currently in effect and relevant to the relief requested in the motion. A copy of any journalized order shall be attached to the pleading or motion.

E. Modifying or Dissolving Ex Parte Temporary Restraining Order

Any motion to modify and/or dissolve an ex parte temporary restraining order shall be supported by an affidavit of the moving party setting forth the specific facts which support the motion. In the absence of an agreement of the parties as to the terms and conditions for modifying and/or dissolving such orders, the matter shall be set for a hearing. A motion to dissolve a restraining order preventing a spouse from returning to the marital residence issued pursuant to division (C) of this rule shall be set for hearing within 14 days of the date the motion to dissolve is filed.

(Effective July 1, 1991. Amended effective September 30, 1991; January 1, 1999; May 1, 2011, April 1, 2016, November 20, 2018.)

Appendices

A. Mutual Restraining Order - DR-FORM 1.00

B. Ex Parte Temporary Restraining Order Guidelines - DR FORM 2.00

Rule 25: Posting of Notices for Service by Publication

(A) If the defendant's address, or the non-moving party's address in a post decree matter, is unknown, the plaintiff or moving party may serve the other party by publication. The plaintiff or moving party must strictly comply with Civ.R. 4.4(A)(1), including a sworn affidavit stating the specific actions taken to ascertain the other party's address.

(B) If the plaintiff or moving party is indigent, and the other party's address is unknown, the service may be made by posting as provided in Civ.R. 4.4(A)(2), including a sworn affidavit stating the specific actions taken to ascertain the other party's address.

(1) Posting shall be made in a conspicuous place in the courthouses in which the

general and domestic relations divisions of the Cuyahoga County Court of Common Pleas are located.

(2) Posting shall also be on the website of the clerk of courts as well as in the following two additional public places: Automobile Title, Golden Gate located at 1585 Golden Gate Plaza Mayfield Heights, Ohio 44124 and the Automobile Title, Parma located at 12100 Snow Road, Suite #15 Parma, Ohio 44130. Protection orders issued pursuant to Civ.R. 65.1 will not be posted on the website of the clerk of courts.

(C) If the defendant or non-moving party lives in a country other than the United States, service must comply with Civ.R. 4.5. If the defendant or non-moving party resides in a country that has signed The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters ("Hague Service Convention"), that party cannot be served by publication or posting. If the defendant or non-moving party lives in a country that has not signed The Hague Service Convention and that party's address is unknown, service may be made under Civ.R. 4.4(A)(1) or (2).

(D) If service attempted by certified or express mail or commercial carrier is returned as "refused" or "unclaimed," service must be made under Civ.R. 4.6(C) or (D), not by publication or posting.

(Effective July 1, 1991. Amended effective September 30, 1991; March 4, 2019)

Rule 26: Domestic Violence

(A) PLEADING.

(1) An action under Ohio's Domestic Violence statute may be initiated by filing a Petition for Domestic Violence Civil Protection Order. The Petition for Domestic Violence Civil Protection Order shall be treated as a separate action at all times. The Petition shall not be incorporated, merged or consolidated into any pending divorce, dissolution of marriage, legal separation or annulment action by way of a separate count or separate cause of action.
(2) At the time of filing, a Petition shall be given a case number by the Clerk of Courts and a judge shall be assigned. If a divorce, dissolution of marriage, legal separation, annulment, or post-decree proceeding involving the same parties is pending when a Petition is filed, and a different judge is drawn, the case shall be referred back to the judge assigned to the divorce, dissolution of marriage, legal separation, annulment, or post-decree proceeding.
(3) If the parties to the Petition were previously involved in a divorce, dissolution of marriage or legal separation proceeding, whether that case went to decree or was dismissed, and no action is then pending, the Petition will be referred back to the judge who was assigned to the previous case, or the successor Judge.
(B) PROCEDURE.
A complete packet of forms and instructions is available from the Court's Navigation Services. Interactive forms are also available on the Court's web site (http:// domestic.cuyahogacounty.us) or on the Ohio Supreme Court's website (http://www.supremecourt.ohio.gov).
Prior to filing, the Petition shall be submitted to the Court's Navigation Services for review.
If the petitioner is seeking a temporary allocation of parental rights and responsibilities of minor children, the Petition shall include a Parenting Proceeding Affidavit.

(C) DURATION OF PROTECTION ORDERS.

Any Domestic Violence Civil Protection Order Ex Parte issued following an ex parte hearing shall be valid for one (1) year from the date of issuance or until another date set by the judge/magistrate at the ex parte hearing. Any Domestic Violence Civil Protection Order issued subsequent to a full hearing on the Petition shall be valid until a date certain, but not later than five (5) years from its date of issuance.

(D) REGISTRATION OF PROTECTION ORDERS.

Domestic Violence Civil Protection Orders issued by Cuyahoga County or any county and/or any state may be registered in Cuyahoga County in the Office of the Clerk of Courts.

(E) PUBLICATION OF DOMESTIC VIOLENCE CASE INFORMATION ONLINE.

There shall be no public access to any domestic violence dockets by way of the Clerk of Courts' publicly available Internet website.

(Effective July 1, 1991. Amended effective October 1, 1999; November 20, 2000; July 1, 2009; May 1, 2012; November 1, 2014; July 26, 2022.)

Title V: Magistrate's Decision; Judgment Entries

Rule 27: Objections to Magistrate's Decisions and Orders

Civil Rule 53 shall govern all procedures including filings and rulings by the Court regarding Magistrate's Decisions and Orders.

1. Objections.

(a) Objections to a Magistrate's decision shall be filed and served upon all opposing parties within fourteen (14) days after the date the decision is filed.

(b) Any objections by an opposing party shall be filed within ten (10) days after the first objections are filed.

(c) A party filing objections that require a transcript must file his or her objections within the fourteen (14) day time period set forth above, and must file a Notice of Intent to supplement objections after the transcript has been completed, for which leave will automatically be granted.

(d) Objections shall be specific and state the grounds with particularity. They shall identify the relevant law and the facts in contention, and reference pages of the transcript in support of the objections.

(e) A party may have an additional fourteen (14) days following the completion of the transcript within which to file supplemental objections, provided that notice was filed as set forth in (c) above.

(f) A party opposing the objections and/or supplemental objections may file a brief in opposition within fourteen (14) days from the date the objections or supplemental objections are filed. If supplemental objections are filed, the opposing party should file only one brief in opposition.

(g). If no objections are filed within the initial 14-day period, the decision of the Magistrate will become final.

2. Requirement of Transcript.

(a) If a party is objecting to factual findings in the Magistrate's decision, a transcript of the record of proceedings before the Magistrate must be filed. If a transcript is not available, the party must file an affidavit of all evidence submitted to the Magistrate.

(b) The cost per page of the transcript is set by separate Court Order pursuant to R.C. 2301.24.

(c) The party filing objections shall order the transcript from the Court Reporter, and shall file a Praecipe (D.R. Form 3.00 in Appendix) with the Clerk of Courts within the initial fourteen (14) day period after the date the Magistrate's Decision is filed.

(d) The Praecipe shall be signed by the party or his/her attorney; it shall contain an acknowledgement by the Court Reporter that the deposit for the transcript has been paid and the date the Court Reporter expects the transcript to be completed. The Praecipe shall also include the date the Magistrate's Decision was filed, and whether or not supplemental objections will be filed after completion of the transcript.

(e) The deposit for the transcript must be paid to the Court Reporter before the Court Reporter will sign the Praecipe.

(f) Failure to timely file the Praecipe or filing a Praecipe without the signature of the Court Reporter shall result in the objections as to factual findings being overruled.

(g) Upon its completion, the Court Reporter shall file with the Clerk of Courts a notice of the availability of the transcript. Payment in full will be required before the transcript will be released.

(h) A party must file the transcript contemporaneously with the filing of the supplemental objections. The attorney or party requesting the transcript is responsible for the full cost upon completion. Failure to remit payment to the Court Reporter may result in a judgment against the person requesting the transcript.

3. Extensions of Time.

(a) No extension of time shall be granted for filing objections within the initial fourteen (14) day period.

(b) One fourteen (14) day extension of time to file a Praecipe may be granted by the Court for good cause shown.

(c) Requests for extensions of time to file the transcript shall include the endorsement or affidavit of the Court Reporter indicating the reason that the transcript has not been completed and the expected date of completion.

(d) The time to file supplemental objections may be extended, at the discretion of the Court, for up to but not more than a total of forty-two (42) days from the date the transcript is completed.

(e) The time to file a brief in opposition to objections or supplemental objections may be extended, at the discretion of the Court, for up to but not more than a total of twenty-one (21) days from the date the objections or supplemental objections are filed.

4. Motions to Set Aside Magistrate's Order.

(a) A party may file a Motion to Set Aside a Magistrate's Order within ten (10) days after the date of its issuance.

(b) A Motion to Set Aside must be specific and state the grounds for the motion with particularity.

(c) No extension of time to file a Motion to Set Aside will be granted.

(Effective March 15, 2011. Amended effective April 1, 2015.)

DOMESTIC RELATIONS FORM 3.00

Rule 28: Judgment Entries

(A) When Journalized.

The judgment entry required by the Ohio Rule of Civil Procedure 58 shall be journalized within 30 days from the date the decision is announced. Such judgment entry shall reflect the Court's ruling on all issues raised at trial and not expressly reserved for further proceedings. Such judgment entry shall be prepared and presented for journalization by the Court unless the Court otherwise directs.

(B) Contested cases and motions.

(1) The Court may order or direct either party or counsel to prepare and present for journalization the judgment entry required by subsection (A) of this Rule. When so ordered or directed by the Court, that party or his counsel shall within 10 days prepare a judgment entry and submit it to the opposing party or his counsel. The opposing party or his counsel shall have 3 days to approve or reject the judgment entry. If rejected, the opposing party or his counsel immediately shall file with the Court, a written statement of the objections to the judgment entry. This subsection shall not apply to uncontested matters or dissolutions of marriage.

(2) Failure of the opposing party or his counsel to approve or reject a submitted judgment entry as provided above shall allow the preparer of the entry to unilaterally present the entry for journalization. The entry shall contain a certification, stating that the entry has been submitted to the opposing party or his counsel in compliance with this rule, and the date when the entry was submitted.

(3) Agreed judgment entries. Agreed judgment entries shall be submitted to the Court on the day of the hearing. Deviation from this requirement shall be permitted only with the approval of the assigned Judge. When the entry is to be prepared by counsel, it shall be submitted within 14 days of the hearing.

(4) A judgment entry prepared pursuant to this subsection and any other ancillary judgment entries and forms required by statute or rule (i.e. child support computation worksheet, order to post bond) shall be presented to the Court's Information Center prior to submission to the Court. The Information Center will review the entries to determine that all necessary information and mandatory language has been provided and shall approve the judgment entries as to form.

(5) Failure of a party or their counsel to prepare a judgment entry when ordered or directed to do so may subject that party or attorney to the vacating of an award of attorney fees and/or contempt powers of the Court. It may further result in the dismissal of the action.

(C) Dissolutions of Marriage and Uncontested Cases.

In all dissolution of marriage cases and uncontested cases of divorce or legal separation where the parties have entered into a separation agreement, judgment entries must be presented for approval to the Court's Information Center two (2) weeks before the hearing date.

In all uncontested cases where there is no separation agreement, a proposed judgment entry must be presented to the Court's Information Center two (2) weeks before the hearing date.

Two (2) weeks before the hearing date, a party or his/her counsel shall obtain the file from the assigned Judge's staff and take it to the Court's Information Center with the judgment entry. The Information Center will review the file to determine that all judgment entries and forms have been prepared and all necessary information and mandatory language has been provided

On the day of the hearing, a party or his/her counsel may proceed directly to the assigned Judge's Courtroom to check in with the Judge's staff for hearing.

If a party or counsel does not have the proper judgment entries prepared by the hearing date, then a new hearing date will be assigned. In no case shall a matter proceed to a hearing without proper judgment entries.

Any party or counsel shall be prepared to explain and show justification for any provision in a judgment entry or separation agreement submitted to the Court.

(D) **All judgment entries shall include an allocation of responsibility for Court costs.**

(E) **Support Orders.**

Any entry which includes child support provisions shall include language required by statute, complying with RC 3119.30, 3119.302 and 3119.32, and the child support calculation mandated by RC 3119.022 or 3119.023 as applicable. All child support orders shall be accompanied by the information concerning health insurance required by RC 3119.31. In addition, any judgment or journal entry establishing or modifying a support order shall specify a date certain on which such support provisions commence.

(F) **Qualified Domestic Relations Court Order and Division Of Property Order.**

(1) Preparation.

(a) Parties to a dissolution of marriage shall prepare any QDRO or DOPO where applicable, prior to the filing of the dissolution, so that the order may be presented to the Court at the final hearing on the dissolution.

(b) Where the division of a retirement asset is included in a written separation agreement, unless the agreement provides otherwise, counsel for the participant of a divided pension or retirement related asset shall prepare the QDRO or DOPO for submission to the Court as soon as possible, but in no event later than 60 days from the final entry of divorce or legal separation.

(c) Where the division of a retirement asset is the result of a trial to the Court, the Court may assign the responsibility of preparation of the QDRO or DOPO to either party at the Court's discretion. In the event the decree is the result of a proceeding in which the participant is in default of answer or other pleading, counsel for the alternate Payee shall prepare the QDRO or DOPO for submission to the Court as soon as possible, but in no event later than 120 days from the final entry of divorce or legal separation.

(d) CSEA, or its representative, shall prepare any QDRO or DOPO when the issuance of the order is the result of a request by such Agency.

(2) Mandatory language in all cases in which a Qualified Domestic Relations Order or a Division Of Property Order is to be issued, the final judgment entry shall contain the following language:

(a) "The Court retains jurisdiction with respect to the Qualified Domestic Relations Order or Division Of Property Order to the extent required to maintain its qualified status and the original intent of the parties. The Court also retains jurisdiction to enter further orders as are necessary to enforce the assignment of benefits to the non-participant, as set forth herein, including the recharacterization thereof as a division of benefits under another plan, as applicable, or, to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order."

(b) "The participants shall not take actions, affirmative or otherwise, that can circumvent the terms and provisions of the Qualified Domestic Relations Order or Division Of Property Order, or, that may diminish or extinguish the rights and entitlements of the non-participant."

(3) Division of Property Order for State Retirement Plan: All of Section (A) shall apply, utilizing the statutorily mandated forms

(G) **Electronic Signatures**

(1) The following definitions shall apply to this rule:

(a) "Electronic" and "Electronic Signature" have the same meaning as used in section 1306.01 of the Ohio Revised Code.

(b) The term "Document" includes Journal Entries, Notices, Orders, Opinions, and any other filing by a Judge or Magistrate of this Court.

(2) Electronic transmission of a document with electronic signature or signatures by a Judge, Judges, a Magistrate or a Judge and a Magistrate that is sent in compliance with procedures adopted by the Court shall, upon the complete receipt of the same by the Clerk of Courts, constitute filing of the document for all purposes of the Ohio Civil Rules, Rules of Superintendence, and the Local Rules of this Court.

(Effective July 1, 1991. Amended effective July 17, 2006; January 1, 2008; July 1, 2010; May 1, 2014.)

Title VI: Special Proceedings

Rule 29: Issuance of a Citation or Capias

(A) **CITATION.**

A citation may issue upon a party's failure to obey a Summons and Order to Appear for hearing, or if a prior court order authorizes the issuance of a citation upon affidavit.

(1) If the prior order authorizes issuance of a citation upon Affidavit, the party seeking the citation must file an Affidavit for Citation. The Affidavit for Citation shall state the date of journalization of the judgment entry that authorizes the issuance of the citation and each specific provision, referencing page and paragraph numbers, with which a party has allegedly failed to comply. The caption of the Affidavit for Citation shall state the most current address of the party to be cited.

(2) Citations will be prepared and served by the Court.

(3) A citation hearing scheduled before a magistrate may be heard by the assigned judge.

(B) CAPIAS.

A capias (arrest warrant) shall issue if a party who has been served with a citation or a Summons and Order to Appear fails to appear for a hearing, if a prior order authorizes issuance of a capias upon affidavit of a party, or at the direction of the assigned judge when extraordinary circumstances exist.

(1) If the prior order authorizes issuance of a capias upon affidavit, the party seeking the capias must file an Affidavit for Capias. The Affidavit for Capias shall state the date of journalization of the judgment entry that authorizes the issuance of the capias and each specific provision, referencing page and paragraph numbers, with which a party has allegedly failed to comply. The caption of the Affidavit for Capias shall state the most current address of the party to be arrested.

(2) Capias orders will be prepared by the Court and served by the Cuyahoga County Sheriff. Bond will be set when a capias order is issued.

(3) Capias orders not served within one year of issuance will be dismissed.

(4) A party arrested as a result of a capias will be afforded a hearing on the Court's next scheduled business day, subject to other outstanding warrants.

(5) A party for whom a capias has issued may contact the Court's Enforcement Services to arrange a voluntary appearance.

(6) A capias hearing scheduled before a magistrate may be heard by the assigned judge.

(Effective July 1, 1991. Amended effective December 11, 2000; July 29, 2013.)

Rule 30. Registration of a Foreign Parenting Decree or Order for Enforcement and/or Modification under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), R.C. 3127.01-3127.53

I. REGISTRATION (R.C.3127.35)

(A) **When Applicable.**

(1) A foreign (out-of-state) decree of divorce, dissolution, legal separation or annulment, or order that allocates or awards legal custody, physical custody, parenting time, companionship or visitation may be registered with the court for the purpose of enforcing or modifying its child custody determination. The act of registering does not necessarily vest the court with jurisdiction to enforce or modify said order.

(2) The registration of a foreign decree or court order does not vest the court with jurisdiction to enforce or modify its child support, spousal support, property division provisions or other monetary obligations.

(3) A petition for registration of a foreign support order under the Uniform Interstate Family Support Act (UIFSA) must be filed in a separate action, pursuant to Rule 31 of these Rules.

(B) Registration Procedure.

(1) A person seeking to register a foreign decree or order for enforcement or modification under the UCCJEA must file with the Clerk of Courts a Petition to Register Foreign Parenting Order with Notice requesting registration for enforcement or modification. The Petition must be served upon the opposing party or parties according to methods of service in Civ.R. 4 through 4.6.

(2) Two copies of the foreign decree or order and any modifications of the order including one certified copy must be attached to the Petition. A certified translation to English of the foreign decree or order if issued, in a language other than English, with all content from the original must be attached to the Petition.

(3) The Petition will receive a Cuyahoga County Domestic Relations Court case number as an original action.

(4) The Petition must include:

(a) A sworn affidavit stating under penalty of perjury, to the best of the knowledge and belief of the person seeking registration, that the foreign decree or order has not been modified.

(b) The name and address of the person seeking registration, and the name and address of any parent and any person who has been allocated or awarded legal custody, physical custody, parenting time, companionship or visitation time with the child(ren) by the foreign decree or order, in the caption of the Petition.

(c) A conspicuous Notice to the non-registering party or parties that states:

(i) That the registered child custody determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by a court of this state.

(ii) That a hearing to contest the validity of the registered determination must be requested within 30 days after service of Notice.

(iii) That failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(5) If the non-registering party or parties fail to timely request a hearing to contest registration, the registered decree or order shall be confirmed by operations of law. An Order Confirming Registration of Foreign Parenting Order shall be attached to the Petition for the Court's use. The Court will decline to confirm the registration if all the requirements in section (B) of this rule are not met.

(C) **Contesting Registration.**

(1) A party seeking to contest the validity of the registered decree or order shall file and serve upon the Petitioner a Request for Hearing to Contest Registration of Foreign Parenting Order within 30 days after service of Notice.

(2) If a timely Request is filed, a hearing will be scheduled to determine whether the registered decree or order will be confirmed.

(3) The registered decree or order will be confirmed unless the party contesting registration established one of the following:

(a) The issuing court did not have jurisdiction.

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so.

(c) The person contesting registration was entitled to notice of the child custody proceedings for which registration is sought, but notice was not given.

I) **Confirmation of Registration.**

(1) The filing of the Petition and required documents constitutes registration of the foreign parenting decree or order.

(2) The registration of a foreign parenting decree or order does not confer jurisdiction to enforce or modify the order.

(3) A registered decree or order confirmed by operation of law or after notice and hearing is enforceable in the same manner as an order of this court, provided that the court has jurisdiction over this matter.

(4) Confirmation of a registered parenting decree or order by operation of law or after notice and hearing precludes further contest of the determination with respect to any matter that could have been asserted at the time of registration.

II) **ENFORCEMENT AND/OR MODIFICATION OF A FOREIGN PARENTING ORDER**

(A) Assumption of Jurisdiction.

(1) Before issuing any modification or enforcement orders, the Court will determine that it has jurisdiction to proceed.

(a) The Court will not exercise jurisdiction if, at the time the motion is filed, a parenting proceeding is pending in another state exercising jurisdiction, unless:

(i) The court in the other state has declined to exercise jurisdiction because this Court is the more convenient forum, or

(ii) This Court exercises temporary emergency jurisdiction.

(b) Specific affirmative relief will not be granted unless the registered decree or order has been confirmed.

(B) A Motion to Enforce and/or a Motion to Modify a Foreign Parenting Order may be filed at the same time the Petition to Register Foreign Parenting Order is filed, or at a later time. The motion must be separate from the Petition.

(1) The motion must be served upon the responding party or parties according to methods of service in Civ.R. 4 through 4.6.

(2) A Parenting Proceeding Affidavit must be filed at the same time the motion is filed.

(3) The motion must be supported by a sworn affidavit that sets forth the specific operative facts that constitute the alleged non-compliance or change of circumstances.

(4) A Motion to Enforce a Foreign Parenting Order must state:

(a) Whether the court that issued the child custody determination identified the jurisdictional basis it relied upon in exercising jurisdiction, and if so, what the basis was.

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under R.C. Chapter 3127 and, if so, identify the court, the case number, and the nature of the proceeding.

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings for enforcement of child custody determination, proceedings relating to domestic violence or protection orders, proceedings to adjudicate the child as an abused, neglected, or dependent child, proceedings seeking termination of parental rights, and adoptions, and, if so, the court, the case number, and the nature of the proceeding.

(d) The present physical address of the child and the respondent, if known.

(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so the relief sought.

(f) Whether the child custody determination has been registered and confirmed and the date and place of registration.

(5) A hearing will be scheduled on the motion.

(6) A Motion to Modify a Foreign Parenting Order must state the reasons this Court should assume jurisdiction under R.C. Chapter 3127. The moving party must be prepared to demonstrate these reasons at the first scheduled hearing.

(Effective July 1, 1991. Amended effective July 17, 2006; July 29, 2013; June 19, 2019.)

Rule 31. Registration of a Foreign Decree of Support for Enforcement and/or Modification under the Uniform Family Support Act (UIFSA), R.C. 3115.601 – 3115.616

I. REGISTRATION R.C. 3115.601- 3115.616)

(A) **When Applicable.**

(1) A foreign (out-of-state) decree or order that allocates child or spousal support, health care, medical support, arrearages or income withholding may be registered with the court for

the purpose of enforcing its support provisions. The act of registering does not necessarily vest the court with jurisdiction to enforce or modify said order.

(2) A foreign (out-of-state) child support, health care, medical support, arrearage, or income withholding order may be registered with the court for the purpose of modifying its support provision.

(3) The registration of a decree does not vest the court with jurisdiction to enforce or modify its parenting or property division provisions.

(4) A petition for registration of a child custody order as provided for under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) must be filed in a separate action pursuant to Rule 30 of these Rules.

(B) **Registration Procedure.**

(1) A person seeking to register a foreign decree or order for enforcement or modification under the UIFSA must file a Petition to Register Foreign Support Order with Notice requesting registration for enforcement or modification with the Clerk of Courts. The Petition must be served upon opposing parties according to methods of service in Civ. R. 4 through 4.6.

(2) Two copies of the foreign order and any modifications of the order, including one certified copy must be attached to the Petition. A certified translation to English of the foreign decree or order, if issued in a language other than English, with all content from the original must be attached to the Petition.

(3) The Petition will receive a Cuyahoga County Domestic Relations Court case number as an original action.

(4) The Petition must include:

(a) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage as of a date certain.

(b) The name of the obligor and all of the following if known:

(i) The obligor's address and last four digits of social security number.

(ii) The name and address of the obligor's employer and any other source of income of the obligor.

(iii) A description and the location of property of the obligor in this state not exempt from execution.

(iv) The name and address of the obligee, and, if applicable, the agency or person to whom support payments are to be remitted.

(c) A conspicuous Notice to the non-registering party or parties that states that:

(i) A registered order that is confirmed pursuant to R.C. Chapter 3115 is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state.

(ii) A hearing to contest the validity or enforcement of the registered order must be requested pursuant to R.C. Chapter 3115 no later than 20 days after the date of mailing or personal service of the notice.

(iii) 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, and precludes further contest of that order with respect to any matter that could have been asserted.

(iv) The amount of any alleged arrearages under the support order.

(5) If the non-registering party or parties fail to timely request a hearing to contest registration, the registered order shall be confirmed by operation of law. An Order Confirming Registration of Foreign Support Order shall be attached to the Petition for the court's use. The court will decline to confirm the registration if all of the requirements in section (B) of this rule are not met.

(6) Upon registration of an income withholding order for enforcement, the court shall issue a withholding notice to the obligor's payor pursuant to R.C. Chapter 3121.

(C) **Contesting Registration.**

(1) A party seeking to contest the validity or enforcement of the registered order shall file and serve upon the Petitioner a Request for Hearing to Contest Registration of Foreign Support Oder, within 20 days after service of Notice.

(2) If a timely Request is filed, a hearing will be scheduled to determine whether the registered order will be confirmed.

(3) The registered order will be confirmed unless the party contesting registration established one of the following:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party.

(b) The order was obtained by fraud.

(c) The order has been vacated, suspended, or modified by a later order.

(d) The issuing tribunal has stayed the order pending appeal.

(e) There is a defense under the law of this state to the remedy sought.

(f) Full or partial payment has been made.

(g) The applicable statute of limitation under R.C. Chapter 3115 precludes enforcement of some or all of the arrearages.

(D) Confirmation of Registration.

(1) The filing of the Petition and required documents constitutes registration of the foreign support order.

(2) The registration of a foreign support order does not confer jurisdiction to enforce or modify the order.

(3) A registered order confirmed by operation of law or after notice and hearing is enforceable in the same manner as an order of this court, provided that the court has jurisdiction over this matter.

(4) Confirmation of a registered support order by operation of law or after notice and hearing precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

II. ENFORCEMENT AND/OR MODIFICATION OF A FOREIGN SUPPORT ORDER.

(A) **Assumption of Jurisdiction.**

(1) Before issuing any modification or enforcement orders, the court will determine that it has jurisdiction to proceed.

(a) The court will not exercise jurisdiction it the requirements of R.C. Chapter 3115 are not met.

(b) If modification is granted, the court becomes the tribunal with continuing exclusive jurisdiction.

(c) Specific affirmative relief will not be granted unless the registered order has been confirmed.

(B) A Motion to Enforce and/or Modify a Foreign Support order may be filed at the same time the Petition to Register Foreign Support Order is filed, or at a later time. The motion must be separate from the Petition.

(1) The motion must be served upon the responding party or parties according to methods of service in Civ.R. 4 through 4.6.

(2) The motion must be supported by a sworn affidavit that sets forth the specific operative facts that constitute the alleged non-compliance or change in circumstances.

(3) A hearing will be scheduled on the motion.

(4) A Motion to Modify a Foreign Support Order must state the reasons the court should assume jurisdiction under R. C. Chapter 3115. The moving party must be prepared to demonstrate that the court has jurisdiction at the first scheduled hearing.

(Effective July 1, 1991. Amended effective January 1, 1999; July 29, 2013; June 19, 2019.)

Rule 31.1: Registration of a Foreign Decree of Support for Modification (Replaced by Local Rule 31)

(Effective July 29, 2013.)

Rule 32: Mediation

(A) This Rule incorporates by reference R.C. Chapter 2710, commonly known as the Uniform Mediation Act, ("UMA"), R.C. 3109.052 and Sup.R.16.

(B) Referrals to Mediation.

(1) The court may order both parties to participate in mediation on its own initiative, motion of counsel or a self-represented party at any time after service in any action for divorce, legal separation, annulment, family case, or after service of a post decree motion to modify allocation of parental rights or parenting time or on any other issue the court deems necessary.

(2) If the parties have no parenting time agreement at the first pretrial, the matter shall be referred to mediation.

(3) A party may request mediation in parenting matters without an active post-decree motion.

(C) Exceptions.

(1) The Court shall not permit the use of mediation in any of the following situations:

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

(b) In determining whether to grant, modify, or terminate a civil protection order;

(c) In determining the terms and conditions of a civil protection order; and

(d) In determining the penalty for violation of a civil protection order.

(2) This rule does not prohibit the use of mediation in a divorce or allocation of parental rights case subsequent to the issuance of a civil protection order.

(D) Procedure.

(1) All parties referred to mediation shall be screened for suitability and capacity to mediate.

(2) Upon successful screening, the court shall order the parties to participate in the mediation process.

(3) Mediation shall commence within 30 days of the order for mediation.

(4) Mediation may be in person or conducted through an electronic forum.

(5) The parties shall be advised that either may withdraw from the mediation process at any time without any adverse effect upon the party's standing before the court.

(6) The mediator shall have the right not to conduct the mediation session or to terminate a mediation session.

(7) All court orders shall remain in effect during the mediation process.

(8) All agreements reached during mediation shall not be binding upon the parties until adopted by the court.

(9) The mediation does not provide legal advice.

(E) Privilege/Confidentiality.

(1) All communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, R.C. 3109.052, Sup.R.16, and the Ohio Rules of Evidence.

(2) Statements made during the course of the mediation screening, mediation sessions and the notes of the mediator or individual(s) conducting the screening shall not be discoverable or admissible as evidence in any proceeding in this court.

(3) This rule does not require the exclusion of any evidence that is otherwise discoverable merely because it is disclosed in the course of a screening or during mediation. This rule shall not preclude the mediator from testifying as to a crime committed in the presence of the mediator or from complying with any law requiring the reporting of child abuse or any other mandatory reporting statute.

(F) Attendance.

The court may require a party's attorney or a guardian ad litem to attend the mediation if the court determines it is appropriate and necessary for the process and consistent with the UMA. Parties, attorneys and guardians ad litem who fail to appear for a court ordered mediation may be charged an additional fee for failing to appear without good cause.

(G) Continuances.

Mediations may be continued by the parties for good cause shown and only after a new date has been agreed upon. Mediations may also be continued by the mediator, the judge or magistrate who referred the case.

(H) Mediation Outcome Report.

The mediator shall file a mediation outcome report or an extension of time to mediate within 60 days of the date of the order for mediation or upon the terminate of the mediation, whichever occurs first. The mediation outcome report shall inform the court who attended mediation and whether a settlement was reached. No other information shall be communicated by the mediator to the court unless all who hold a mediation privilege as to the confidentiality of the mediation including the mediator, have consented in writing to such a disclosure with the exception of the items listed in the UMA.

(I) Resources.

The mediator is authorized to provide referrals for legal or other community support services. The parties are advised to evaluate those resources independently. The referrals provided to the parties are not a recommendation by the court or the mediator.

(J) Private Mediation.

Parties using the services of a private mediator shall identify the private mediator to the court in writing. Parties shall also notify the court of the termination of private mediation and its outcome. Private mediation is subject to the time guidelines as set forth in this rule unless an extension has been requested and approved by the court.

(K) Qualifications.

Mediators shall meet the qualifications as set forth in Sup.R.16.

(Effective May 1, 1992. Amended effective October 1, 2010, December 7, 2011)

Rule 33: Special Process Server

A person may apply to be designated as a "Standing Special Process Server" for cases filed in this Court by filing an application supported by an affidavit setting forth the following information:

(1) the name, address and telephone number of applicant;

(2) that the applicant is eighteen years of age or older;

(3) that the applicant agrees not to accept service of process in any case which the applicant is a party or counsel for a party;

(4) that the applicant agrees to follow the requirements of Civil Rules 4 through 4.6, and any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases.

The applicant requesting the designation shall also submit an order captioned "In Re The Appointment of (name of applicant) As Standing Special Process Server," and stating as follows: "It appearing to the Court that the following applicant has complied with the provisions of Local Rule 33, (name of applicant) is hereby designated as a Special Process Server authorized to make service of process in all cases filed with this Court, to serve for one year, such year beginning on June 1 of the year filed and ending on May 31, of the following year." The order shall be signed by the Administrative Judge of Domestic Relations Court. The Clerk of Courts shall record such appointment on the Court's Special Docket, and shall retain the original applications and entries. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such order as satisfying the requirements of Civil Rule 4.1(2) for designation by the Court of a person to make service of process. The cost for filing this application is $27.00.

(Effective June 1, 1993.)

Rule 34: Divorce Seminar

(A) Pre-Decree. Within thirty (30) days before or after completion of service of process in any action for divorce or legal separation in which there are minor children or within thirty (30) days before or after the filing of a petition for dissolution of marriage in which there are minor children, the parties shall successfully complete a Court approved seminar for divorcing parents.

(B) Post-Decree. No later than thirty (30) days after the completion of service of process of a motion to modify the allocation of parental rights and responsibilities or the filing of a motion to modify and/or enforce visitation in any case in which the parties have not successfully completed a seminar approved by the Court for divorcing parents, they shall successfully complete the Court approved seminar.

(C) Registration. Each parent shall be responsible for registering at least one (1) week prior to the seminar to be attended.

(D) Failure to Attend. The Court shall not conduct a hearing or enter a final order allocating the primary rights and responsibilities for a child, grant shared parenting, modify the allocation of parental rights and responsibilities or modify and/or enforce visitation to or on behalf of any parent who has not completed the court approved seminar. Notwithstanding the foregoing, no action shall be delayed by the responding or non-moving party's failure or delay in completing the seminar. In such event, the Court may elect to conduct a hearing and issue a final order. Upon a party's failure to successfully complete the seminar, the Court may take such action, including but not limited to actions for contempt, as is appropriate.

(E) Content. The seminar shall focus on the needs of children whose parents are undergoing divorce or separation and shall cover the general areas of: (1) The effect of the divorce on the family; (2) How the breakup of the family effects children; (3) Recognizing the signs of stress and ways to deal with that stress; and (4) Behavior to avoid.

(F) Proof of Attendance. Upon completion of the seminar, each participant shall receive a certificate evidencing their attendance at the seminar. The certificate shall be presented to the Journal Department at the time the entry is submitted for approval.

(G) Evaluation. Each participant in the seminar shall complete an evaluation prior to receiving a certificate evidencing completion of the seminar.

(Effective June 1, 1994.)

Rule 35. Guardian ad Litem

(A) When Appointed

(1) A guardian ad litem is a person appointed to assist the court in its determination of the best interest of a child.

(2) The court in its discretion may appoint a guardian ad litem in cases involving an allocation of parental rights and responsibilities, parenting time or in any case in which the court needs to determine the best interest of a child.

(3) The court will appoint a guardian ad litem when a mandatory appointment is required by rule or statute.

(B) Eligibility to Serve

(1) The court maintains a public list of persons qualified and approved to serve as a guardian ad litem. The court may also appoint a licensed attorney on the approved list as an attorney for the child.

(2) To qualify to serve, guardians ad litem must:

(a) Possess a law degree or graduate degree in psychology or social work;

(b) Be licensed, in good standing, by the appropriate board or other licensing body;

(c) Complete twelve hours of pre-service education that complies with Sup. R. 48.05;

(d) Complete six hours of continuing education annually that complies with Sup. R. 48.05;

(e) Maintain appropriate malpractice insurance.

(3) Application

(a) Persons seeking to be placed on the Court's approved list must submit an application on a court-approved form, with required supporting documents, to the director of the guardian ad litem program that states the applicant's training, experience, and expertise demonstrating the applicant's ability to successfully perform the responsibilities of a guardian ad litem.

(b) Applicants will be subject to a criminal and civil background check conducted by the court.

(c) Proof of compliance with pre-service training must include the date, location, and sponsor of the training.

(4) Requirements to Remain on Approved List

(a) Guardians ad litem shall certify annually, in writing to the guardian ad litem program director, that they are unaware of any circumstances that would disqualify them from serving.

(b) Guardians as litem shall report annually, in writing to the guardian ad litem program director, the continuing education training completed pursuant to Sup. R. 48.05 detailing the date, location, content, sponsor, and credit hours received for the education.

(c) Guardians ad litem shall immediately notify the guard ad litem program director, in writing, of any arrest, indictment, or conviction, including pleas of guilty, for any criminal offense involving any action that resulted in a child being abused or neglect, or of a violation of O.R.C. 2919.25 or any sexually oriented offense involving a child; all civil cases in which the guardian ad litem is a named party including civil protection order cases; any pending professional disciplinary actions; and any issues effecting the ability to serve.

(5) Comments, Complaints and Removal

(a) Comments and complaints regarding a guardian ad litem shall be submitted to the director of the guardian ad litem program. The director of the guardian ad litem program will do all of the following:

(i) Provide a copy of the comment or complaint to the guardian ad litem;

(ii) Forward the comment or complaint to the administrative judge;

(iii) Issue a timely disposition of the comment or complaint;

(iv) Notify the person making the comment or complaint and the guardian ad litem of the disposition;

(v) Maintain a written record in the file of the guardian ad litem regarding the nature and disposition of the comment or complaint.

(b) Removal from the approved list. A guardian ad litem may be removed from the approved list of guardians ad litem maintained by the court for the following reasons:

(i) Refusal of three cases in any twelve-month period.

(ii) Failure to meet the qualifications and responsibilities as set forth in this rule and Sup. R. 48-48.06.

(iii) In the interest of justice and for good cause shown.

(C) Appointments

(1) Equitable Distribution

(a) The court will make appointments so as to ensure an equitable distribution of workload among the guardians ad litem on the approved list. Equitable distribution means a system through which appointments are made in an objectively rational, fair, neutral, and non-discriminatory manner and are widely distributed among substantially all individuals from the approved list maintained by the court. The court may consider the complexity of the issues, parties, counsel, and the children involved, as well as the experience, expertise, and demeanor of the available guardians ad litem. The court shall appoint the next qualified individual from the approved list unless circumstance justify otherwise.

(d) The court will consider reappointment of the same guardian ad litem for a specific child in any subsequent case determining the best interest of the child.

(2) Appointments may be limited in scope to address a specific issue or issues.

(3) Order of Appointment

(a) The appointment is solely as guardian ad litem.

(b) The appointment will remain in effect until a final entry is filed in the case which shall constitute discharge of the guardian ad litem.

(c) The guardian ad litem will be given notice of all hearings and proceedings and be provided, by the parties or their legal counsel, a copy of all pleadings, motions, notices, and other documents filed in the case.

(d) The Order of Appointment will:

(i) state the rate of compensation;

(ii) provide the term and amount of any installment payments and deposits;

(iii) grant the guardian ad litem the right to access information as authorized by the appointment;

(iv) require the parties to cooperate with the guardian ad litem and provide information when required to do so.

(D) Guardian ad Litem Duties and Responsibilities

(1) A guardian ad litem may be relieved of some the duties set forth in this rule as the result of a limited scope appointment or order of the court relieving the guardian of a specific duty.

(2) Duties

The guardian ad litem shall:

(a) Become informed about the facts of the case and contact all relevant persons;

(b) Observe the child with each parent, guardian, or physical custodian;

(c) Interview the child, if age and developmentally appropriate, where no parent, guardian, or physical custodian is present;

(d) Visit the child at the residence or proposed residence of the child;

(e) Ascertain the wishes and concerns of the child;

(f) Interview the parties and other significant individuals who may have relevant knowledge regarding the issues to the case. The guardian ad litem may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present;

(g) Interview relevant school personnel, medical and mental health providers, child protection services workers, and court personnel; and obtain copies of relevant records;

(h) Review pleadings and other relevant court documents in the case;

(i) Obtain and review relevant criminal, civil, educational, mental health, medical and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case;

(j) Request that the court order psychological evaluations, mental health or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court;

(k) Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

(3) Responsibilities

(a) The guardian ad litem shall do all of the following:

(i) Provide the court recommendations of the best interest of the child. The recommendations may be inconsistent with the wishes of the child or other parties;

(ii) Prepare a written and final report that complies with the requirements of Sup. R. 48.08(A) and provide it to the court, unrepresented parties, and legal counsel seven days before the final hearing date. A notice shall be filed setting forth that the report has been sent to all parties and counsel seven days in advance of trial.

(iii) Maintain independence, objectivity, and fairness, as well as the appearance of fairness, in dealings with the parties and professionals, both in and out of the courtroom, and have no ex parte communications with the court regarding the merits of the case;

(iv) Act with respect and courtesy in the performance of their responsibilities as the guardian ad litem;

(v) Immediately identify as the guardian ad litem when contacting individuals and inform them about the role of the guardian ad litem, the scope of the appointment and that documents and information obtained by the guardian ad litem may become part of a court proceeding;

(vi) Attend any hearing relevant to the responsibilities of the guardian ad litem;

(vii) Be available to testify at any relevant hearing;

(viii) Make no disclosures about a case or investigation, except to the parties and their legal counsel, in reports to the court, or as necessary to perform the duties of a guardian ad litem, including as a mandated reporter.

(ix) Maintain the confidential nature of personal identifiers, and addresses where there ae allegations of domestic violence or risk to the safety of a party or child;

(x) If necessary, request timely court reviews and judicial intervention in writing with notice to the parties;

(xi) If the guardian ad litem is an attorney, file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure.

(b) Notification Requirement

(i) A guardian ad litem shall notify the court, in writing with notice to the parties, upon becoming aware that the recommendations of the guardian ad litem differ from the wishes of the child. The court shall take action as it deems necessary.

(ii) A guardian ad litem shall Immediately notify the court upon becoming aware of an actual or apparent conflict of interest. The court shall take action it deems necessary.

(c) A non-attorney guardian ad litem may request that the court appoint an attorney for the guardian ad litem to file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure. The court shall take action as it deems necessary.

(E) Compensation

(1) Approved Fee Rate

Guardians ad litem shall be paid at the rate of $150.00 per hour for all reasonable and necessary time expended and expenses incurred, unless otherwise agreed upon, in writing, by all parties counsel and the guardian ad litem, and approved by order of court.

(2) Deposits

(a) When making the appointment, the court will order a $1,500.00 or greater deposit toward the guardian ad litem's fees and expenses, to be paid by one or both of the parties. After considering the parties' ability to pay, the court may issue an order waiving or modifying this requirement if the parties are unable to pay a deposit.

(b) The deposit shall be paid to the guardian ad litem who shall hold it as security for partial payment of the guardian ad litem fees and expenses.

(c) The guardian ad litem shall file a notice with the court that states when and from whom the payment was received.

(3) Payment

(a) The guardian ad litem shall submit a motion for payment at the conclusion of the case. The motion must itemize the duties performed, time expended, and expenses incurred. The court will issue an order on the motion for payment that allocates payment to one or more of the parties, unless a hearing on the motion is requested within 14 days.

(b) In determining the allocation of guardian ad litem fees, the court will consider any relevant factor, including:

(i) The rate or amount of compensation of the guardian ad litem;

(ii) The sources of compensations of the guardian ad litem, including the parties or pro bono contribution of services by the guardian ad litem;

(iii) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated using an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;

(iv) The conduct of any party resulting in the increase of the guardian ad litem fees and expenses without just cause;

(v) The terms and amount of any installment payments.

(c) The court may approve or deny any portion of the requested fees.

(d) Approved fees and expenses payable to a guardian ad litem shall be deemed to be in the nature of support and within the exceptions to discharge in bankruptcy under 11 U.S.C. 523.

(4) Record-keeping

The guardian ad litem must do both of the following:

(a) Keep accurate records of the time spent, services rendered, and expenses incurred while performing the responsibilities of a guardian ad litem;

(b) Provide a monthly itemized statement of fees and expenses to all parties.

(5) Enforcement

(a) The court may enforce payment of guardian ad litem fees and expenses as follows:

(i) Issue a lump sum judgment;

(ii) Conduct contempt of court proceedings;

(iii) Utilize any other manner authorized by law.

(b) The court will not delay or dismiss a proceeding solely because of a party's failure to pay guardian ad litem fees and expenses. The inability of a party to pay guardian ad litem fees and expenses ordered by the court will not delay any final entry.

(F) Annual Review

The director of the guardian ad litem program shall annually review the court's compliance with Sup. R. 48.07.

(Effective March 1, 1994. Amended effective September 1, 1998; November 20, 2000; January 1, 2003; August 1, 2005; July 1, 2009; December 1, 2015; September 15, 2021)

Rule 36: Court Security

As required by Common Pleas Superintendence Rule 9(A), this Court has adopted and implemented a local Security Policy and Procedures Plan/Manual.

(Effective July 1, 1995. Amended effective July 1, 2010.)

Rule 37: Order of Reference

Magistrates shall have the power to hear any pretrial or post-judgment motion in any case, and any trial of any case., as directed by the Assigned Judge. In addition, Magistrates shall have the power to hear Petitions for Domestic Violence Civil Protection Orders, both ex parte and full hearings, and related motions, as authorized by the Standing Order of Reference signed by the Administrative Judge, and shall issue a Magistrate's Order in compliance with R.C. 3113.31, Civ.R. 53(D)(2)(a) and Civ.R. 65.1, and Sup.R. Form 10.01-H.

Magistrates shall exercise the general powers found in Civil Rule 53(C)(2) with the exception that Magistrates will not have the powers found in Civil Rule 53(C)(2)(e) or the power to issue temporary restraining orders pursuant to Civil Rule 75(H).

(Effective September 1, 1995. Amended effective April 1, 2015; August 15, 2016.)

Rule 38: Parenting Coordination

1.01 Definitions

As used in this rule:

(A) Domestic Abuse

"Domestic abuse" means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.

(B) Domestic Violence

"Domestic violence" has the same meaning as in R.C. 3113.31(A)(1).

(C) Parenting Coordination

"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 R.C. Chapter 2710, R.C. 3109.052, or Sup.R. 16 nor arbitration subject to R.C. Chapter 2711 or Sup.R. 15.

(D) Parenting Coordinator

"Parenting coordinator" means an individual appointed by the Court to conduct parenting coordination.

1.02 Purpose

This rule allows for the resolution of disputes related to parental rights and responsibilities or companionship time orders outside of Court.

1.03 Scope

The Court may appoint a parenting coordinator upon the filing of a parental rights and responsibilities or companionship time order.

1.04 Limitations of Parenting Coordinator

A parenting coordinator may not determine the following:

(A) Whether to grant, modify, or terminate a protection order;

(B) The terms and conditions of a protection order;

(C) The penalty for violation of a protection order;

(D) Changes in the designation of the primary residential parent or legal guardian;

(E) Changes in the primary placement of a child.

1.05 Parenting Coordinator Qualifications, Continuing Education, Reporting

(A) The Court may appoint an individual as a parenting coordinator who has all of the following qualifications:

(1) A master's degree or higher, a law degree, or education and experience satisfactory to the Court;

(2) At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;

(3) Has completed the following training approved by the Dispute Resolution Section of the Supreme Court of Ohio:

(a) At least twelve (12) hours of basic mediation training;

(b) At least forty (40) hours of specialized family or divorce mediation training;

(c) At least fourteen (14) hours of specialized training in domestic abuse and dispute resolution;

(d) At least twelve (12) hours of specialized training in parenting coordination.

(B) Continuing Education

(1) To maintain eligibility for appointment, a parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children that has been approved by the Dispute Resolution Section of the Supreme Court of Ohio.

(2) On or before January 1st of each year, a parenting coordinator shall report to the Court a list of all continuing education training completed during the previous year pursuant to division 1.05(C), including the sponsor, title, date, and location of each training. A parenting coordinator shall not be eligible for appointment until this requirement is satisfied. The parenting coordinator shall complete three (3) hours of continuing education for each calendar year of deficiency.

(C) Reporting.

A parenting coordinator shall submit to the Director of the Parenting Coordination Program:

(1) A resume documenting compliance with division 1.05(B); and

(2) An updated resume in the event of any substantive changes; and

(3) Notification of any changes to name, address, and telephone number and, if available, electronic mail address.

1.06 Appointment

(A) The Court may order parenting coordination, 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 a child of the parties is 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.

(B) Parenting Coordinator Appointment Order

The appointment order shall set forth all of the following:

(1) The name, business address and business telephone number of the parenting coordinator;

(2) The specific powers and duties of the parenting coordinator;

(3) The term of the appointment;

(4) The scope of confidentiality;

(5) The fees and expenses to be charged for the services of the parenting coordinator as set forth in division 1.08(G) of this rule;

(6) The parties' responsibility for the payment of fees and expenses for services rendered by the parenting coordinator;

(7) The parenting coordinator has the right to suspend all services until payment of any unpaid balances;

(8) The terms and conditions of parenting coordination;

(9) Any other provisions specifically agreed to by the parties not in conflict with the definition of parenting coordination as set forth in division 1.01 (C) of this rule.

(C) Selection of Parenting Coordinator for Appointment

The parenting coordinator may be selected using one (1) of the following methods:

(1) By the Court randomly from the Court's roster of parenting coordinators; or

(2) By the Court based on the type of case, and the qualifications and caseload of the parenting coordinator; or

(3) By agreement of the parties from the Court's roster of parenting coordinators; or

(4) By any other method approved by the Court.

(D) Prohibited Parenting Coordinator Appointments

The Court shall not appoint a Parenting Coordinator who does not possess the qualifications in division 1.05 of this rule, or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate, guardian ad litem, custody evaluator, therapist, consultant, coach, or other mental health provider to any family member, or attorney for either party. Parties may not waive this prohibition.

(E) Appointment of Mediator as Parenting Coordinator

With written consent of the parties, the individual who served as a mediator for the parties may be appointed as the parenting coordinator.

(F) Termination or Modification of Parenting Coordinator Appointment

Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.

1.07 Parenting Coordinator Responsibilities

(A) Ability to Perform Duties

A parenting coordinator shall report in writing to the Director of the Parenting Coordination Program any factor that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(B) Compliance with Appointment Order

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the Court.

(C) Independence, Objectivity, and Impartiality

A parenting coordinator shall maintain independence; objectivity; and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(D) Conflicts of Interest

(1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

(2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the Director of the Parenting Coordination Program and the parties in writing of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court through the Director of the Parenting Coordination Program.

(E) Ex parte Communications

A Parenting Coordinator shall not have ex parte communications with the Court regarding substantive matters or issues on the merits of the case.

(F) Legal advice

A Parenting Coordinator shall not offer legal advice.

(G) Parenting Coordination Agreements, Reports, and Decisions

(1) Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.

(2) The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be promptly filed with the Court and include all of the following:

(a) Case caption, including the case number;

(b) Date of the decision;

(c) The decision of the parenting coordinator;

(d) Facts of the dispute and facts upon which the decision is based;

(e) Reasons supporting the decision;

(f) The manner in which the decision was provided to the parties;

(g) Any other necessary information.

(1) A party may file written objections to a parenting coordinator's decision with the Court and serve all other parties to the action within fourteen (14) days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action, not later than ten (10) days after the first objections are filed. A hearing may be scheduled, upon request, at the discretion of the Court. A judge shall issue a ruling on the objections within thirty (30) days from the date of the last objection filed.

(2) Upon request of the Court, the parenting coordinator shall prepare a written report including, but not limited to, all of the following:

(a) Dates of parenting coordination session(s);

(b) Whether the parenting coordination session(s) occurred or was terminated;

(c) Requests to reschedule a parenting coordination session(s), including the name of the requestor and whether the request was approved;

(d) Whether an agreement was reached on some, all, or none of the issues;

(e) Who was in attendance at each session(s);

(f) The date and time of a future parenting coordination session(s);

(g) Whether any decisions were written, and if so, the date(s).

1.08 Parenting Coordination Procedures

(A) Screening for and Disclosure of Domestic Abuse and Domestic Violence

(1) All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.

(2) All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.

(3) When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, a parenting coordinator shall do each of the following:

(a) Fully inform the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process and the option to have a support person present at parenting coordination sessions;

(b) Have procedures in place to provide for the safety of all persons involved in the parenting coordination process;

(c) Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

(B) Disclosure of Abuse, Neglect, and Harm

A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

(C) Attendance and Participation

(1) The parties shall contact and meet with the parenting coordinator within thirty (30) days of the appointment order. Parties shall attend parenting coordination sessions as requested by the parenting coordinator. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.

(2) A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

(D) Referrals to Support Services

A parenting coordinator shall provide information regarding referrals to other resources as appropriate.

(E) Parenting Coordinator Evaluations

(1) A parenting coordinator shall provide parties with the parenting coordinator evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment. The evaluation form shall be completed by the parties and submitted to the Director of the Parenting Coordination Program.

(2) The Director of the Parenting Coordination Program shall complete a review of the parenting coordinators on the Court's roster in January of each year.

(F) Complaint of Parenting Coordinator Misconduct

(1) A party to a case in which a parenting coordinator has been appointed may file a complaint regarding misconduct of the parenting coordinator within one year from the termination of the appointment. Dissatisfaction with the decisions of the parenting coordinator does not constitute misconduct.

(2) The complaint shall be submitted to the Director of the Parenting Coordination Program, and include all of the following:

(a) The case caption and case number;

(b) The name of the parenting coordinator;

(c) The name and contact information for the person making the complaint;

(d) The nature of any alleged misconduct or violation;

(e) The date the alleged misconduct or violation occurred.

(1) The Director of the Parenting Coordination Program shall provide a copy of the complaint to the parenting coordinator;

(2) The parenting coordinator has fourteen (14) days from the date of the receipt of the complaint to respond in writing to the Director of the Parenting Coordination Program.

(3) The Court designee shall conduct an investigation into the allegations and shall issue a response.

(G) Fees

A parenting coordinator shall be paid $250.00 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.

1.09 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.

1.10 Public Access

The files maintained by a Parenting Coordinator but not filed with the Clerk of Court 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.

1.11 Model Standards

The Court and a parenting coordinator shall comply with the “Guidelines for Parenting Coordination” developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the “Guidelines for Parenting Coordination” and this rule, this rule shall control.

1.12 Court Reporting Requirements

On or before February 1st of each year, the Court shall file with the Dispute Resolution Section of the Supreme Court of Ohio all of the following:

(A) A copy of this rule;

(B) A copy of the Court’s current roster of parenting coordinators;

(C) A copy of each new or updated resume received by the Court from a parenting coordinator during the previous year;

(D) A copy of each list of continuing education training received by the Court from each parenting coordinator.

1.13 Sanctions

The Court may impose sanctions for any violation of this rule which may include, but is not limited to, attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the Court.

(Effective November 1, 2014.)

Rule 39. Custody Evaluation

"Custody evaluation" means an expert study and analysis, by an individual qualified to be a custody evaluator, of the needs and development of a child who is the subject of an action or proceeding in which child custody or parenting visitation is an issue, and of the comparative and relative capacities of the parties and other relevant adults to care for and meet the needs and best interest of the child. Custody evaluation shall include full and partial evaluation. Custody and parenting visitation shall include allocation of parental rights and responsibilities, companionship, and visitation.

(A) When Appointed

The court may appoint an evaluator to aid the court in evaluating the best interest of a child in a contested custody or parenting time case.

(B) Eligibility to Serve

(1) Qualifications

The court has evaluators on staff. The court also maintains a public list of approved private custody evaluators eligible to receive appointments pursuant to Sup.R. 91.

To qualify to serve, a custody evaluator must be either:

(a) An Ohio licensed psychologist or a psychologist licensed in another jurisdiction and authorized by the Ohio Board of Psychology to practice psychology in this state on a temporary basis;
(b) An Ohio licensed social worker, professional clinical counselor, or marriage and family therapist or a professional with an equivalent level of licensure issued by another jurisdiction and authorized by the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board to practice in this state on a temporary basis;
(c) A physician licensed in any state and board certified in psychiatry or who has competed a psychiatry residency accredited by the Accreditation Council for Graduate medical Education or a successor to that Council; or
(d) A court employed evaluator who has a minimum of a master's degree in a mental health field that includes formal education and training in the legal, social, familial, and cultural issues involved in custody decisions.

A custody evaluator must also:

(a) Complete 40 hours of pre-appointment training that complies with Sup.R. 91.08;
(b) Complete six hours of continuing education annually that complies with Sup.R. 91.09.

Individuals serving as custody evaluators on September 1, 2022, have until March 1, 2024, to complete the 40 hours of pre-appointment training required under Sup.R. 91.08(B).

(2) Applications

Individuals seeking to be placed on the Court's approved list must submit an application on a court-approved form with required supporting documents, to the director of Law Department that document the applicant's qualifications and completion of the initial training program under Sup.R.91.08(B).

Approved custody evaluators must certify annually to the director of the Law Department. that they are unaware of any circumstances that would disqualify them from serving and must report the training they have attended to comply with Sup.R. 91.08.

Proof of compliance with pre-service training and continuing educational requirements must include information detailing the provider, title, date, location, contents, and credit hours received for any relevant education.

Approved custody evaluators must immediately notify the director of the Law Department, in writing, of any arrest, indictment or conviction, including pleas of guilty, for any criminal offense involving any action that resulted in a child being abused or neglected, or of violation of O.R.C. 2919.25, or any sexually oriented offense involving a child; all civil cases in which the guardian is a named party including civil protection order cases; any pending professional disciplinary actions; and any issues affecting the ability to serve.

(C) Appointments

When needed, the court may, in its discretion, appoint a court employed custody evaluator or a private custody evaluator.

The court will make appointments so as to ensure an equitable distribution of workload among the private custody evaluators on the approved list. Equitable distribution means a system through which appointments are made in an objectively rational, fair, neutral, and nondiscriminatory manner and are widely distributed among substantially all private custody evaluators on the list maintained by the court. The court may consider the complexity of the issues, parties, counsel, and the children involved, as well as the experience, expertise, and demeanor of the available private custody evaluators.

The court will issue an Order of Appointment. Appointments may be for a partial evaluation that is limited in either time or scope. The Order of Appointment will include all of the following information:

(1) the name, business address, licensure, and telephone number of the evaluator;
(2) the purpose and scope of the appointment;
(3) the term of the appointment;
(4) a provision that a written report is required and oral testimony may be required;
(5) any deadlines pertaining to the submission of reports to the court, including the dates of any pretrial, settlement conference, or trial associated with the furnishing of reports;
(6) A provision for payment of fees, expenses, and any hourly rate or fee that will be charged;
(7) Any provision the court deems necessary to address the safety and protection of all parties, the children of the parties, any other children residing in the home of a party, and the person being appointed;
(8) Any other provisions the court deems necessary.

The Order of Appointment will also do both of the following:

(1) Grant the custody evaluator the right to access information as authorized by the appointment;
(2) Require the parties to cooperate with the custody evaluator and provide information promptly when requested to do so.

The court will only consider evaluations completed by a custody evaluator appointed by the court.

A custody evaluator may communicate with the court when necessary to amend the scope or time frame of the order of appointment.

(D) Responsibilities and Authority of Custody Evaluator

(1) Responsibilities

A custody evaluator shall do all of the following:

(a) Maintain objectivity, provide and gather balanced information from both parties to the case, and control for bias;
(b) Strive to minimize the potential psychological trauma to children during the evaluation and report writing by performing responsibilities in a prompt and timely manner;
(c) Protect the confidentiality of the parties and children with collateral contacts and not release information about the case to any individual except as authorized by the court or statute;
(d) Immediately identity himself or herself as a custody evaluator when contacting individuals in the course of a particular case and inform these individuals about the role of a custody evaluator and that documents and information obtained may become part of court proceedings;
(e) Refrain from an ex parte communications with the court regarding the merits of the case;
(f) Not offer any recommendations about a party unless that party has been evaluated directly or in consultation with another qualified neutral professional;
(g) Consider the health, safety, welfare, and best interest of the child in all phases of the process, including interviews with parents, extended family members, counsel for the child, and other interested parties or collateral contacts.
(h) Not pressure children to state a custodial preference;
(i) Inform the parties of the evaluator's reporting requirements, including, but not limited to, suspected child abuse and neglect and threats to harm one's self or another person;
(j) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child before having gathered the information necessary to support the conclusion;
(k) Be conscious of the socioeconomic status, gender, race, ethnicity, sexual orientation, cultural values, religion, family structures, and developmental characteristics of the parties;
(l) Upon discovery, notify the court in writing of any conflicts of interest arising from any relationship or activity with parties or others involved in the case. A custody evaluator shall avoid self-dealing or associations from which the custody evaluator may benefit, directly or indirectly, except from services as a custody evaluator.

(2) Description of Custody Evaluation

A custody evaluation may be a full evaluation or a partial evaluation. A partial evaluation is an examination of the best interest of a child that is limited in either time or scope.

Unless contraindicated in the judgment of the custody evaluator or limited by the Order of Appointment, a custody evaluation shall include but is not limited to all of the following:

(a) Information obtained through interviews, joint or individual, with each party seeking custody or parenting time;
(b) Information obtained through interviews with each child;
(c) Information obtained through interviews with stepparents, significant others, or any other adult residing in the home;
(d) Information obtained through interviews with step or half siblings residing in the home;
(e) Information obtained from child care providers, schools, counselors, hospitals, medical professionals, social service agencies, guardian ad litem, and law enforcement agencies;
(f) Information from home visits or observations of each child with the appropriate adults involved;

(g) History of child abuse, domestic violence, substance abuse, psychiatric illness, and involvement with the legal system;
(h) Investigation into any other relevant information about the child's needs.

When one party resides in another jurisdiction, a custody evaluator, upon order of the court, may rely upon another qualified neutral professional for assistance in gathering information.

(3) Additional Responsibilities

A custody evaluator shall also do all of the following:

(a) Prepare and file a written report with the court at least 30 days prior to the final hearing. The report shall provide a detailed analysis of the relative strengths and areas in need of improvement of the parties with respect to meeting the needs of the child as well as a comparative analysis of different parenting or companionship plans under consideration.
(b) Include in the written report the statement, "The custody evaluator's report shall be provided to the court for distribution to unrepresented parties and legal counsel. Unauthorized disclosure or distribution of the report may be subject to court action, including the penalties for contempt which include fines and/or incarceration.";
(c) Provide a copy of the custody evaluator's report to the parties and their counsel when the report is filed;
(d) Establish a record keeping system that shall include active control of records and reasonable precautions to prevent the loss or destruction of records in compliance with established record retention standards.

(E) Prohibition against Dissemination

Custody evaluation reports and recommendations shall not be disseminated to anyone nor placed on social media. Reports or the recommendations shall not be shared with minor children who are the subject of the case. Unauthorized disclosure or distribution of the report may be subject to court action, including the penalties for contempt which include fines and/or incarceration.

(F) Complaints, Removal, and Resignation

(1) Complaints

In the event of comments or complaints regarding the performance of a custody evaluator, the director of the Law Department will do all of the following:

(a) Provide a copy of the comments and complaints to the custody evaluator;
(b) Forward the comments and complaints to the administrative judge;
(c) Issue a timely disposition of the comment or complaint;
(d) Notify the person making the comment or complaint of the disposition;
(e) Maintain a written record in the file of the custody evaluator regarding the nature and disposition of the comment or complaint.

(2) Removal from a case

The court may remove a custody evaluator appointed to perform a custody evaluation upon a showing of good cause.

A custody evaluator may be removed from the approved list for failing to meet failing to meet the qualifications and/or responsibilities established in this rule and Sup. R. 91.01-91.09.

(3) Resignation

A custody evaluator appointed to perform an evaluation may resign prior to completing the evaluation only upon a showing of good cause, notice to the parties, an opportunity to be heard, and with the approval of the court.

(G) Fees and Expenses

(1) The cost of a private custody evaluator shall be as charged by the evaluator.

The cost of an evaluation by a court employee shall be taxed as costs and assessed as follows:

(a) $800.00 for a full evaluation;
(b) $700.00 for a partial evaluation involving third parties;
(c) $600.00 for a partial evaluation.

A court-employed evaluator may also perform an assessment for alcohol and other drugs at a cost of $175.00.

(2) Ability to Pay

The parties have a right to be heard on the issue of the allocation of fees and expenses before a custody evaluator is appointed.

The court will inquire as to the rate and terms of compensation required by the custody evaluator and shall make a determination of the ability of any party to the case to pay for the likely fees and expenses of the evaluator. In making this determination the court will consider all of the following:

(a) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit or statement of income and expenses, testimony to the court, or evidence of qualifications for any means-tested public assistance;
(b) The complexity of the issues;
(c) The anticipated fees and expenses of the custody evaluator including any fees or expenses related to potential testimony.

(3) Payment

Upon determining that the appointment of a custody evaluation should proceed, the court will issue an order regarding allocation of payment of the evaluator's fees and expenses.

The court may approve additional fees or expenses, reallocate fees or expenses, or require a party to reimburse another party in part or in whole for fees or expenses paid.

Payment for a private evaluation shall be made directly to the custody evaluator.

(H) Access to Report

The court may receive and read the written report in advance of a hearing or trial for the purpose of conducting a settlement conference in the case.

(I) Testimony and Report at Hearing or Trial

(1) The court will admit the custody evaluator's report into evidence on the court's motion. The admitted report will be considered the direct testimony of the custody evaluator.
(2) A party challenging the report must subpoena the evaluator to appear for cross-examination not less than fourteen days before the hearing or trial.
(3) The court will notify the evaluator as soon as a hearing or trial date is set. The evaluator must be available to testify on cross-examination regarding the report if timely subpoenaed by a party.

(J) Periodic Review

The director of the Law Department shall annually review the Court's compliance with Sup.R. 91.05(B).

(Effective October 4, 2022.)

Rule 40. Attorney for Child

(A) When Appointed

The court may, in its discretion, appoint an attorney for a minor child when necessary to protect the legal interests of a child in contested proceedings involving the allocation of parental rights and responsibilities. The appointment may be made on the court's own motion or upon the motion of:

(1) A party;
(2) The attorney for a party;
(3) The court-appointed guardian ad litem.

(B) Nature of Representation

The attorney for a child shall provide independent legal representation as counsel of record for the child who shall be joined as a party defendant. The attorney for the child shall owe the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client in a traditional attorney-client relationship. The attorney for a child is not an attorney performing the role of a guardian ad litem appointed pursuant to Sup.R. 48.01- 48.07.

The attorney for a child is subject to constraints on ex-parte communication; disclosure of client confidences and attorney work product; conflicts of interest; becoming a witness in the litigation and is otherwise bound by the requirements of the *Ohio Rules of Professional Conduct*.

The attorney for a child shall be served with all pleadings, motions, notices and other documents filed in the case and be provided with all documents exchanged in discovery. The attorney for a child shall be given notice of all hearings and other proceedings, in the same manner as service is made or notice is given to the parties to the action, consistent with rules and laws applicable to parties.

The attorney for a child shall become familiar with the *American Bar Association Section of Family Law Standards of Practice for Lawyers Representing Children in Custody Cases (August 2003)*.

(C) Appointment considerations

The court shall not appoint an attorney to represent a child unless the court finds, at any stage in the proceedings, that the legal interests of the child are not adequately protected or represented by one of the parties. The court will not routinely appoint an attorney for a child.

If there is a conflict between the guardian ad litem's position and the child's preference, the court may appoint an attorney for the child.

In determining whether to make an appointment of an attorney for a minor child, the court shall consider the:

(1) Nature and adequacy of the evidence to be presented by the parties and the availability of other methods of obtaining information;
(2) Whether an attorney for the child would be likely to provide the court with relevant evidence not likely to be otherwise presented;
(3) The age and maturity of the child and whether the child is of sufficient reasoning ability to express wishes and desires;
(4) Whether the child is competent to direct the terms of the representation;
(5) Available resources for payment.

The court may consider the following factors:

(1) Whether the issues of allocation of parental rights and parenting time are highly contested or protracted;
(2) Whether the child is subjected to stress as a result of the dispute that might be alleviated by the intervention of counsel representing the child;
(3) Whether the dispute involves allegations of physical, emotional, or sexual abuse or neglect of the child;
(4) Whether the best interest of the child appears to require independent representation;
(5) Whether the appointment would be helpful in resolving the issues of the case.

(D) Limited Scope of Appointment

The court may appoint an attorney for a child to address a specific issue or issues.

(E) Reappointment

The court will consider reappointing the same attorney for a specific child in any subsequent proceeding determining the best interest of the child.

(F) Eligibility to Serve

The Court maintains a public list of attorneys approved to represent a child.

To be appointed, an attorney must be licensed and in good standing with the Ohio Supreme Court as defined in Gov.Bar.R. VI, Sec. 15, maintain appropriate malpractice insurance, and meet one of the following:

(1) Be eligible for assignment as a guardian ad litem in this court or the Juvenile Division or Probate Division of the Cuyahoga County Common Pleas Court;

(2) Have completed the pre-service educational requirement for a guardian ad litem as set forth in Sup.R. 48.04;
(3) Have served as attorney of record (first or second chair) in this court in three trials in which allocation of parental rights and responsibilities was at issue;
(4) Have represented a minor child in three proceedings in the Juvenile Division or Probate Division of the Cuyahoga County Common Pleas Court.

The court requires quality representation by members of the bar appointed to represent a child in this court. The court may remove an assigned attorney from a case in the interest of justice and for good cause shown.

(G) Appointments

The court will make appointments so as to ensure an equitable distribution of workload among the attorneys on the approved list. Equitable distribution means a system through which appointments are made in an objectively rational, fair, neutral, and nondiscriminatory manner and are widely distributed among substantially all persons from the list maintained by the court.

The court may consider the complexity of the issues, parties, counsel, and the children involved, as well as the experience, expertise and demeanor of the available attorneys, including language, culture, and the special needs of a child in the following areas:

(1) Child abuse;
(2) Domestic violence;
(3) Drug abuse of a parent or the child;
(4) Mental health issues of a parent or the child;
(5) Particular medical issues of the child;
(6) Educational issues.

(H) Order of Appointment

The court will issue an Order of Appointment that will state:

(1) The appointed counsel's name, address, telephone number, and email address;
(2) The name of the child for whom counsel is appointed;
(3) The child's date of birth;
(4) The child's address, if appropriate;
(5) The appointment is solely as legal counsel for the child;
(6) The scope of the appointment and the issues to be addressed in the case;
(7) Authorize the appointed counsel to have reasonable access to the child and to all otherwise privileged or confidential information about the child, without the necessity of any further order of court or the execution of a release, even in the

absence of consent by a parent or by the child, except if the information is otherwise protected by law;

(8) The rate of compensation for the attorney and the determination of the ability of any party to pay the attorney fees and expenses;

(9) The allocation of fees payable by each party to the attorney subject to further order of court;

(I) Duration and Termination of Appointment

The appointment shall remain in effect until all matters addressed in the appointment are resolved including but not limited to the filing of objections and appeals to the appellate court. The court must grant permission for the continued representation of the child beyond the appellate level.

(J) Duties and Rights

(1) The attorney for the child shall:

(a) Immediately identify himself or herself as attorney for the child when contacting individuals and inform them about the role of the attorney, the scope of the appointment, and that documents and information obtained by the attorney may become part of court proceedings;
(b) Gather evidence that bears on the legal interests of the child and present that admissible evidence to the court in any manner appropriate for the counsel of a party;
(c) Present the child's wishes to the court;
(d) File and serve notices, pleadings and motions, and conduct discovery as necessary in representing the interests of the minor child;
(e) Interview the child;
(f) Review court files and all accessible relevant records available to both parties;
(g) Make any further investigations child's counsel considers necessary to ascertain evidence relevant to the allocation or parental rights or parenting time hearing;
(h) Introduce and examine witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately.

(2) In informing and counseling the client, the attorney for the child should:

(a) Meet with the child upon appointment, before court hearings, when apprised of emergencies or significant events affecting the child, and at other times as needed;

(b) Explain to the child what is expected to happen, before, during, and after each hearing;
(c) Advise and consult the child and provide guidance, communicating in a way that maximizes the child's ability to direct the representation;
(d) Discuss each substantive order, and its consequences, with the child;
(e) Interview the child in a developmentally appropriate manner;
(f) Seek to elicit in a developmentally appropriate manner the child's expressed objectives of representation;
(g) Consider the impact on the child in formulating the attorney's presentation of the child's expressed objectives of representation to the court;
(h) Take any action consistent with the child's interests that the attorney considers necessary to expedite the proceedings;
(i) Encourage settlement and or participate in alternative forms of dispute resolution.

(3) The attorney for a child shall have the following rights with respect to the child represented:

(a) To have reasonable access to the child;
(b) To confer with the child in a private setting that allows for confidential communications, which may include by telephone or videoconference, as appropriate;
(c) To have standing to seek affirmative relief on behalf of the child;
(d) To be heard in the proceeding and take any action available to a party in the proceeding;
(e) To have access to the child's medical, dental, mental health, and other health-care records;
(f) To have access to the child's school and educational records;
(g) To interview school personnel, caretakers, health-care providers, mental health professionals, and others who have assessed the child or provided care to the child;
(h) To assert or waive any privilege on behalf of the child;
(i) To refuse any physical or psychological examination or evaluation that has not been ordered by the court;
(j) On approval of the court, to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding;
(k) To conduct thorough, continuing, and independent discovery and investigations;
(l) To request the court to authorize the relevant local child protective services to release relevant reports or files concerning the child;
(m) To review and sign, or decline to sign, a proposed or agreed order affecting the child;

(n) To request a hearing or trial on the merits;
(o) To consent or refuse to consent to an interview of the child by another attorney;
(p) To attend all legal proceedings in the suit;
(q) Not to be compelled to produce the attorney's work product developed during the appointment;
(r) Not to be required to disclose the source of information obtained as a result of the appointment;
(s) Not to provide a report or submit a report into evidence;
(t) Not to testify in court.

(K) Complaints and Removal from the Court Approved List

(1) Complaints

In the event of comments or complaints regarding the performance of an attorney for a child, the director of the guardian ad litem program will do all of the following:

(a) Provide a copy of the comments and complaints to the attorney for the child;
(b) Forward the comments and complaints to the administrative judge;
(c) Issue a timely disposition of the comment or complaint;
(d) Notify the person making the comment or complaint of the disposition;
(e) Maintain a written record in the file of the attorney regarding the nature and disposition of the comment or complaint.

(2) Removal

An attorney for a child may be removed from the approved list for the following reasons:

(a) Failing to meet the qualifications and/or responsibilities established in this rule;
(b) In the interest of justice and for good cause shown.

(L) Compensation

(1) Approved Fee Rate

An attorney for a child shall bill and be paid at the rate of $150.00 per hour for all reasonable and necessary time expended and expenses incurred.

(2) Deposits

Parties are responsible for payment for the legal services provided by the attorney for the child.

When making the appointment, the court will order one or both of the parties to pay a $1,500.00 or greater deposit toward the attorney's fees and expenses, to be paid by one or both of the parties. After considering the parties' ability to pay, the court may issue an order waiving or modifying this requirement if the parties are unable to pay a deposit.

The deposit shall be paid to the attorney for a child who shall hold it as security for partial payment of the attorney's fees. The attorney shall file a notice with the court that states when payment was received.

(3) Payment

The attorney for a child shall submit a motion for payment at the conclusion of the case. The motion must itemize the duties performed, time expended, and expenses incurred. The court will issue an order regarding payment of requested fees and expenses that allocates payment to one or more parties, unless a hearing on the motion is requested within 14 days.

In determining the allocation of attorney fees, the court will consider any relevant factor, including:

(a) The rate or amount of compensation of the child's attorney;
(b) The sources of compensation of the child's attorney, including the parties;
(c) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated using an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;
(d) The conduct of any party resulting in the increase of the child's attorney fees and expenses without just cause;
(e) The terms and amount of any installment payments.

The court may approve or deny any portion of the requested fees.

(4) Record-keeping

The attorney must do all of the following:

(a) Keep accurate records of the time spent, services rendered, and expenses incurred in each case while performing the responsibilities as the attorney for the child;

(b) Provide a redacted monthly statement detailing fees and expenses to all parties.

(5) Enforcement

Approved fees payable to an attorney shall be deemed to be in the nature of support of the child and within the exceptions to discharge in bankruptcy under 11 U.S.C. 523.

The court may enforce payment of the child's attorney fees and expenses as follows:

(a) Issue a lump sum judgment;
(b) Conduct contempt of court proceedings; or
(c) Utilize any other manner authorized by law.

The court will not delay or dismiss a proceeding solely because of a party's failure to pay attorney fees and expenses. The inability of a party to pay attorney fees and expenses ordered by a court will not delay any final entry.

(Effective January 26, 2023)

Rule 41. Access to Case Documents

(A) Presumption of Public Access

Case documents are presumed open to public access. A case document means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders, and judgments, and any documentation prepared by the court or clerk in the judicial action or proceedings, such as journals, dockets, and indices, subject to exclusions.

(B) Direct and Remote Public Access

Pursuant to R.C. 2303.14, the Cuyahoga County Clerk of Courts is the official custodian of the case file and is responsible for maintaining all materials appertaining to the court record. The Clerk of Courts shall convert any documents filed in paper format to an electronic format. Pursuant to R.C. 2303.081, pleadings and documents in electronic format are the official version of the record.

All documents submitted to the court must to be filed with the Clerk of Courts.

The Clerk of Courts shall provide remote access to the general docket through its online Case Records Search System. The Clerk of Courts shall provide direct access to case documents. Remote access to case documents via the Case Records Search System is only available for parties, their attorneys of record, guardians ad litem, parenting coordinators, and custody evaluators appointed in that case.

The Clerk of Courts shall not make available for direct or remote public access any documents or information in documents excluded or restricted from public access.

All public requests to view case files shall be directed to the Clerk of Courts.

(C) Documents Excluded from Public Access

Pursuant to R.C. 2303.91(A) and Sup.R. 44(C), the following are not case documents and are not available for public access:

> (1) A document or information in a document exempt from disclosure under state, federal, or common law;
>
> (2) Personal identifiers, meaning social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile's

name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV" for "child victim";

(3) A document or information in a document to which public access has been restricted;

(4) Except as relevant to the juvenile's prosecution later as an adult, a juvenile's previous disposition in abuse, neglect, and dependency cases, juvenile civil commitment files, post-adjudicatory residential treatment facility reports, and post-adjudicatory releases of a juvenile's social history;

(3) Notes, drafts, recommendations, advice, and research of judicial officers and court staff;

(4) Forms containing personal identifiers;

(5) Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

(6) Health care documents, including but not limited to, physical health, psychological health, psychiatric health, mental health, and counseling documents;

(7) Drug and alcohol use assessments and pre-disposition treatment facility reports;

(8) Guardian ad litem reports, including collateral source documents attached to or filed with the reports;

(9) Home investigation reports, including collateral source documents attached to or filed with the reports;

(8) Child custody evaluations and reports, including collateral source documents attached to or filed with the reports;

(10) Domestic violence risk assessments;

(11) Supervised parenting time or companionship or visitation records and reports, including exchange records and reports;

(12) Financial disclosure statements regarding property, debt, taxes, income and expenses, including collateral source documents attached to or filed with records and statements;

(13) Asset appraisals and evaluations.

(D) Responsibility of Party to Omit Personal Identifiers prior to Submission or Filing of Case Documents

Pursuant to R.C. 2303.901(B)(1) and Sup.R. 45(D), a party must omit personal identifiers in any case document. The responsibility for omitting personal identifiers rests solely with the party. The Clerk of Courts and the court are not required to review the case document to confirm that the party has omitted personal identifiers and will not refuse to accept or file the document on that basis.

When personal identifiers are omitted from a case document that requires personal identifiers, the party must submit or file that information on a separate form. This form is available from the Clerk of Courts.

Pursuant to R.C. 2303.901(B)(2), the Clerk of Courts is not liable or responsible for safeguarding personal identifiers filed or submitted to the court by a party not contained in a separate form.

(E) Motion to Restrict Public Access to Case Documents

Pursuant to Sup.R. 45(E), any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion, request that the court restrict public access to the information or, if necessary, the entire document.

A motion to restrict public access to a case document must:

(1) Identify the specific case document(s) to which public access would be restricted;
(2) State the specific reason justifying restricting public access to the document(s);
(3) Set forth the nature and extent of restriction of public access sought; and
(4) Explain why the restriction sought is the least restrictive means available.

A motion to restrict public access may be set for hearing. The moving party must prove by clear and convincing evidence that the presumption of public access is outweighed by a higher interest.

A motion to restrict public access must be filed before any document with a requested access restriction may be filed. The Clerk of Courts shall not accept any document to be filed "under seal" unless a motion has been made and has been granted and the order allows such filing.

(F) Considerations in Restricting Public Access to Case Documents

The court will restrict public access to information in a case document or, if necessary, the entire document if it finds by clear and convincing evidence, by affidavit or testimony, that allowing public access is outweighed by a higher interest after considering each of the following:

(1) Whether public policy is served by restricting public access;
(2) Whether any state, federal, or common law exempts the document or information from public access;
(3) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

The court will not restrict public access simply on the joint request and agreement of the parties.

(G) Least Restrictive Means to be Used

When restricting public access to a case document or information in a case document, the court will use the least restrictive means available, including but not limited to the following:

(1) Redacting the information rather than limiting public access to the entire document;
(2) Restricting remote access to either the document or the information while maintaining its direct access;
(3) Using initials or other identifier for the parties' proper names.
(4) Ordering the clerk of court to use a generic title or description for the document on the clerk of court's docket.

(H) Court Order Restricting Public Access

The court shall promptly grant or deny any motion requesting public access restriction.

Any restriction of access to case documents or information shall be by written court order filed in the case. The order will specify the nature, terms, and conditions of the restriction with particularity, including whether the parties, their attorneys of record, judicial staff, clerk staff, and court staff are also restricted from access.

If the court orders restriction of an entire document, it shall identify the document by name and date of filing. If the court orders redaction of information in a document, the court will identify the document and specify what text in the document must be redacted. The court shall order a party to re-file a redacted version of the document that complies with the restrictions. The Clerk shall remove from public access the original unredacted document.

The Clerk of Courts shall reflect the court's orders in a journal entry on the general docket.

The Clerk shall not make available for direct or remote public access any case documents ordered restricted from public access or information in documents ordered redacted and shall maintain such documents or information separate from the case file.

(I) Motion to Obtain Access to Restricted Case Documents

Pursuant to Sup.R. 45(F), public access may be granted to a previously restricted case document or information.

A person requesting access to a restricted case document or information must file a written motion. The motion must:

(1) Identify the specific case document(s) or information that has been restricted; and
(2) State the specific reason(s) public access should no longer be restricted.

The court shall give notice of the motion to all parties in the case and, if applicable, to the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion.

(J) Court Order Granting Access to Restricted Case Document

The court may permit public access to a previously restricted case document or information if it finds by clear and convincing evidence, shown by affidavit or testimony, that allowing public access is no longer outweighed by a higher interest.

When making this determination, the court shall consider:

(1) Whether the original reason for the restriction to the case document or information no longer exists or is no longer applicable; and
(2) Whether any new circumstances have arisen which would require the continued restriction of public access.

The court shall promptly grant or deny any motion requesting access to a restricted case document by written court order filed in the case. If granted, the order shall specify the nature, terms, and conditions of access with particularity.

The Clerk of Courts shall reflect the court's order in a journal entry on the general docket.

(Effective September 9, 2024.)