

**DELAWARE COUNTY COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION  
RULES OF PRACTICE AND PROCEDURE**

**RANDALL D. FULLER, JUDGE**

Adopted April 10, 2017  
Amended September 12, 2023

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## **RULE 1 COMPLIANCE WITH OHIO RULES OF CIVIL PROCEDURE**

Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure and the Local Rules of this Court. Additional Local Rules of the Court have been adopted by the General Division and to the extent that those rules are not in conflict herein, supplement the Local Rules of this Court.

## **RULE 2 PLEADINGS, MOTIONS, AND ORDERS**

### **2.01 Form.**

- (A) **Case Classification Form.** Upon the filing of any new case, or post decree motion activating a closed case, a Case Classification Form shall be completed and filed with the Clerk of Courts. The Case Classification Form shall be completed accurately and with only one designation checked as it dictates the case number and amount of time available for completion of the case.
- (B) The caption of all complaints, petitions, and any other initial or post-decree filings shall state the name and address of the plaintiff and defendant/respective individual parties, or shall contain a certification that this information is unknown. Social security numbers and dates of birth shall not be included on pleadings unless required by the nature of the document (i.e., QDROs or capias orders, etc.). The caption of all initial post-decree motions shall include the current addresses of the parties.
- (C) The caption of all subsequent pleadings, motions, and other papers shall state the case number and the name of the judge and the magistrate to whom the case is assigned. In cases commenced by complaint, the subsequent captions shall state the name of the plaintiff, defendant and any other party who has been properly joined as a party in the matter raised by the pleading. In cases commenced by petition, the subsequent captions shall retain the caption of the original petition; parties shall be designated as Petitioners in the body of the motion or Petitioner and Respondent based upon the party designation at the commencement of the case.
- (D) All papers, including orders, filed with the Clerk of Courts shall be typewritten on 8 1/2" x 11" paper, single-sided, numbered sequentially, without backing. The face caption of all papers shall provide a blank space approximately 3" in diameter in both the upper right portion of the page and the bottom left portion of the page, sufficient to permit the Clerk of Courts to add the time-stamp imprint. Child Support Enforcement Agency (CSEA) forms are exempt from this requirement.
- (E) All papers filed with the Clerk of Courts by an attorney shall bear the attorney's name, office address, Ohio Supreme Court registration number, telephone number, fax number, and e-mail address. All papers filed with the Clerk of Courts by an unrepresented party shall bear the party's name, complete address, telephone number, and e-mail address.

- (F) All motions shall be made in writing and state with particularity the grounds and relief sought.
- (G) All motions shall state in the caption each issue to be addressed by the Court (example: motion for modification of parenting time, motion for modification of child support, motion for contempt). All motions regarding child support shall specify the SETS number in the caption, if a SETS account has been created by the CSEA.
- (H) All child support orders shall include a child support worksheet and SETS number if a SETS account has been created by the CSEA.

## **2.02 Initial Filings and Affidavits.**

- (A) **Divorces, annulments, legal separations.** When a complaint is filed, a party shall also file an Affidavit of Basic Information, Income, and Expenses; an Affidavit of Property and Debt; and this Court's Party Supplemental Information Affidavit. If there are minor children, the party shall also file a Parenting Proceeding Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit. The affidavits shall be served on the defendant with the complaint. The party is under a continuing duty to file amended affidavits with updated information as it changes and/or becomes available.
- (B) **Parentage complaints.** When a parentage complaint is filed, a party shall also file an Affidavit of Basic Information, Income, and Expenses, this Court's Party Supplemental Information Affidavit; a Parenting Proceeding Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit. The affidavits shall be served on the defendant with the complaint. See also Rule 16. The party is under a continuing duty to file amended affidavits with updated information as it changes and/or becomes available.
- (C) **Answers and counterclaims.**
  - (1) **Divorces, annulments, legal separations.** A party who files an answer and/or counterclaim shall also file an Affidavit of Basic Information, Income, and Expenses; an Affidavit of Property and Debt; and this Court's Party Supplemental Information Affidavit. If there are minor children, the party shall also file a Parenting Proceeding Affidavit, a Health Insurance Affidavit, and this Court's Parenting Supplemental Information Affidavit. The affidavits shall be served on the plaintiff with the answer and/or counterclaim. The party is under a continuing duty to file amended affidavits with updated information as it changes and/or becomes available.



- (2) **Parentage complaints.** A party who files an answer and/or counterclaim shall also file an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit, a Parenting Proceeding Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit. The affidavits shall be served on the plaintiff with the answer and/or counterclaim. The party is under a continuing duty to file amended affidavits with updated information as it changes and/or becomes available.
  
- (D) **Dissolutions.** When a petition for a dissolution is filed, the parties shall file an Affidavit of Basic Information, Income, and Expenses; an Affidavit of Property and Debt; this Court's Party Supplemental Information Affidavit; and a Waiver or Service. If there are minor children, the parties shall also file a Parenting Proceeding Affidavit; a Health Insurance Affidavit; this Court's Parenting Supplemental Information Affidavit; and an Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076). A child support worksheet shall also be completed. If the parties are seeking a deviation from child support pursuant to R.C. 3119.22, the parties shall provide the Court with findings of fact and conclusions of law setting forth the factors considered for deviation as provided in R.C. 3119.23. The findings of fact and conclusions of law shall be detailed and specific and filed at the time of the Petition for Dissolution.
  
- (E) **For the Children.** Unless otherwise ordered by the Court, no final decree of divorce, dissolution, legal separation, or annulment shall be issued until both parties attend the For the Children program. Parties should call the OSU Extension Office at 740-833-2030 to schedule.

**2.03 Court Exhibit File.**

- (A) The Court will retain exhibits in a separate file from the case file kept by the Clerk of Courts.
  
- (B) This file will include, but will not be limited to all exhibits which are submitted at temporary hearings, status, pretrial, and trial.
  
- (C) Upon the request of either party or an order of the Court, the exhibits contained within this file shall be considered as part of "[t]he original papers and exhibits filed in the trial court" for purposes of the record. App. R. 9(A).
  
- (D) The Court will retain exhibits for at least one year following the conclusion of the proceeding for which the exhibits were submitted. Parties desiring the return of any exhibits submitted by them shall contact the Court Administrator after the time period for appeal and/or a motion pursuant to Civ.R. 60(B) has expired, whichever is greater. If no appeal has been filed, exhibits may be returned to the submitting party.

**2.04 Mutual Restraining Order.**

- (A) In all cases, when the initial complaint for divorce, annulment or legal separation has been filed, both parties are restrained from:

- (1) Threatening, abusing, annoying, or interfering with the other party or the parties' child(ren);
  - (2) Creating or incurring debt (such as a credit card) in the name of the other party or in the parties' joint names or causing a lien or loan to be placed against any of their real or personal property.
  - (3) Selling, disposing of, or dissipating any asset, real or personal property (other than regular income), including without limitation: existing bank accounts, tax refunds, or bonuses of either party or a child.
  - (4) Removing household goods and furniture from the marital residence without approval of the Court or other party.
  - (5) Changing or failing to renew the present health, life, home, automobile or other insurance coverage; removing the other party as beneficiary on any life or retirement benefits without further order of this Court.
  - (6) Changing or establishing a new residence for the parties' minor child(ren) without the written consent of the other party or permission of the Court.
- (B) These restraints shall be imposed by the Court's standard mutual restraining order which shall be accepted by plaintiff upon filing the complaint and shall be served upon defendant along with summons. Upon plaintiff's filing of a complaint, plaintiff is deemed to have notice of the mutual restraining order.

#### **2.05 Case Management Plan.**

- (A) If no answer to a complaint for divorce, parentage, annulment or legal separation is filed by the defendant, the case will be heard at an uncontested final hearing before the assigned judge or magistrate. The hearing may be converted to a status conference at the discretion of the assigned judge or magistrate.
- (B) If an answer has been filed, a status conference date or initial pretrial conference date will be scheduled. The Court will send notice of date and time of the status hearing or initial pretrial conference to counsel of record and any unrepresented party.

#### **2.06 Leave to Plead.**

- (A) Leave to plead may be obtained only by written motion to the Court and order pursuant to Civ.R. 6.
- (B) Leave to extend court deadlines shall be by motion and shall set forth the number of extensions previously obtained, the total length of those extensions, and the reason that the deadline should be enlarged.

## **2.07 Post-Decree Motions.**

- (A) Post-decree motions which involve parental rights and responsibilities shall be accompanied by an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit; a Parenting Proceeding Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit, which shall be filed and served on the opposing party with the motion.
- (B) Post-decree motions to modify or to terminate child support shall be accompanied by an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit, which shall be filed and served on the opposing party with the motion. The responding party shall file and serve an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit, a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit on the moving party prior to the scheduled hearing. The CSEA shall be exempt from this requirement.
- (C) Post-decree motions to modify or to terminate spousal support shall be accompanied by an Affidavit of Basic Information, Income, and Expenses and this Court's Party Supplemental Information Affidavit, which shall be filed and served on the opposing party with the motion. The responding party shall file and serve an Affidavit of Basic Information, Income, and Expenses and this Court's Party Supplemental Information Affidavit, on the moving party prior to the scheduled hearing. The CSEA shall be exempt from this requirement.
- (D) Failure of the moving party to appear at the hearing may result in dismissal of the motion. If service was not obtained, the attorney or party may request the Court to continue the hearing to a new date.

## **2.08 Motions and Orders.**

- (A) All motions shall contain a request for service or a certification of service of the motion upon opposing counsel or the unrepresented party and, if applicable, a copy shall be mailed to all interested parties including, but not limited to, guardians *ad litem*, and the CSEA.
- (B) It is the responsibility of the attorney or unrepresented party to provide a time-stamped courtesy copy of all motions and pleadings to the administrative assistant of the judge or magistrate assigned to the case. Courtesy copies may be hand-delivered, emailed, or provided by forwarding the "Notice of Electronic Filing" containing the link to a pleading that has been electronically filed pursuant to General Division Loc.R. 3(B).
- (C) All proposed orders and entries shall be provided electronically, via email or other method approved by the Court, to the administrative assistant of the judge or magistrate assigned to the case and shall not be filed with the Clerk or Courts. The CSEA is not exempt from this requirement.

- (D) Except for *ex parte* hearings, no motion shall be set for hearing less than 10 days after filing, unless for good cause shown.

**2.09 Notice of Intent to Relocate.**

- (A) Except as provided in R.C. 3109.051(G)(2)-(4), if a residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the Court, that parent shall file with the Delaware County Clerk of Courts, Domestic Relations Division, the following documents:
  - (1) A notice of intent to relocate, and
  - (2) Instructions for service by certified mail to the other party at the last known address.
- (B) Except for good cause shown, this notice shall be filed no less than 90 days prior to the intended move.
- (C) After receipt of the notice of intent to relocate, the other parent may file a motion to schedule a hearing to determine whether it is in the best interest of the child(ren) to revise the parenting time schedule. The motion shall be served on the relocating parent in accordance with Civ.R. 75(J).

**2.10 Emergency *Ex parte* Motions and Orders.**

- (A) Emergency *ex parte* motions and orders are temporary in nature and may only be filed in an ongoing case or simultaneously with a new complaint or post-decree motion.
- (B) **Property Issues.** The Court may issue emergency *ex parte* orders when it appears to the Court, by motion and affidavit, that a party or a third party is about to dispose of or encumber property so as to defeat another party in obtaining an equitable division of marital property, a distributive award, spousal or other support, and/or to effectuate or enforce a prior court order.
- (C) **Children's Issues.**
  - (1) A party may submit to the Court a motion, affidavit in support, and proposed order requesting *ex parte* relief with respect to children where:
    - (a) A residential parent is about to move out of the jurisdiction and the request is that the parent be restrained from removing the child(ren) from the jurisdiction;
    - (b) An order is needed to enroll a child in school. The order shall be limited to authorizing the party to enroll the child pending further hearing.
    - (c) Where there is concern for the immediate health, safety and welfare of the child(ren).

- (2) Where *ex parte* relief is granted, a hearing shall be scheduled before either the judge or magistrate of record. Each party shall be allotted 20 minutes to present statements/testimony regarding the information contained in the Affidavit and Motion. The emergency *ex parte* order shall remain in full force and effect until further order.

### **2.11 Third-Party Motions.**

A third-party motion, pursuant to Civ.R. 75, including, but not limited to, property, child support, and allocation of parental rights and responsibilities, shall be handled as follows:

- (A) A third party seeking to join the case shall file a motion setting forth the reasons for the joinder along with a proposed copy of the motion for relief requested. The third party shall also deliver a proposed order granting the joinder to the Court.
- (B) After the order granting the joinder has been signed by the judge, the third party shall file the motion for relief requested.
- (C) All motions shall comply with Rule 2.08 and Rule 3.

### **2.12 Blank Forms.**

There are forms available on the Domestic Relations Court website or in the Clerk of Courts' Office. Parties may use these forms as needed.

## **RULE 3 SERVICE**

### **3.01 Service of Complaints, Motions, Etc.**

- (A) A party requesting service by the Clerk of Courts shall file instructions for service regardless of the form of service requested.
- (B) Any request for service of a complaint, motion, order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a time-stamped copy of the paper to be served. For electronically filed documents, the Clerk of Courts will print copies of the documents for service and will tax the costs of printing to the costs of the case.

### **3.02 Appointment of Special Process Servers.**

- (A) **Special process server.** Only a specifically named person may be appointed as a process server. The Court will not approve the appointment of any agency.
- (B) **Special process server (one-time appointment).** If a party desires personal service to be made by special process server pursuant to Civ.R. 4.1(B), the party must file a motion with the Clerk of Courts and a proposed entry appointing a special process server. The following must be stated in the motion and proposed entry of appointment:

- (1) The name of the person to be appointed as process server;
- (2) That the person to be appointed as process server is 18 years of age or older;
- (3) That the person to be appointed as process server is not a party or counsel for a party in the action.

**(C) Standing process server (continuing appointment).**

- (1) A person may apply to be designated as a “Standing Process Server” for cases filed in this Court by filing a motion and affidavit setting forth the following:
  - (a) The name, address, and telephone number of the applicant;
  - (b) That the applicant is 18 years of age or older;
  - (c) That the applicant agrees not to attempt service of process in any case in which the applicant is a party, counsel for a party, or related to a party by blood or marriage;
  - (d) That the applicant agrees to follow the requirements of Civ.R. 4 through Civ.R. 4.6, any applicable Local Rules, and specific instructions for service of process as ordered by the Court in individual cases.
- (2) The motion, affidavit, and proposed entry can be obtained on the Domestic Relations Court website.

**(3) Recording order of appointment.**

- (a) The applicant requesting designation shall also submit a proposed entry for signature by the Judge of the Domestic Relations Court captioned “In Re The Appointment of (name of applicant) As Standing Process Server” and stating as follows: “It appearing to the Court that the following applicant has complied with the provisions of Local Rule 3.02, (name of applicant) is hereby designated as a Standing Process Server authorized to make service of process in all cases filed in this Court, to serve until further order of this Court.”
  - (b) The Clerk of Courts shall record such appointment on the Court’s general docket and shall retain the original application and judgment entry. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such an order as satisfying the requirements of Civ.R. 4.1(B) for designation by the Court of a person to make service of process.
- (D) The attorney or party asking for a process server with a standing order to be appointed in a case must attach a copy of the standing order to the request for service.

### 3.03 Service by Publication.

- (A) If the residence of a defendant is unknown, service shall be made by publication in actions where such service is authorized by law. Before service by publication can be made, an affidavit of a party or the party's counsel shall be filed with the Court. The affidavit shall aver that service of summons cannot be made because the residence of the defendant is unknown to the affiant, shall detail all of the efforts made on behalf of the party to ascertain the residence of the defendant, and shall aver that the residence of the defendant cannot be ascertained with reasonable diligence. See also Civ.R. 4.4.

Upon the filing of the affidavit, the Clerk of Courts shall cause service of notice to be made by publication in a newspaper of general circulation in the county in which the complaint is filed. If no newspaper is published in the county, then publication shall be in a newspaper published in an adjoining county. The publication shall contain the name and address of the Court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. The publication shall also contain a summary statement of the object of the complaint and demand for relief, and shall notify the person to be served that he or she is required to answer within 28 days after publication. The publication shall be published at least once a week for six successive weeks unless publication for a lesser number of weeks is specifically provided by law. Service shall be complete at the date of the last publication.

- (B) Upon completion of the last publication of service, the serving party shall file with the Court an affidavit showing the fact of publication, together with a copy of the notice of publication. The affidavit and its exhibits shall constitute the proof of service.
- (C) **Service of process by posting and mail.** Where service of process by publication is perfected in accordance with Civ.R. 4.4(A)(2), the Clerk of Courts shall cause notices to be posted in a conspicuous place in the main lobby of the Delaware County Courthouse, the lobby of the Delaware Municipal Court, and the office of the Delaware County Department of Job and Family Services.

### 3.04 Service of Pleadings, Motions, and Orders after Initial Complaint and Answer.

- (A) Service of all pleadings and other papers subsequent to the original complaint, petition, or post-decree motion shall be made in accordance with Civ.R. 5 with the following exceptions:
- (1) Service upon a third party shall not be required unless the pleading or other paper affects an interest of a third party.
  - (2) Service upon alleged contemnors must be made on the alleged contemnor directly as in an original action.
- (B) All post-decree motions reactivating a case shall be served pursuant to Civ.R. 4 through Civ.R. 4.6.

- (C) An initial motion reactivating a case cannot be served by ordinary U.S. mail, except as allowed after failure of certified mail service pursuant to Civ.R.4.6.
- (D) All motions for contempt shall be served pursuant to Civ.R. 4 through Civ.R. 4.6.

## **RULE 4 COURT COSTS**

### **4.01 Costs Deposit.**

The Clerk of Courts shall not accept any action or proceeding for filing without a deposit as security for costs in the amount set forth on the schedule of filing fees. CSEA forms and domestic violence petitions are exempted from this requirement.

### **4.02 Publication Costs.**

Prior to service by publication, the Clerk of Courts shall inform the party requesting service by publication of the cost for publication and the party shall pay those costs prior to service by publication being made.

### **4.03 Indigence.**

If the filing party is indigent, the prepayment of costs and fees may be met if the party files the Court's Fee Waiver Affidavit. Copies of the Court's Fee Waiver Affidavit can be obtained from the Office of the Clerk of Courts. If the filing party is represented by counsel, the attorney must also file a statement that no attorney fees have been paid by the client and certify to the Court that the appropriate filing fees will be paid to the Court before counsel is paid.

If a Fee Waiver Affidavit is filed, the Clerk of Courts shall immediately forward that Affidavit to the Court for review. If the waiver is not granted, the Court shall enter an order providing for the payment of costs by a date certain or the case shall be dismissed. If the waiver is granted, then the prepayment of costs and fees is waived.

The filing of a Fee Waiver Affidavit does not relieve a party from liability for court costs. At the conclusion of the proceeding or at any time during the proceeding, the Court may order one or both parties to pay court costs.

### **4.04 Subsequent Deposit.**

If, during the course of a proceeding, the Court learns that a party who has filed a Fee Waiver Affidavit is or has become able to pay the applicable deposit, the Court may order that party to pay the deposit within a reasonable period of time commensurate with the circumstances.



#### **4.05 Responsibility for Costs.**

Judgment Entries may contain a provision for payment of costs as ordered by the Court. CSEA cases and Domestic Violence petitions may be exempt from this requirement. In the absence of court order, after application of all deposits, the balance of costs shall be divided equally between the parties.

## **RULE 5 ASSIGNMENT OF CASES**

#### **5.01 Assignment of Magistrate.**

All matters to be heard by a magistrate shall be allotted to the magistrate of record, or as otherwise designated by the Court. At the time of filing the initial complaint or where no magistrate has been assigned, the Clerk of Courts or the Court shall utilize an automated assignment system to randomly assign the judge of magistrate to the case. The clerk shall then stamp the assigned judge or magistrate's name on the complaint and summons or other pleading being filed.

#### **5.02 Domestic Violence.**

If a Petition for Domestic Violence Civil Protection Order has been previously filed or is being filed and there is already a pending matter in this Court involving the same parties, the cases shall be assigned to the same magistrate, unless that magistrate is no longer an employee of the Court.

#### **5.03 Refiled Cases.**

Unless otherwise ordered by the Court, all cases which have been dismissed and are subsequently refiled shall be assigned to the judge or magistrate of record to whom the case was allotted at the time of dismissal.

#### **5.04 Consolidation.**

If there has been a prior parenting proceeding involving married couples and a subsequent divorce action is filed, then the Court may merge the cases for judicial efficiency and economy.

#### **5.05 Post-Decree Matters.**

All post-decree motions shall be assigned to the originally-assigned judge and magistrate of record unless that judge or magistrate is no longer an employee of the Court or unless otherwise determined by the Court, with the exception of post-decree dissolutions and post-decree CSEA matters, which may be assigned to a magistrate in accordance with Loc.DR.R. 5.01.

## **RULE 6      OFFICIAL RECORD**

### **6.01      Official Record.**

The Court's original audio recording constitutes the official record of all proceedings unless a complete written transcript, prepared by a qualified court reporter, is filed with the Clerk of Courts.

### **6.02      Retention of Audio Recordings.**

The Court's audio recordings shall be preserved by the Court for a minimum period of one year after the decision is issued, unless otherwise ordered by the Court upon written request of a party.

### **6.03      Court Reporters.**

In all evidentiary hearings heard by the judge, visiting judge, or magistrate, a party may hire a qualified court reporter to be present. No court reporter will be provided by the Court.

### **6.04      Transcription.**

Upon written request by praecipe, a party may obtain a digital recording of the proceedings and retain a qualified court reporter to prepare a complete written copy of the transcript from the digital recording at the party's own expense.

## **RULE 7      DISSOLUTIONS**

### **7.01      Initial Filings.**

A petition for dissolution of marriage shall be signed by both spouses and shall have attached and incorporated a separation agreement agreed to by both spouses. Any document or exhibit referenced in the separation agreement shall be attached to the separation agreement at the time of filing, including legal descriptions of real estate, shared parenting plans, and child support worksheets. The parties shall also file an Affidavit of Basic Information, Income, and Expenses; an Affidavit of Property and Debt; this Court's Party Supplemental Information Affidavit; and a Waiver of Service.

### **7.02      Cases with Minor Children.**

(A)      **Affidavits.** In addition to the documents listed in Rule 7.01, the parties shall file a Parenting Proceeding Affidavit, a Health Insurance Affidavit, this Court's Parenting Supplemental Information Affidavit, and an Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076). The parties are under a continuing duty to file amended affidavits as the information changes and/or becomes available.

- (B) **Allocation of parental rights and responsibilities.** The parties may address the allocation of parental rights and responsibilities in the separation agreement or, if the parties agree to shared parenting, in an attached and incorporated shared parenting plan. A child support worksheet shall be attached and incorporated in the separation agreement or shared parenting plan. If the parties are seeking a deviation from child support pursuant to R.C. 3119.22, the parties shall provide the Court findings of fact and conclusions of law setting forth the factors considered for deviation as provided in R.C. 3119.23. The findings of fact and conclusions of law shall be detailed and specific and filed at the time of the Petition for Dissolution.
- (C) **For the Children.** Both parties shall attend the For the Children program prior to the final hearing. This requirement may be waived for good cause only. If the parties have not attended the For the Children Program prior to their hearing, the case may be dismissed. Parties should call the OSU Extension Office at 740-833-2030 to schedule.

### **7.03 Hearing.**

Not less than 30 nor more than 90 days after the filing of a petition, both spouses shall appear before the Court and each spouse shall acknowledge under oath that he or she has voluntarily entered into the separation agreement, that he or she is satisfied with its terms, and that he or she seeks a dissolution of the marriage. The parties or their counsel shall bring a Decree of Dissolution to the final hearing.

### **7.04 Conversion of Dissolution to Divorce.**

Pursuant to R.C. 3105.65(C), at any time before a decree of dissolution of marriage has been granted by the Court, either spouse may convert the dissolution action into a divorce action. This shall be done by filing with the Court a motion to convert dissolution action to divorce action. The motion shall be accompanied by a complaint for divorce that contains grounds for a divorce and that otherwise complies with the Rules of Civil Procedure. The party wishing to convert the dissolution case to a divorce case shall file as the plaintiff. The divorce action then shall proceed in accordance with the Civil and Local Rules in the same manner as if the motion had been the original complaint in the action, including, but not limited to, the issuance and service of summons upon the defendant. No filing fee shall be charged for the motion to convert the dissolution action to a divorce action.

## **RULE 8 UNCONTESTED AND INACTIVE CASES**

### **8.01 Uncontested Divorces or Legal Separations.**

- (A) When a complaint for divorce or legal separation is filed and an answer has not been filed, the Court shall assign a date for an uncontested final hearing to occur at least 42 days after service was completed.

- (B) If the defendant appears at the uncontested hearing and wishes to submit evidence on any issue, the Court may convert the uncontested hearing into a status conference or pretrial. At any subsequent evidentiary hearing, the defendant may submit evidence on all issues except grounds for the divorce or legal separation.
- (C) Upon establishment of a child support or spousal support order, the obligee shall file an Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076).
- (D) **Failure to attend final hearing.** If the plaintiff does not attend the final hearing, the case shall be dismissed for failure to prosecute.
- (E) **For the Children.** If there are minor children, the parties shall attend the For the Children program prior to the final hearing. This requirement may be waived for good cause only. If either party has not attended the For the Children Program prior to the hearing, the case may be dismissed or the Court may suspend the court-ordered parenting. Parties should call the OSU Extension Office at 740-833-2030 to schedule.

**8.02 Inactive Cases.**

After written notice to the parties, inactive cases shall be dismissed for failure to prosecute.

**RULE 9 TEMPORARY ORDERS AND CIVIL RULE 75 HEARINGS**

**9.01 By Motion.**

Any requests for temporary orders, other than those provided in Civ.R. 75(I), shall be made by proper motion with affidavit and will be considered 14 days after service of the Motion for Temporary Orders. The temporary orders will be based upon all affidavits, submitted by the parties, which the Court has in its possession at the time of consideration. (Civ.R. 75). Affidavits, including supplemental documentation, shall not exceed 10 pages in length without prior approval by the Court.

**9.02 Civil Rule 75 Oral Hearing.**

Each party shall be allotted 20 minutes for presentation of statements and/or testimony. Prior to the Civ.R. 75 Hearing, initial discovery shall have been exchanged between the parties, including but not limited to: initial witness list, tax returns, and income information.

**9.03 Application for Child Support Services.**

Upon establishment of a child support or spousal support order, the obligee shall file an Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076).

## **RULE 10 STATUS CONFERENCE**

### **10.01 Status Conference.**

The Court will conduct a status conference after the filing of the initial complaint or pleading. The attorneys and/or parties shall be present. The Court will set the final trial date, pretrial dates, discovery deadlines, and deadlines for alternative dispute resolution. The Court shall journalize the dates set in a Case Management Entry.

### **10.02 Discovery.**

Prior to the status conference, initial discovery shall have been commenced between the parties. The parties will report to the Court the status of the exchange.

### **10.03 Sanctions.**

Failure to comply with discovery or pretrial orders may result in sanctions against the non-complying attorney or party.

## **RULE 11 PRETRIAL AND FINAL PRETRIAL CONFERENCE**

### **11.01 Pretrial Conference.**

The Court will conduct a pretrial conference after the status conference. Both parties and their counsel shall appear unless excused for good cause shown.

### **11.02 Discovery.**

Prior to the pretrial hearing, initial discovery shall have been exchanged between the parties, including but not limited to: initial witness list, expert witnesses, tax returns, income information, and bank records.

### **11.03 Pretrial Responsibility.**

- (A) The purpose of the pretrial conference is to encourage settlement.
- (B) Seven days prior to the pretrial conference, the parties shall provide the Court and all parties with a pretrial statement. The pretrial statement shall be filed with the Clerk of Courts and kept in the Family File.
- (C) The pretrial statement shall contain the following items:
  - (1) A brief statement of the facts;
  - (2) Legal issues which are in dispute;

- (3) A list of exhibits and witnesses;
  - (4) A brief outline or summary opinion of the testimony of all experts (including appraisers) to be called;
  - (5) A completed and updated Affidavit of Income, Expenses, and Property;
  - (6) Health insurance information;
  - (7) A marital balance sheet; and
  - (8) Proposed stipulations.
- (D) Failure to comply with the above may result in sanctions against the non-complying attorney or party.

#### **11.04 Final Pretrial.**

The Court may conduct a final pretrial hearing prior to the trial date. If a final pretrial is scheduled, then seven days prior to the final pretrial, the parties shall provide the Court and all parties an updated pretrial statement (See Rule 11.02(C)(1)-(9)). The pretrial statement shall be filed with the Clerk of Courts and kept in the Family File.

## **RULE 12 TRIALS AND EVIDENTIARY HEARINGS**

#### **12.01 Exhibits.**

- (A) All exhibits shall be copied prior to the trial or evidentiary hearing. Unless otherwise ordered by the Court, the original exhibits shall be marked as they are presented at the trial or evidentiary hearing and indicate whether submitted by plaintiff or defendant. Plaintiff shall use numbers and defendant shall use letters. Exhibits shall be presented sequentially (beginning with 1 or A) and then inserted into a tabbed three-ring binder provided by the party and kept at the witness stand. Each binder shall have a typed cover page containing the case caption, the date of the trial or evidentiary hearing, and identify whether it contains the exhibits of plaintiff or defendant.
- (B) The parties shall submit to the opposing party all expert witness reports not less than 30 days prior to the trial or evidentiary hearing, absent leave of court. If an expert has not issued a report but is still being called as a witness, then the party shall submit a summary, prepared by his or her expert, to the opposing party not less than 30 days prior to the trial or evidentiary hearing, absent leave of court. Any party submitting an expert report and/or summary shall file a Notice with the Clerk of Courts indicating service of the report and/or summary upon the opposing party.

- (C) Not less than seven days prior to the trial or evidentiary hearing, the parties shall submit to the opposing party copies (paper or electronic) of all documents or other exhibits to be introduced at the trial or evidentiary hearing. Not less than seven days prior to the trial or evidentiary hearing, the parties shall file with the Clerk of Courts a Notice of Service of the exhibits to the opposing party along with an exhibit list attached and shall further provide a courtesy copy of the Notice and exhibit list to the Court. Failure to comply with this Rule may result in the exclusion of the evidence.
- (D) As the exhibits are marked and presented at the trial or evidentiary hearing, counsel shall submit courtesy copies of the exhibits to the Court, opposing counsel, the opposing party if unrepresented, and the guardian *ad litem*, if applicable.
- (E) In lieu of submitted paper exhibits at the trial or evidentiary hearing, a party may utilize the NOMAD presentation cart so long as the party, or his or her counsel, if represented, has complied with Loc.DR.R. 43. If a party elects to utilize the NOMAD presentation cart, any exhibits used during the trial or evidentiary hearing must be accessed from a USB drive which shall be submitted to the Court at the conclusion of the trial or evidentiary hearing and retained as part of the Court Exhibit File in accordance with Loc.DR.R. 2.03. Alternatively, counsel may provide the Court with a paper copy of the exhibits instead of submitting a USB drive in which case the paper copies shall be kept as part of the Court Exhibit File.

**12.02 Witnesses.**

Not less than seven days prior to the trial or evidentiary hearing, the parties shall file with the Clerk of Courts, and submit to the Court and the opposing party, a list of all witnesses who will testify at the trial or evidentiary hearing including each witness's name and address. At the trial or evidentiary hearing, the Court will not admit the testimony of any witnesses not timely listed, except for good cause shown.

**12.03 Failure to Comply.**

Failure to comply with the above may result in sanctions against the non-complying attorney or party, including, but not limited to, exclusion of exhibits and/or testimony and/or dismissal.

**12.04 Findings and Conclusions.**

The Court may require the parties to file a brief on proposed findings of fact and/or conclusions of law.

## **RULE 13 CONTEMPT MOTIONS**

### **13.01 Specificity.**

- (A) All motions for contempt and/or orders “to show cause,” except those filed by the CSEA, shall be accompanied by an affidavit setting forth the specific facts forming the basis for the motion.
- (B) Contempt charges filed by the CSEA relative to support shall contain a reference to the specific order that has been violated and the amount of arrearages outstanding on a date certain.

### **13.02 Order to Appear and Show Cause.**

A person filing a contempt motion may obtain an order directing an alleged contemnor to appear before the Court to show cause why he/she should not be held in contempt of court. All contempt motions must be accompanied by a summons and the notices required by R.C. 2705.031(C). If the contempt action includes an allegation of failure to comply with or interference with parenting, companionship, or visitation rights, then the notice should also include the potential penalties or remedies set forth in R.C. 3109.051(K). The moving party must present a time-stamped copy of the motion, affidavit (if applicable), and proposed order to the judge or magistrate assigned to the case. The order must make a preliminary finding that, if proved, the facts alleged by the affidavit would constitute contempt.

### **13.03 Service.**

A motion for contempt and the order to appear shall be served on the alleged contemnor pursuant to Civ.R. 4 through 4.6 and Loc.DR.R. 3.04(D). If there is a pending case, a copy of the motion, affidavit, order, and notice shall also be sent to opposing counsel pursuant to Civ.R. 5; however, sending a copy to opposing counsel does not constitute proper service on the alleged contemnor.

### **13.04 Appointment of Counsel.**

The Court shall appoint counsel in contempt cases for a defending party who requests court-appointed counsel and meets the income guidelines adopted by the Public Defender’s Office. Any party requesting court-appointed counsel must file an indigency affidavit with the Clerk of Courts within three business days after receipt of the summons. There is a \$25 fee for the filing of the affidavit.

## **RULE 14 POST-DECREE MODIFICATION HEARINGS**

### **14.01 Child Support Modification.**

- (A) A motion to modify child support must be accompanied by a completed Affidavit of Basic Information, Income, and Expenses; this Court’s Party Supplemental Information Affidavit; a Health Insurance Affidavit; and this Court’s Parenting Supplemental Information Affidavit.



- (B) At the hearing, the parties shall present evidence or stipulations of income, potential income, and adjustments to income to enable the Court to make a proper child support calculation as provided by R.C. 3119.01, *et seq.* Evidence shall include current income pay statements, tax returns from the three most recent years, proof of income from social security, verification of work-related daycare expenses, documentation of out of pocket health insurance premiums or costs for the benefit of the child(ren), and any other evidence of income.
- (C) Whenever the Court modifies, reviews, or reconsiders a child support order, it will also review and modify, if appropriate, the existing health care order and the existing designation of the right of either parent to claim the child(ren) as dependent(s) for income tax purposes. See R.C. 3119.30, 3119.32, and 3119.82.
- (D) Failure of the moving party to provide the required evidence may result in dismissal of the motion.

#### **14.02 Spousal Support Modification.**

- (A) A motion to modify spousal support must be accompanied by a completed Affidavit of Information, Income, and Expenses and this Court's Party Supplemental Information Affidavit.
- (B) The moving party shall be prepared to present evidence or stipulations with respect to the following matters:
  - (1) Jurisdiction of the Court to modify spousal support;
  - (2) A change of circumstance;
  - (3) The relevant factors listed in R.C. 3105.18(C)(1)(a)-(n);
  - (4) Current income, tax returns from the three most recent years, and other documents as required; and
  - (5) Any other relevant factors.
- (C) Failure of the moving party to provide the required evidence may result in dismissal of the motion.

#### **14.03 Modification of Parenting Orders.**

- (A) **Affidavits.** When a motion for modification of parenting time and/or reallocation of parental rights and responsibilities is filed, the moving party shall also file an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit; a Parenting Proceeding Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit with the motion.

- (B) **Case management.** At the status conference, the Court will determine whether the motion is contested. If contested, the Court will determine the basis of the motion and set the final trial date, pretrial dates, and discovery deadlines and shall journalize the dates set in a Case Management Entry.

#### **14.04 Post Decree Agreements to Modify and/or Reallocate Parental Rights.**

Parties in agreement to modify a prior judgment entry, magistrate's decision, or magistrate's order shall file a motion along with all necessary affidavits and shall provide the Clerk of Courts with an original Agreed Judgment Entry containing the signatures of the parties and, if represented, their attorney(s).

## **RULE 15 DOMESTIC VIOLENCE ACTIONS**

### **15.01 Filing for a Civil Protection Order.**

- (A) A person who wants to file for a Civil Protection Order (CPO) is referred to as the petitioner. The person against whom the CPO is filed is referred to as the respondent.
- (B) The petitioner may file for a CPO *pro se*, may hire a private attorney, or may seek assistance through the Delaware County Prosecutor's Office of Victim's Services.
- (C) The petitioner may obtain the necessary paperwork to file for a CPO from the Ohio Supreme Court Website: [Domestic Violence Protection Order Forms](#).
- (D) The necessary paperwork for filing for a CPO is as follows:
  - (1) Petition for Domestic Violence Civil Protection Order (Ohio Supreme Court Form 10.01-D). The petition shall include:
    - (a) An allegation that there has been domestic violence against a family or household member, including a description of the alleged violence;
    - (b) The relationship of the respondent to the petitioner; and
    - (c) A request for relief.
  - (2) Parenting Proceeding Affidavit (if the Petitioner and Respondent have children together).
  - (3) Affidavit of Basic Information, Income, and Expenses; Health Insurance Affidavit; and Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076) (if the Petitioner is requesting support from the Respondent).
  - (4) Request for service.
- (E) The necessary paperwork listed above must be filed at the Delaware County Clerk of Court's Office.

- (F) The Clerk of Courts will assign a case number, judge, and magistrate. If a complaint for divorce, annulment, legal separation, to establish a parent-child relationship, or petition for dissolution involving the same parties is being filed simultaneously with the CPO or was filed before the CPO was filed, the petitioner shall inform the clerk so that the cases can be assigned to the same magistrate.

**15.02 *Ex parte* Hearing.**

- (A) The *ex parte* hearing shall be held the same day the petition is filed, if filed before 2:30 p.m. If the petition is filed after 2:30 p.m., it may not be possible to conduct a hearing on the same day. In that case, the *ex parte* hearing shall be held the next business day.
- (B) At the *ex parte* hearing, the Court will hear the petitioner's statement of the facts under oath.
- (C) If the Court finds that the facts meet the requirements of the law, the Court will grant an *ex parte* CPO and schedule a full hearing.
  - (1) The full hearing must be scheduled within seven court days if the respondent is ordered to vacate a residence shared with the petitioner, otherwise the full hearing will be scheduled within 10 court days.
  - (2) The full hearing will not be extended merely for the purpose of completing a companion criminal case. Continuances beyond 30 days will only be granted in extenuating circumstances.
  - (3) If an *ex parte* order is not granted, the case will proceed as under the Rules of Civil Procedure.
- (D) The clerk will provide the petitioner a certified copy of the *ex parte* CPO.
- (E) The clerk will process the *ex parte* CPO for personal service on the respondent by the sheriff and for police department notification. The clerk or sheriff will notify the petitioner upon a failure of service.

**15.03 Full Hearing.**

- (A) At the full hearing, unless the parties reach an agreement, the judge or magistrate will take sworn testimony from each party and any witnesses presented by the parties.
- (B) If the judge or magistrate finds that the facts meet the requirements of the law, the Court will issue a CPO, which may include the following provisions:
  - (1) Prevent respondent from abusing the petitioner;
  - (2) Grant exclusive use of the home to petitioner;
  - (3) Permit respondent to pick up personal items from the home;

- (4) Provide child or spousal support;
  - (5) Allocate parenting time;
  - (6) Require respondent to complete counseling;
  - (7) Grant exclusive use of a vehicle to petitioner;
  - (8) Require respondent to surrender house and/or car keys;
  - (9) Prevent respondent from possessing or using a deadly weapon;
  - (10) Prevent respondent from possessing or using drugs and/or alcohol; and
  - (11) Grant other relief as the Court considers equitable and fair.
- (C) A completed Protection Order Notice to NCIC (Form 10A) shall be filed with the Full Hearing CPO.
- (D) The Full Hearing CPO will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.
- (E) If the petitioner fails to attend the full hearing and no continuance has been granted, the Court may dismiss the case.

**15.04 Consent Agreement.**

- (A) At the time of the full hearing, the petitioner and respondent may enter into a Consent Agreement CPO.
- (B) A completed Protection Order Notice to NCIC (Form 10-A) shall be filed with the Consent Agreement.
- (C) The Consent Agreement will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.

**15.05 Duration of CPO.**

A CPO shall be valid until a date certain, but not later than five years from the date it was issued.

**15.06 Effect of Other Court Cases on CPO.**

- (A) The CPO shall remain in effect even if either the petitioner or respondent subsequently become involved in another court case, such as a divorce, annulment, legal separation, parentage, or dissolution case.

- (B) An order allocating parental rights and responsibilities and/or support issued in a CPO case shall terminate on the date a court issues an order allocating parental rights and responsibilities and/or support in another court case involving the petitioner and respondent, such as a divorce, annulment, legal separation, parentage, or dissolution.
- (C) When this Court issues an order allocating parental rights and responsibilities and/or support in a subsequent court case as described in paragraph (B) above, the parties may need to obtain a modified CPO to reflect those orders if they differ.

**15.07 Modification, Extension, or Termination of CPO.**

- (A) The petitioner or respondent may file a motion to modify, extend, or terminate the CPO.
- (B) All such motions must be filed and scheduled for hearing as set forth in Rule 2.08. The Court may require the petitioner to attend a domestic violence education program prior to termination of the CPO.
- (C) Any modification, extension, or dismissal of a CPO shall be done as an order by the Court. A completed Protection Order Notice to NCIC (Form 10-A) shall be filed with the order granting the modification, extension, or termination. The order will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.

**15.08 Objections to CPO.**

The Full Hearing CPO is a final appealable order. A party wishing to file an objection to a CPO must follow the objection procedure delineated in Rule 27.04 “Objections to Magistrate’s Decision.” However, pursuant to Civ.R. 65.1, there is no automatic stay of the CPO when the objection is filed.

**RULE 16 PARENTAGE: ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP, ALLOCATION OF PARENTAL RIGHTS RESPONSIBILITIES, AND/OR COMPANIONSHIP ACTIONS**

**16.01 Commencement of the Action.**

A parent or alleged parent may begin an action by filing a complaint for establishment of a parent-child relationship and appropriate motions for relief requested.

- (A) The person filing the complaint shall allege whether a parent-child relationship has been established. If a parent-child relationship has been established, a copy of the order or acknowledgment of paternity shall be attached to the complaint.
- (B) If parenting orders are requested, the moving party shall file this Court’s Party Supplemental Information Affidavit, a Parenting Proceeding Affidavit, and this Court’s Parenting Supplemental Information Affidavit with the complaint.

- (C) If child support is an issue, each party shall submit an Affidavit of Basic Information, Income, and Expenses; this Court's Party Supplemental Information Affidavit; a Health Insurance Affidavit; and this Court's Parenting Supplemental Information Affidavit.
- (D) An Application for Child Support Services Non-Public Assistance Applicant/Recipient (JFS 07076) shall be filed with all new parentage complaints if genetic testing is requested or when child support is ordered.

**16.02 Status Conference.**

- (A) The Court will schedule a status conference after the filing of the initial complaint or motion. The parties, and counsel, if applicable, shall be present. The Court will set a final trial date, pretrial dates, discovery deadlines and deadlines for alternative dispute resolution at that time and shall journalize the dates set in a Case Management Entry.
- (B) In cases where parentage is an issue, the status conference will also be used to determine whether the matter is contested.
  - (1) If parentage is not contested, the Court may dispose of the claim at the status conference, to include issuing orders addressing parentage, if appropriate.
  - (2) If parentage is contested, the Court may request additional information from the parties and/or the CSEA to determine if there are any final and enforceable determinations of paternity or other parentage orders in existence and/or whether an order of genetic testing would be appropriate. If an evidentiary hearing is required, the case will proceed in the manner described in Rule 12. If genetic testing is deemed appropriate and ordered by the Court, then the matter will be set for further hearing. Genetic testing costs may be assessed to a party by the Court or ordered paid by the CSEA as follows:
    - (a) If there is no final and enforceable determination of paternity, the CSEA may be ordered to pay the genetic testing costs;
    - (b) If there is a final and enforceable determination of paternity, the party contesting parentage may be ordered to prepay the CSEA for genetic testing costs and the CSEA may arrange for the drawing of the genetic test samples. Based upon the evidence and the genetic test results, the Court may order a party to reimburse another party for the cost of genetic testing.
  - (3) If the Court determines paternity of a child, then the parties shall cooperate to provide information to the Court for completion of the HEA 3029, Determination of Paternity form, as required by the State of Ohio, to provide a new birth record for the child. Two originals shall be submitted to the Clerk of Court's. Once provided, one original shall be maintained by the Clerk of Courts in the Family File, and not part of the public record. A certified original shall be sent by the Clerk of Courts to the Central Paternity Registry.

(C) In cases where child support is an issue, the matter may be concluded at the status conference if all the information necessary to establish an order is presented. Otherwise, a further hearing will be set. If an evidentiary hearing is required, the claim will proceed in accordance with Rule 12.

(1) Ordinarily the effective date of the support order will be the date the request for support was filed.

(2) Retroactive support may be ordered in cases where the parties were not married to each other. In that case the parties must present all information necessary to calculate a support order for each year that support is requested and justification for retroactive support in accordance with R.C. §3111.13.

### **16.03 Temporary Orders and Civil Rule 75 Hearings.**

(A) Any requests for temporary orders, other than those provided in Civ.R. 75(I), shall be made by proper motion with affidavit and will be considered 14 days after service of the Motion for Temporary Orders. The temporary orders will be based upon all affidavits submitted by the parties at the time of consideration by the Court. Affidavits (to include supporting documentation) shall not exceed 10 pages in length without prior approval by the Court.

(B) At a Civ.R. 75 hearing, each party shall be allotted 20 minutes for presentation of statements and/or testimony. Prior to the hearing, initial discovery shall have been exchanged between the parties, including but not limited to: initial witness list, expert witnesses, tax returns, income information, and bank records.

## **RULE 17 CHILD SUPPORT, SPOUSAL SUPPORT, AND HEALTH INSURANCE ORDERS**

### **17.01 Support Orders.**

(A) Every child or spousal support order shall include the mandatory provisions set forth in R.C. 3121.27 to 3121.29.

(B) The Clerk of Courts shall serve a copy of every order for child or spousal support upon the Delaware County CSEA. The CSEA shall prepare the required withholding notices and submit them to the employer or other withholding source.

(C) The caption of every initial order for child support, or other judgment entry that includes an order for child support, shall state the SETS number and each party's address. Subsequent orders shall include the party's address if there has been a change in the residence address.

- (D) Child support orders shall contain a child support worksheet. If the parties are seeking deviation from child support pursuant to R.C. 3119.22, the parties shall provide the Court findings of fact and conclusions of law setting forth the factors considered for deviation as provided in R.C. 3119.23. The findings of fact and conclusions of law shall be detailed and specific.
- (E) See, Rule 30.02, regarding ten percent (10%) automatic reduction of child support, based upon the local parenting time schedule in conjunction with R.C. 3119.051.

**17.02 Health Insurance Orders.**

Every child support order shall include the health insurance provisions as required by R.C. 3119.30 and 3119.32.

**RULE 18 MOTION FOR RELIEF FROM JUDGMENT**

**18.01 Civil Rule 60(B).**

All motions for relief from judgment, other than those based upon clerical mistakes, shall comply with Civ.R. 60(B) and Civ.R. 7(B). A copy of the judgment from which relief is sought shall be attached to the motion.

**18.02 Supporting Materials.**

- (A) The motion shall be supported by materials that demonstrate:
  - (1) The timeliness of the motion;
  - (2) The reasons for seeking relief; and
  - (3) A material defense or claim.
- (B) The moving party shall file a memorandum of fact and law and may include affidavits, transcripts, depositions, answers to interrogatories, exhibits, and other relevant materials and shall serve a copy upon the non-moving party and hand-deliver a copy to the judge or magistrate's administrative assistant. The procedures contained in Civ.R. 56, regarding documents and other materials, are suggested as guidelines.

**18.03 Opposition to Motion.**

The opposing party may file a reply brief or memorandum in opposition along with supporting materials within 14 days after service of the motion and shall serve a copy upon the moving party and hand-deliver a courtesy copy to the judge or magistrate's administrative assistant.



**18.04 Determination.**

Except when the Court orders otherwise, motions for relief from judgment may be determined without oral argument.

**18.05 Civil Rule 60(A).**

Motions for relief from judgment based upon clerical mistake shall be filed in accordance with Civil Rule 60(A).

**RULE 19 PROCEDURES TO REGISTER, ENFORCE, OR MODIFY FOREIGN DECREES**

**19.01 Procedure for Filings under UIFSA.**

(Uniform Interstate Family Support Act R.C. 3115.101 *et seq.*)

- (A) Establishment of a support order, determination of parentage of a child, or registration of a support order of another state or country for enforcement and/or modification shall be accomplished by Petition as set forth in R.C. 3115.101 through 3115.903. A Delaware County Court of Common Pleas, Domestic Relations Division case number shall be assigned to the Petition.
- (B) If registering a support order, the registering party shall prepare and submit to the Court a notice to the non-registering party in the form of a proposed Magistrate's Order that complies with R.C. 3115.605 and also includes Ohio's Required Support Notices under R.C. 3121.27 through 3121.29.
- (C) If the non-registering party does not timely request a hearing to contest the validity or enforcement of the registered order, the registering party shall prepare and submit to the Court for signature an order confirming the registered order. R.C. 3115.606(B).
- (D) If the non-registering party timely requests a hearing to contest the validity or enforcement of the registered order, the Court shall schedule a hearing, with notice to all parties.

**19.02 Procedure for Filings under UCCJEA.**

(Uniform Child Custody Jurisdiction and Enforcement Act, R.C. 3127.01 *et seq.*)

- (A) An out-of-state child custody determination may be registered with this Court as provided in Revised Code section 3127.35 *et seq.* A Delaware County Court of Common Pleas, Domestic Relations Division case number is assigned to the registered order.
- (B) When filing the documents required in R.C. 3127.35, the filing party shall also submit a Proposed Order and Notice for signature by the judge. That Order and Notice, when signed, shall be served upon the other party along with the initial filings in the case.

- (C) This Court will modify an out-of-state custody determination only in accordance with R.C. 3127.15 through 3127.24.

## **RULE 20 DISCOVERY**

### **20.01 In General.**

The exchange of information between parties is required. Civ.R. 26 through Civ.R. 37 shall apply to any action in the Domestic Relations Division, including post-decree motions filed pursuant to Civ.R. 75(J).

### **20.02 Interrogatories.**

- (A) Each party may serve 40 interrogatories as of right. Further interrogatories may be filed only with prior leave of court and upon good cause shown.
- (B) If an interrogatory is identified by one number, but is divided into several parts, each requiring a specific unrelated item of information, each part shall be counted as a separate interrogatory.
- (C) When there are more than 40 interrogatories without leave of court, the responding party need only answer or object to the first 40 interrogatories.

### **20.03 Completion of Discovery.**

All discovery shall be completed prior to the date specified in the Court's order. In the absence of a court order, discovery shall be completed forty-five days prior to the trial date. Expert witness reports shall be exchanged no later than 30 days prior to the trial date absent leave of court.

### **20.04 Income and Pension Information.**

All parties shall sign any authorization necessary for the opposing party to obtain full and detailed wage, benefit, and pension information.

### **20.05 Motions to Compel or to Impose Sanctions or to Extend Discovery.**

All motions to compel discovery, to extend the time for discovery, or to impose sanctions shall be filed no later than seven days before the status conference, initial pretrial conference or any hearing subsequent thereto. A motion to extend discovery shall state the reason the deadline should be enlarged. All motions to compel shall contain a specific statement of counsel setting forth the attempts made to obtain compliance with discovery requests and a statement as to attorney fees and amount requested.

## **RULE 21    SANCTIONS**

The Court may order sanctions or take other appropriate measures when an attorney or party unnecessarily causes undue delay or conflict, or fails to abide by these Rules or the Ohio Rules of Civil Procedure. Undue delay or conflict includes, but is not limited to, unreasonable tardiness, failure to attend a hearing or failure to be prepared, engaging in conduct which is disruptive to a court proceeding, or undignified or discourteous conduct that is degrading to the court proceeding.

## **RULE 22    *EX PARTE* COMMUNICATION**

### **22.01    Oral Communication.**

No attorney or party shall discuss the merits of any litigation with any judge or magistrate presiding over the matter without the presence of opposing counsel or the other party, if not represented.

### **22.02    Written Communication.**

If any attorney or party submits written correspondence to the judge or magistrate presiding over the matter without notifying opposing counsel or the other party, if not represented, the Court shall submit the correspondence to the staff attorney for review.

- (A)    **Substantive pleading.** If the correspondence is a substantive pleading (such as an answer, objection, motion to set aside, etc.), the Court may return the correspondence/pleading to the party that submitted the correspondence/pleading with a Notice indicating that all substantive pleadings must be filed with the Clerk of Courts.
  
- (B)    **Procedural question or miscellaneous correspondence.** All other correspondence may be returned to the party that submitted the correspondence with a Notice indicating that the judge or magistrate is not permitted to review the correspondence. A copy of the Notice and correspondence may be sent to the opposing party. The staff attorney may retain a copy of the correspondence in a miscellaneous correspondence file.

## **RULE 23    CONTINUANCES**

### **23.01    Form of Motion.**

- (A)    If a continuance of a scheduled hearing or trial becomes necessary, the party, or if represented by counsel, the attorney, shall file a motion to continue as soon as possible. If the need for a continuance is due to a conflict with another court, the party, or attorney, shall attach a copy of the order or entry that sets forth the date of the conflicting hearing. Absent good cause shown, no continuance will be considered that has not been filed 10 days prior to the date of the scheduled hearing or trial.

- (B) The following procedure shall be followed prior to filing a motion to continue:
- (1) Call the Court and obtain several possible available dates from the judge or magistrate's administrative assistant;
  - (2) Call each attorney (or party when not represented) and confirm a date they will be available;
  - (3) Call the administrative assistant back immediately with the available date and time most convenient to everyone.
- (C) A party filing a motion for continuance of any hearing shall deliver a file stamped copy of the motion to the judge or magistrate's Administrative Assistant with the proposed entry.
- (1) The motion shall include:
    - (a) The reason for the request for continuance;
    - (b) A statement whether other continuances of the hearing have been previously granted and if so when;
    - (c) Whether opposing counsel or the opposing party agrees or disagrees to the proposed continuance;
    - (d) Whether the client is aware of the request for continuance;
    - (e) A proposed new hearing date and time confirmed with all parties; and
    - (f) A certification of service of the motion upon opposing counsel unrepresented party and all interested parties to the hearing, including, but not limited to the guardian *ad litem*, if appointed, and the CSEA, if the agency is a party to the proceeding.
  - (2) The proposed order shall include the following:
    - (a) a statement that the continuance is granted along with a place where the new hearing date may be entered;
    - (b) a statement that the continuance is denied;
    - (c) a statement that no further continuances will be granted absent exigent circumstances.
- (D) Any continuance of any hearing shall be at the total discretion of the Court.

## **RULE 24 WITHDRAWAL OR SUBSTITUTION OF COUNSEL**

### **24.01 Withdrawal.**

After entering an appearance as counsel, no attorney shall be relieved of responsibility unless:

- (A) Counsel timely files a written motion and proposed order stating, with particularity, the grounds for withdrawing from the case, together with a proper certification that counsel has notified the client of all subsequent hearing dates and the necessity for attendance at same, and has served both the client and opposing counsel with the motion to withdraw.
- (B) The Court may schedule a motion to withdraw for hearing if the motion is filed less than thirty days before trial.
- (C) The withdrawing attorney shall mail a copy of the Court's order granting or denying the motion to all unrepresented parties and counsel.

**24.02 Substitution of Counsel of Record.**

Any attorney entering a case on behalf of a party who has had previous representation in the case, shall do so by written notice of substitution filed with the Clerk of Courts and delivered to the judge or magistrate's administrative assistant, as well as opposing counsel.

## **RULE 25 ATTORNEY FEES AND EXPENSES**

**25.01 Consent Entry.**

A written stipulation for payment of attorney fees by one party to the other may be entered at any time during the proceedings and filed as a consent entry.

**25.02 Motion for Payment of Attorney Fees.**

If the parties do not agree to payment of attorney fees, the party seeking payment shall do so by a written motion or by another pleading, accompanied by a notice of hearing, pursuant to these Rules and the Rules of Civil Procedure. A motion for attorney fees may be combined with requests for other relief. At a hearing on a request for attorney fees, either party shall present evidence or stipulations sufficient for the Court to make a decision under statutory guidelines regarding the amount of fees incurred and the reasonableness of the hourly rate and fees charged.

## **RULE 26 GENERAL AND SPECIFIC POWERS OF MAGISTRATES**

Magistrates shall have all powers conferred upon them by the Civil Rules.

## **RULE 27 MAGISTRATES' ORDERS AND DECISIONS**

**27.01 Magistrate's Order.**

A magistrate may enter orders necessary to regulate the proceedings and not dispositive of a claim or defense of a party.

## **27.02 Motion to Set Aside a Magistrate's Order.**

- (A) A motion to set aside a magistrate's order shall be filed and served upon the opposing party within 10 days of filing of the order. A copy of a motion to set aside the order shall be delivered to the judge's administrative assistant. The order is not stayed unless the judge grants a stay upon filing of proper motion and order. The magistrate may continue to enter orders while a motion to set aside is pending.
- (B) Motions to set aside a magistrate's order shall state with specificity the reasons for the motion. Any motion to set aside based on a finding of fact shall be accompanied by a transcript of all the evidence submitted to the magistrate relevant to that fact, or an affidavit of that evidence if a transcript is not available.
- (C) If a transcript is required, the party shall file a praecipe with the Clerk of Courts at the time of the filing of the motion to set aside. The Clerk of Courts shall provide the court reporter for the Domestic Relations Division with a copy of the praecipe. If a praecipe to the court reporter is not filed at the time of filing the motion to set aside, and facts as found by the magistrate are disputed, the motion to set aside may be denied. If no court reporter was present for the hearing, the party shall file a praecipe for a copy of the recording with the Clerk of Courts. The Clerk shall provide a copy of the praecipe to the court reporter for the Domestic Relations Division to make a copy of the recording.
- (D) A deposit of costs to secure the transcript must be paid to the court reporter within 14 days of the filing of the motion to set aside and praecipe to court reporter. If the deposit for the costs of a transcript is not made within 14 days of the filing of the motion to set aside and the praecipe to court reporter, the motion to set aside may be denied.
- (E) Unless the Court orders otherwise, a motion to set aside a magistrate's order will be determined without an oral argument. A party may file a response to a motion to set aside within 10 days of the date the motion is filed and shall hand-deliver a copy of the response to the judge's administrative assistant.
- (F) The party who files a motion to set aside a magistrate's order automatically has 14 days to file a supplemental brief after the filing of the transcript with the Court. Any opposing party automatically has 10 days to respond to the objecting party's supplemental brief. Each party shall hand-deliver a time-stamped copy of the supplemental or responsive brief to the judge's administrative assistant.

## **27.03 Magistrate's Decision.**

An entry that makes a final determination of the parties' rights and responsibilities and which requires judicial approval shall be identified as a magistrate's decision in accordance with Civ.R. 53.

#### **27.04 Objections to Magistrate's Decision.**

- (A) Objections to a magistrate's decision shall be filed and served upon the opposing party within 14 days after the date the decision is filed. The opposing party may file an objection or response within 10 days after the first objection is filed. A copy of the objections or response shall be hand-delivered to the judge's administrative assistant.
- (B) All objections shall be specific and state the grounds of objection with particularity. Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. A transcript is deemed not available only if the proceedings were not recorded or if the record of the proceeding is not available.
- (C) If a transcript is required, the party shall file a praecipe with the Clerk of Courts at the time of the filing of the Objection of Magistrate's Decision. The Clerk of Courts shall provide the court reporter for the Domestic Relations Division with a copy of the praecipe. If a praecipe to the court reporter is not filed at the time of filing the objection, and facts as found by the magistrate are disputed, the Objection to Magistrate's Decision may be denied. If no court reporter was present for the hearing, the party shall file a praecipe for a copy of the recording with the Clerk of Courts. The Clerk shall provide a copy of the praecipe to the court reporter for the Domestic Relations Division to make a copy of the recording. The party filing the praecipe shall delivery by hand, facsimile or electronically, a copy of the praecipe to the court reporter for the Domestic Relations Division and is responsible to may payment arrangements with the court reporter.
- (D) A deposit of costs to secure the transcript must be paid to the court reporter within 14 days of the filing of the objection and praecipe to court reporter. If the deposit for the costs of a transcript is not made within 14 days of the filing of the objection and the praecipe to court reporter, the objection may be overruled.
- (E) Any party who files an objection shall have 14 days to file a supplemental brief after the filing of the transcript with the Court. A party seeking to file a supplement objection after 14 days may only do so with leave of Court. Any opposing party automatically has 10 days to respond to the objecting party's supplemental brief. Each party shall hand-deliver a time-stamped copy of his/her supplemental or responsive brief to the judge's administrative assistant.
- (F) The Court may adopt, reject or modify the magistrate's decision, hear additional evidence, recommit to the magistrate with instructions, or hear the matter itself. The Court may refuse to consider additional evidence unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.
- (G) A party shall not assign as error on appeal the Court's adoption of any finding of fact or conclusion of law, unless the party has objected to that finding or conclusion under this Rule.

- (H) Except when the Court orders otherwise, objections will be determined without oral argument.

## **RULE 28 JUDGMENT ENTRIES, MAGISTRATE ORDERS AND MAGISTRATE DECISIONS PREPARED BY ATTORNEYS/PARTIES**

### **28.01 Preparation by Party.**

The Court may order either party to prepare the judgment entry, magistrate order, or magistrate decision. When so ordered, the party shall prepare said document and submit it to the opposing party within 14 days, unless the time is extended by the Court.

- (A) The opposing party shall have seven days in which to approve or reject the submitted document. In the event of rejection, the opposing party may file with the Court, at the time of the rejection, a written statement of all objections to the submitted document along with the submitted document.
- (B) If the opposing party fails to take any action on the submitted document within seven days, the preparer may present the submitted document to be journalized by certifying that the same was submitted to the opposing party and that no response was made.
- (C) Agreed judgment entries may be presented to the Court on or before the date of hearing.
- (D) Child support orders shall contain a child support worksheet and, if the parties are seeking deviation from child support pursuant to R.C. 3119.22, the parties shall provide the Court with detailed and specific findings of fact and conclusions of law setting forth the factors considered for deviation as provided in R.C. 3119.23.
- (E) All judgment entries shall contain each party's complete address.

### **28.02 Signature by Both Parties.**

All judgment entries, magistrate orders, and magistrate decisions shall be signed by all attorneys of record and by any party not represented by an attorney or shall include the certification provided for in Rule 28.01(B). Certain types of orders are excepted from this requirement, including, but not limited to, CSEA orders, *ex parte* restraining orders, orders appointing process server, escrow orders, and orders permitting withdrawal as counsel.



## **RULE 29 CONCILIATION AND COUNSELING**

### **29.01 Procedure.**

Any time after 30 days from service, a party by motion, or the Court *sua sponte*, may initiate conciliation for any period of time not to exceed 90 days. *See* R.C. 3105.091.

### **29.02 Counseling.**

Upon a party's motion, or *sua sponte*, the Court may order counseling for the parties and/or their minor children during the course of the proceedings, and may specify the counselor, type of counseling, length of time, costs, or any other specific requirements.

## **RULE 30 PARENTING TIME**

### **30.01 Standard Parenting Time Schedule.**

The Court's Standard Parenting Time Schedule, as amended from time to time, shall be the order of parenting time in the absence of an agreement by the parties or a specific order with other provisions. The schedule is provided on the Court's website: <http://www.co.delaware.oh.us/court/domestic/forms/Parenting%20Time.pdf>.

### **30.02 Automatic Reduction in Child Support in Conjunction with R.C. 3119.051.**

Provided the Rule 30.01 parenting time schedule is ordered, incorporated, and attached to the order or rewritten fully therein, and filed with the Court, Rule 30.01 is deemed to satisfy the statutory requirement for an automatic ten percent (10%) child support reduction pursuant to R.C. 3119.051.

## **RULE 31 MEDIATION**

### **31.01 Introduction.**

Through Rule 31, the Delaware County Domestic Relations Division incorporates by reference R.C. 2710 "Uniform Mediation Act" (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities, and Rule 16 of the Rules of Superintendence for the Courts of Ohio.

### **31.02 Definitions.**

All definitions found in the UMA, R.C. 2710.01, are adopted by this Court through this Rule, including but not limited to the following:

- (A) "Mediation" means any process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.
- (B) "Mediator" means an individual who conducts a mediation.

- (C) “Mediation communication” means a statement, whether oral, in a record, verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
- (D) “Proceeding” means either of the following:
  - (1) Judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
  - (2) A legislative hearing or similar process.

**31.03 Purpose.**

It is the policy of this Court to utilize mediation to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Delaware County Domestic Relations cases through the use of mediation.

**31.04 Scope.**

Mediation Services may be chosen as an appropriate method of resolution for a case. The following actions shall be exempted from mediation upon request of any party:

- (A) Cases in which one party has been convicted of, or plead guilty to, a violation of R.C. 2919.25 (domestic violence) within the past two (2) years or when a civil temporary protection order is in effect;
- (B) Cases in which the physical distance between parties is so great it is not feasible for them to participate in mediation sessions either in person or by telephone as determined by the court mediator;
- (C) Cases in which one of the parties is mentally ill;
- (D) In emergency circumstances requiring an immediate hearing by a judicial officer;  
or
- (E) Cases in which the parties have achieved an executed Agreed Judgment Entry.

**31.05 Case Selection.**

- (A) A case may be referred for Mediation in the following manner:
  - (1) For formal proceedings, the Court may order parties to participate in the mediation process;
  - (2) For formal proceedings, the Court, upon written or oral motion, may order parties to participate in the mediation process.
  - (3) For informal cases (pre-filing), a referral to Mediation Services may be made by court personnel.

- (B) Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process. Mediation Services may decline any referral deemed inappropriate.
- (C) All parties and counsel shall advise the judge, magistrate or the mediation services assessor of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of the mediation process, which allegations involve any two or more persons whom attendance is required by the referral order.
- (D) The mediation shall be communicated via a “Notice of Scheduled Mediation” Magistrate’s Decision or Judgment Entry which shall, at a minimum, indicate the date, time, place, and contact information for the mediation.
- (E) The following methods may be used to determine the mediator for the case:
  - (1) For qualifying parties, the Court mediator may facilitate the mediation.
  - (2) The Court randomly assigns a mediator to the case from the Court’s roster of approved mediators.
  - (3) Specific appointments may be made by the Court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.
  - (4) Parties may select a mediator from the court approved list of mediators.

**31.06 Procedure.**

If a case is deemed appropriate for mediation, mediation will be scheduled. A mediator may meet with parties individually prior to bringing the parties together for any reason including but not limited to further screening. A mediator may schedule multiple mediation sessions as is necessary and mutually acceptable for the resolution of some or all issues.

- (A) **Party/Nonparty participation.**
  - (1) Parties to informal cases may voluntarily attend mediation sessions. Parties who are ordered into mediation shall attend scheduled mediation sessions.
  - (2) Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. If the party wishes, they may have their attorney or another individual they designate accompany them and participate in mediation. The Court may order parties to return to mediation at any time.

- (3) The judge, magistrate, and/or a mediator may require the attendance of the parties' attorneys at the mediation sessions if the judge, magistrate and/or mediator deems it necessary and appropriate.
- (4) A guardian *ad litem* shall participate in the mediation sessions upon written order of the Court or may participate upon request of the mediator.
- (5) If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.
- (6) If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic abuse at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have the duty to participate in any screening required by the Court.
- (7) Each party shall proceed with mediation in good faith to reach a mediated agreement. Any party who agrees to mediation shall perform all obligations expeditiously and shall not use the mediation process for purposes of delay or discovery in any manner other than in a good faith attempt at resolution.
- (8) By participating in mediation, a nonparty participant as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B)(3) and 2710.04(A)(2).

**(B) Confidentiality/Privilege.**

- (1) All mediation communications related to or made during the mediation process are subject to and governed by the UMA, R.C. 2710.01 to 2710.10, R.C. 3109.052, the Rules of Evidence, and any other pertinent judicial rule(s).
- (2) In furtherance of the confidentiality set forth in this Rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session.
  - (a) Said "Agreement to Mediate" outlines the confidentiality and privilege of all mediation communications, including but not limited to written and/or verbal agreement.

- (b) If a new or different person attends a subsequent session, their signatures shall be obtained prior to proceeding further in the process. The form of agreement is available for review by any prospective participant by contacting Court Mediation Services.

**(C) Mediator termination.**

If the mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

**(D) Domestic violence.**

Pursuant to Rule 16 of the Rules of Superintendence for the Courts of Ohio, as adopted by this Court through Rule 31, any mediator providing services for the Court shall utilize procedures for all cases that will:

- (1) Ensure that the parties are allowed to participate in mediation and, if the parties wish, that their attorneys and any other individuals are allowed to accompany them and participate in mediation.
- (2) Screen for domestic violence both before and during mediation.
- (3) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
- (4) Prohibit the use of mediation in any of the following:
  - (a) As an alternative to the prosecution or adjudication of domestic violence;
  - (b) In determining whether to grant, modify or terminate a protection order;
  - (c) In determining the terms and conditions of a protection order; and
  - (d) In determining the penalty for violation of a protection order.
- (5) Nothing in this division of this Rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.
- (6) For mediation involving the allocation of parental rights and responsibilities or the care of, or visitation with, minor children, mediation may proceed when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training as set forth in “Specific Qualifications and Training; Domestic Abuse” of this Rule and all of the following:

- (a) The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process and his or her right to decline participation in the mediation process or have a support person present.
- (b) The parties have the capacity to mediate without fear of coercion or control.
- (c) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- (d) Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.
- (e) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

**(E) Legal advice.**

If the parties to a mediation so desire, they may have their attorneys and/or other designated individuals accompany them and participate in mediation. All attending parties will be required to sign the Court's Agreement to Mediate. The mediator may refer parties to seek legal advice or other support services as needed.

**(F) Mediation Agreements.**

Parties may reach agreement on all or some issues through the mediation process. Upon mutual agreement of the parties, agreements may be verbal or written. All agreements reached through mediation are subject to confidentiality and privilege pursuant to UMA, R.C. 2710.01 through 2710.10 (if the agreement is signed it will not be privileged pursuant to R.C. 2710.05(A)(1)).

- (1) If an agreement is reached through the mediation process, a mediator shall put said agreement in writing. Each party shall receive a copy of the Mediation Agreement and a copy shall be placed in the mediation file.
- (2) Written agreements reached by the parties during mediation may become an Order of the Court after review and approval by each party and their attorney, if represented, and presented to the Court by the parties and/or their attorneys, if represented. No oral agreement by the parties and/or their attorneys will be regarded as an Order unless made in open court.
- (3) The assigned judge or magistrate retains final approval on all agreements reached through the mediation process in formal cases.

### **31.07 Confidentiality.**

All mediation communications related to or made during the mediation process are subject to and governed by the UMA, R.C. 2710.01 through 2710.10, R.C. 3109.052, the Rules of Evidence, and any other pertinent Judicial Rule(s). Statements made during the course of mediation assessment or the mediation sessions shall not be admissible as evidence in any subsequent proceeding in this Court except as required by law. The mediator shall not be made a party to, and shall not be called as a witness to testify in, any proceeding other than as set forth in R.C. 3109.052(C), even if both parents give their consent thereto. In furtherance of the confidentiality set forth in this Rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session. If a new or different person attends the process, their signature(s) shall be obtained prior to proceeding further in the process. A blank "Agreement to Mediate" form is available for review by any prospective participant by contacting Mediation Services. The foregoing confidentiality requirements shall not preclude mediators from testifying as to a crime committed in their presence nor shall they be construed to exempt any person from the statutory duty to report child abuse pursuant to R.C. 2151.421 or to limit any of the exceptions to confidentiality contained in R.C. 2710.05.

### **31.08 Mediator Conflicts of Interest.**

In accordance with R.C. 2710.08(A) and (B), the mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the mediator's impartiality as soon as such conflict(s) become known to the mediator. If counsel or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator should withdraw and request that the judge or assigned magistrate appoint another mediator. The parties shall be free to retain the conflicted mediator by an informed, written waiver of the conflict(s) of interest.

### **31.09 Qualifications.**

Any mediator employed by the Court, or to whom the Court makes referrals, shall have the following minimum qualifications:

- (A) A bachelor's degree or equivalent education experience and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
- (B) Completion of at least 12 hours of basic mediation training or equivalent experience and at least 40 hours of specialized family or divorce mediation.
- (C) Completion of at least 14 hours of specialized training in domestic abuse and mediation through a training program approved by the Dispute Resolution Section in accordance with the standards established by the Supreme Court Advisory Committee on Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if he/she co-mediate with a mediator who has completed the specialized training.

- (D) Adherence to the ethical standards of mediators' profession, the Model Standards of Practice for Family and Divorce Mediation (adopted by the American Bar Association, Association of Family and Conciliation Courts, and the Association for Conflict Resolution) and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs.
- (E) The Domestic Relations Court Administrator will maintain a list of qualified mediators. All individuals interested in being on the list of qualified mediators shall annually submit to the Domestic Relations Court Administrator an updated Curriculum Vitae (including a list of training related to the field of dispute resolution and profession or association memberships) and certificates. Said CV or certificates shall be provided by the Court Administrator to those requesting information on an assigned mediator's qualifications to mediate a dispute pursuant to the requirements set forth in R.C. 2710.08(C). The Court will review applications of persons seeking to be added to the list of qualified mediators in accordance with the procedures adopted by the judge of the Domestic Relations Court.

**31.10 Model Standards.**

Mediators providing services for the Court shall comply with the Model Standards of Practice for Family and Divorce Mediation and the Special Policy Considerations for the State Regulations of Family Mediators and Court Affiliated Programs as set forth in Rule 16 of the Rules of Superintendence for the Courts of Ohio.

**31.11 Fees and costs.**

All costs shall be determined by the Court, if applicable. The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the Court shall determine the apportionment of the mediation costs to the parties. The Court may waive costs for the parties who are unable to pay. Mediation shall not be ordered where a party is indigent unless mediation is made available at no cost to the party.

**31.12 Stay of Proceedings.**

All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

**31.13 Sanctions.**

If any individual ordered by the Court to attend mediation fails to attend mediation without good cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney fees and other costs, contempt, or other appropriate sanctions at the discretion of the assigned judge or magistrate.



#### **31.14 Conclusion of Mediation.**

At the conclusion of the mediation and in compliance with R.C. 2710.06, the Mediator shall provide a report to the Court which shall include the following:

- (A) Whether the mediation occurred or was terminated;
- (B) The attendance of the parties at the scheduled mediation session(s);
- (C) If an agreement was reached on all or some of the issues;
- (D) If no agreement was reached;
- (E) Any future scheduled mediation dates;
- (F) Any additional information the parties mutually agree they wish to be disclosed to the Court.

### **RULE 32 GUARDIANS AD LITEM**

#### **32.01 Introduction.**

Through Rule 32, the Delaware County Domestic Relations Division incorporates by reference Rule 48 of the Rules of Superintendence for the Courts of Ohio.

#### **32.02 Procedure.**

When requested by either party or ordered by the Court, a guardian *ad litem* shall be appointed. The request for a guardian *ad litem* shall be made no later than the pretrial for an original action and the status conference for post-decree matters, absent good cause shown. The Court may deny a request for a guardian *ad litem* if the request is not timely made or appears to have been requested for purposes of delay.

#### **32.03 Role.**

The role of the guardian *ad litem* is to assist the Court in allocating parenting time, with the primary focus being the best interest of the child(ren). Guardian *ad litem*s will provide a comprehensive assessment of the parenting issues related to the allocation of parental rights and responsibilities. It is expected that the guardian *ad litem* will attend all court hearings, have a report available, and testify if requested.

#### **32.04 Application.**

The Common Pleas Court shall utilize one guardian *ad litem* coordinator for all courts in both the Juvenile and Domestic Relations Divisions. An attorney seeking to serve as a guardian *ad litem* in the Domestic Relations Division of the Court of Common Pleas shall complete the application process through the Delaware County Juvenile Court (as provided in Delaware County Juvenile Rule 33 (Loc.Juv.R. 33)) and designate a willingness to serve as a Domestic Relations Division guardian *ad litem*.

### **32.05 Assessment.**

Guardians *ad litem* will have full access to school, daycare, medical, and psychological records and personnel, regarding the child(ren). Confidential information provided to the guardian by counsel should be copied to opposing counsel.

### **32.06 Guardian *ad Litem* Reports.**

- (A) Upon completion of the guardian *ad litem* report, the guardian *ad litem* shall provide a copy to the attorneys of record, or if the party is not represented, a copy shall be given to the party.
- (B) Guardian *ad litem* reports and recommendations contain adult information which is not to be shared with the minor child(ren). Attorneys are expected to use professional discretion in sharing information with their clients.
- (C) The written report of the guardian *ad litem* shall be considered as part of “the original papers and exhibits filed with the trial court” for purposes of App.R. 9(A).

### **32.07 Fees.**

The Court may fix compensation rates for the services of a *Guardian ad litem*. In child custody and parenting cases, the Court shall require the parties to post a deposit to secure the fees of the *Guardian ad litem* and shall apportion additional fees incurred for the services of the *Guardian ad litem* between the respective parties. If any party has filed an affidavit of indigency, the Court, in its discretion, may not require that the party pay an initial deposit. The Court shall retain jurisdiction to reallocate the *Guardian ad litem*'s fees along with all costs of the proceedings, upon motion and/or at the conclusion of the case. The guardian *ad litem* shall submit quarterly a Motion for *Guardian ad litem* Fees along with a detailed invoice, and a request for an additional deposit where the parties are responsible for the fees.

## **RULE 33 PARENTING COORDINATION**

### **33.01 Introduction.**

Through Rule 33, the Delaware County Domestic Relations Division incorporates by reference Rule 90 – 90.10 of the Rules of Superintendence for the Courts of Ohio.

### **33.02 Scope.**

Parenting coordination is a child-focused alternative resolution process intended and designed to aid parties in implementing their parenting plan or parenting time order by facilitating the resolution of their disputes in a timely manner, assisting parties in regards to children’s needs, and with prior approval of the parties and/or the Court, making decisions within the scope of the court order or appointment contract. The overall objective of parenting coordination is to assist high conflict parties to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding children and the parenting plan in a timely manner, and to protect and sustain safe, healthy, and meaningful parent-child relationships.

A Parenting Coordinator's role arises after the Court's decision (Entry) has been journalized and after the guardian *ad litem* has completed their role in the case if a guardian *ad litem* was assigned. The scope of the Parenting Coordinator's duties is expressly determined by the Court's Order to appoint a Parenting Coordinator on a per case basis.

The Parenting Coordinator (hereinafter referred to as "PC") role is most frequently reserved for those high conflict parties who have demonstrated their long-term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict. Because the PC makes recommendations and/or decisions for the parties and reports to the Court, the PC is appointed by and is responsible to the Court. This assignment is a serious issue, and the Court will only appoint qualified professionals.

A Parenting Coordinator will not be appointed as the Guardian *ad Litem* in subsequent litigation involving the same parties and child(ren).

### **33.03 Qualifications.**

- (A) A "Parenting Coordinator" means an individual appointed by a court of common pleas or a division of the court to conduct parenting coordination and who meets all of the following qualifications:
- (1) The PC shall be a licensed mental health or legal professional in an area relating to families, or a certified family mediator under the rules or laws of the controlling jurisdiction or with a master's degree in a mental health field;
  - (2) The PC shall possess at least two years of professional experience dealing with persons in high conflict 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) The PC shall complete at least 12 hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court or division of said Court;
  - (4) After completing the aforementioned training as outlined hereinabove, the PC shall complete at least 40 hours of specialized family or divorce mediation training provided by a training program approved by the Dispute Resolution Section of the Supreme Court Advisory Committee on Dispute Resolution when available;
  - (5) The PC shall complete at least 14 hours of specialized training in domestic abuse and mediation provided by a training program approved by the Dispute Resolution Section of the Supreme Court Advisory Committee on Dispute Resolution;

- (6) The PC shall complete at least 12 hours of specialized training in coordination provided by a training program approved by the Dispute Resolution Section of the Supreme Court in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution when available.

#### **33.04 When a Parenting Coordinator May Be Appointed.**

- (A) The Court may order parenting coordination if the Court determines one or more of the following factors are present:
  - (1) The parents have on-going disagreements about the implementation of an order for the allocation of parental rights and responsibilities or parenting time and will need ongoing 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 is suffering;
  - (3) The parents have a child whose parenting time schedule will require frequent adjustment to maintain age-appropriate contact with both parents and the parents have been previously unable to reach agreements on their parenting time schedule without court interventions;
  - (4) The parents have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in parenting time schedules and the parents have been previously unable to reach agreements without court interventions;
  - (5) One or both parents suffer from a mental or psychological condition or disability that has resulted in an inability to reach agreements or make adjustments in the parenting time schedule, even when minor in nature, without assistance;
  - (6) Any other factor determined by the Court.
- (B) The Court will not order parenting coordination in order to determine any of the following:
  - (1) Whether to grant, modify, or terminate a protection order;
  - (2) The terms and conditions of a protection order;
  - (3) The penalty for violation of a protection order;
  - (4) Changes in the designation of legal custodian;
  - (5) Changes in the primary placement of a child.

- (C) When violence or fear of violence is alleged, suspected, or present, parenting coordination may proceed only if all of the following conditions are satisfied:
- (1) The PC meets all of the following requirements:
    - (a) Possesses significant experience working with family disputes; and
    - (b) Has completed at least 32 hours of specialized child protection mediation training through either a formal training session or a mentoring program approved by the Dispute Resolution Section of the Supreme Court in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.
  - (2) The person who is or may be a victim of domestic violence is fully informed about the parenting coordination process and the person's option to have a support person present at parenting coordination sessions;
  - (3) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons involved in the parenting coordination process; and
  - (4) Procedures are in place for the parenting coordinator to terminate a parenting coordination session if the parenting coordinator believes there is continued threat of domestic violence or coercion between the parties.

### **33.05 Appointment Order.**

The Court shall not appoint a PC unless the Court or division has delineated the powers and duties of the PC and the terms of said appointment in a written order which expressly defines the scope of the PC's duties.

### **33.06 Privilege/Public Access.**

Those files maintained by a PC but not filed with a clerk or submitted to a court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

## **RULE 34 COURT DECORUM, HEARING TIMES & CHILD WITNESSES**

- (A) At court hearings, all persons shall be properly attired in the courtroom. For parties and witnesses the following attire is not appropriate: bare feet, flip-flops, cutoffs, tank tops, crop tops, halter tops, visible undergarments including boxer shorts and bras, hats, or any clothing containing drug/alcohol and tobacco slogans, profanity, racial/ethnic/religious slurs. Clothing that exposes excessive skin within the "privacy zone," including cleavage, midriff, back and below the waist, shall not be worn.

It shall be the duty of counsel to advise the parties and witnesses of this Rule prior to their appearance in court. If the parties are not properly attired, the Court may order that the hearing will not go forward. Parties shall not bring children to any hearing.

- (B) All hearings and conferences are expected to start on time. Attorneys and/or parties shall appear 15 minutes prior to the scheduled hearing time to discuss any matters relevant to the hearing or conference.
- (C) The use of cell phones by attorneys and parties is prohibited in the courtroom and hearing rooms unless consent is given by the judge or magistrate prior to the hearing.
- (D) Minor children shall not be permitted to testify as witnesses in open court in any action, absent good cause shown and with leave of court.

## **RULE 35 SPECIAL NEEDS *E.G.*, INTERPRETERS AND HEARING ASSISTED DEVICES**

The Court will make every effort to provide reasonable accommodations for any party, counsel, witness, or member of the public coming to the Court who has special needs or needing special arrangements, *e.g.*, interpreter or translator. Parties or their counsel are required to contact the judge or magistrate's administrative assistant as soon as possible but not less than fourteen days prior to the hearing so that appropriate arrangements can be made.

It is the responsibility of the requesting party to notify the judge or magistrate's assistant if there is any change in the date or time of the hearing or if interpretive services are no longer necessary at least 48 hours prior to the hearing. Failure to comply with this rule may result in a party being held responsible for payment of the interpreter's fees.

## **RULE 36 BROADCASTING, TELEVISIONING, AND RECORDING COURT PROCEEDINGS**

Broadcasting, televising, recording, and photographing by news media during courtroom sessions, including recesses between sessions, is permitted under the following conditions:

### **36.01 Administration.**

- (A) Requests for permission to broadcast, televise, record, or photograph in the courtroom must be made in writing to the judge as far in advance as reasonably practical, but in no event later than one day prior to the courtroom session to be broadcast, televised, recorded, or photographed unless otherwise permitted by the judge. Request forms may be obtained from the judge's office. The court may limit the number of video cameras in the courtroom to one video feed.

- (B) The judge may grant the request in writing consistent with Rule 12 of the Rules of Superintendence, and this rule. Written permission will be made a part of the record of the proceeding.

### **36.02 Revocation of Permission.**

Upon the failure of any media representative to comply with the conditions prescribed by the trial judge, the Rules of Superintendence, or this rule, the trial judge may revoke the permission to broadcast, photograph, or record the trial or hearing.

## **RULE 37 PUBLIC ACCESS TO COURT RECORDS**

- (A) At the discretion of the Clerk of Courts, certain court records may be made available for electronic viewing via the internet or other means.
- (B) The following information shall not be available for public viewing via the internet or other electronic means:
  - (1) social security numbers of any person;
  - (2) bank account or credit card numbers;
  - (3) separation agreements;
  - (4) shared parenting plans;
  - (5) Financial affidavits, Health Insurance Affidavits.
  - (6) income tax returns;
  - (7) third-party pleadings that contain any of the above information;
  - (8) exhibits attached to pleadings or submitted at hearings;
  - (9) letters;
  - (10) pretrial, post-trial, and post-decree briefs, statements, and memoranda;
  - (11) transcripts;
  - (12) Qualified Domestic Relations Orders;
  - (13) Documents to which public access has been restricted pursuant to Rule 45(E) of the Rules of Superintendence for the Courts of Ohio or by court order;
  - (14) Items excluded from the definition of “Case Document” pursuant to Rule 44 of the Rules of Superintendence for the Courts of Ohio or other documents which any Superintendence Rule limits public access;

- (15) Other documents and pleadings as ordered by the Court not to be made available for electronic viewing; or
  - (16) Guardian *ad litem* reports.
- (C) There shall be no public access (electronic or otherwise) to items excluded from the definition of “Case Document” pursuant to Rule 44 of the Rules of Superintendence for the Courts of Ohio or other documents which any Superintendence Rule limits public access.
  - (D) There shall be no public or party access to items sealed by the Court, including recordings of in camera interviews and records deemed sealed after an in camera review by the Court.

## **RULE 38 ELECTRONIC FILING OF COURT DOCUMENTS**

- (A) The electronic filing of court documents shall be in accordance with General Division Loc.R. 3.
- (B) The CSEA shall use the electronic filing system, as detailed in General Division Loc.R. 3(B), when filing court documents.

## **RULE 39 NEUTRAL EVALUATION**

### **39.01 Introduction.**

Through Rule 39, the Delaware County Domestic Relations Division incorporates by reference Rules 16.50 – 16.55 of the Rules of Superintendence for the Courts of Ohio.

### **39.02 Definitions.**

- (A) “Neutral Evaluation” (“NE”) is a process in which the parties to a dispute present their claims or defenses and describe the principal evidence on which their claims or defenses are based to a neutral third-party who then shares impressions about the strengths and weaknesses and probable outcome of each matter.
- (B) “Neutral Evaluator” (“Evaluator”) means a court-appointed individual who conducts the NE session.
- (C) “NE Communication” means a statement, whether oral, in a record, verbal or nonverbal, that occurs during a NE session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a NE session.

### **39.03 Purpose.**

It is the policy of this Court to utilize NE to promote greater public satisfaction through the facilitation of a fair and efficient resolution for Delaware County Domestic Relations cases.



#### **39.04 Scope.**

NE may be chosen as an appropriate method of resolution for a case. A case may be referred to NE for the resolution of either parenting or financial issues. Should a case be referred and accepted for both Parenting NE and Financial NE, the issues may not be combined without prior approval of the Court. Instead, two separate NE sessions and procedures shall typically be conducted.

#### **39.05 Case Selection and Referral.**

- (A) The Court, upon its own motion or upon the motion of a party, may refer a case to Neutral Evaluation.
- (B) If a case is deemed appropriate for NE, a NE session may be scheduled and two Neutral Evaluators will be assigned by the Court.
- (C) Unless otherwise ordered by the Court:
  - (1) For Parenting NE sessions, the Evaluators will consist of one magistrate and a mental health professional.
  - (2) For Financial NE sessions, the Evaluators will consist of one magistrate and either a second magistrate or a financial professional and/or attorney.
  - (3) Specific appointments may be made by the Court taking into consideration the qualifications, skills, expertise, and caseload of the Evaluators in addition to the type, complexity, requirements of the case, and other relevant factors.

#### **39.06 Participation.**

The NE session requires the participation of each party, his or her respective attorney, if represented, and the guardian *ad litem*. No other person shall be permitted to participate without prior approval of the Court.

#### **39.07 Pre-Session Procedure.**

- (A) **Briefs.**
  - (1) Unless otherwise ordered by the Court, at least 14 days prior to the NE session, each party is required to submit a Parenting Perspective Brief and/or a Financial Perspective Brief. The guardian *ad litem*, if appointed, is not required to submit a Brief.
    - (a) One copy of the Brief shall be submitted to the Domestic Relations Court Staff Attorney, and one copy shall be served upon the other party and the guardian *ad litem*, if appointed, in accordance with these rules.
    - (b) The Brief shall not be filed with the Clerk of Courts, nor shall the Brief be placed in the Family File.

- (2) The Evaluators will review the Briefs to gain a preliminary understanding of the concerns, interests, and issues currently present between the parties.
- (3) If either party fails to timely submit the Brief, the NE session may be cancelled.
- (4) The Court's copies of the Briefs and supporting documents will be destroyed upon completion of the NE process.
- (5) The files maintained by an Evaluator, but not filed with the Clerk of Court or submitted to the Court shall not be available for public access under Sup.R. 44 through 47.

**(B) Fees.**

- (1) The fee for Parenting NE is \$300.00. The fee for Financial NE is \$600.00. Unless otherwise ordered by the Court, the NE fees shall be shared equally between the parties. Fees may be waived or reduced for those participants who are found to be indigent.
- (2) In the event the case requires more than one NE session, the Court may order the parties to pay an additional \$300.00 for Parenting NE and \$600.00 for Financial NE. The Court shall take into consideration the parties' financial circumstances when ordering additional fees.
- (3) Fees shall be paid a minimum of 14 days before the scheduled NE session. Failure to submit the fee 14 days in advance may result in cancellation of the NE session.
- (4) Should the parties resolve the contested issues prior to the NE session, the parties may submit a signed agreement to the judge or assigned magistrate. If the agreement is acceptable to the Court and if the agreement is submitted to the judge or assigned magistrate at least 14 days prior to the scheduled NE session, the NE fees may be refunded.

**39.08 Neutral Evaluation Session Procedure.**

- (A) A team of two Evaluators shall be appointed to conduct the NE session. The magistrate assigned to the underlying case shall not be an Evaluator in the NE process.
- (B) At the NE session, the Evaluators will oversee the discussion to allow each party and/or attorney the opportunity to be heard in an atmosphere of cooperation and respect.
- (C) Unless otherwise permitted by the Evaluators:
  - (1) When a party is represented by an attorney, the party shall have 15 minutes to present his or her case/issues to the Evaluators. The party's attorney is then allowed 5 minutes to present.

- (2) A self-represented party and the guardian *ad litem*, if appointed, shall each be allotted the entire 20 minutes to present.
  - (3) The Evaluators may ask each party questions to clarify the issues, if necessary.
- (D) After the parties' presentations, the Evaluators will consult privately to discuss the strengths and weaknesses of each party's position and to discuss probable outcomes for the parties. The Evaluators will then present their feedback and recommendation to the parties and their attorneys, if represented.
  - (E) The parties will be given an opportunity to consult privately with their attorneys to review and discuss the Evaluators' feedback. The parties will then reconvene to discuss the results and attempt resolution.
  - (F) If the parties come to a full or partial agreement, the Evaluators may require the agreement to be reduced to written form and submitted to the judge or assigned magistrate. The matter may be referred to other dispute resolution programs if some issues still need resolved.
  - (G) Evaluators are prohibited from offering legal advice. However, Evaluators may encourage referrals to legal counsel and other support services for all parties.
  - (H) A party or counsel who has a comment or complaint regarding the performance of an Evaluator shall call the Court Staff Attorney to discuss the matter.

**39.09 Domestic Abuse and Domestic Violence.**

- (A) All cases shall be screened for domestic abuse and domestic violence by the Evaluators before the commencement of the NE session and during the NE session.
- (B) When violence or fear of violence is alleged, suspected, or present, NE may proceed only if one of the Evaluators has specialized training as set forth in "Specialized Domestic Abuse Issues and Mediation Training" of this Rule and the Evaluators have done all of the following:
  - (1) Informed the person who is or may be the victim of domestic abuse or domestic violence about the NE process, the right to decline participation in the NE process, and the option to have a support person, in addition to an attorney, present at the NE session.
  - (2) Assessed and determined that the parties have the capacity to participate in the NE session without fear of coercion or control.
  - (3) Implemented procedures to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons present at the NE session.
  - (4) Implemented procedures for the Evaluators to terminate the NE session if there is a threat of domestic abuse, domestic violence, or coercion between the parties.

- (C) Evaluators may encourage referrals to legal counsel and other support services for victims of and suspected victims of domestic abuse or domestic violence.
- (D) NE shall not be used in any of the following:
  - (1) As an alternative to the prosecution or adjudication of domestic violence;
  - (2) In determining whether to grant, modify or terminate a protection order;
  - (3) In determining the terms and conditions of a protection order; and
  - (4) In determining the penalty for violation of a protection order.
- (E) Nothing in this division of this Rule shall prohibit the use of NE in a subsequent divorce or custody case even though the case may result in the termination of the provisions of a protection order under R.C. 3113.31.

### **39.10 Qualifications and Continuing Education.**

A team of Evaluators, whether employed by the Court, or with whom the Court is contracted, or to whom the Court makes referrals, shall have the following minimum qualifications:

- (A) At least one Evaluator shall be licensed to practice law in Ohio and have a minimum of five years of experience in domestic relations law. “Experience in domestic relations law” includes mediation, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
- (B) The second Evaluator may also be licensed to practice law in Ohio and have a minimum of five years of experience in domestic relations law. Alternatively, the second Evaluator must possess a master’s degree in the fields of psychology, social work, sociology, counseling, finance, or a related field acceptable to the Court and have a minimum of five years of experience working with children and families. Experience “working with children and families” includes mediation, counseling, casework, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
- (C) At least one Evaluator shall have completed the following courses approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution:
  - (1) Fundamentals of Mediation Training or be a qualified Mediator in accordance with Rule 31.09;
  - (2) Specialized Family or Divorce Mediation Training; and
  - (3) Specialized Domestic Abuse Issues and Mediation Training.
- (D) Additionally, an Evaluator shall complete at least three hours per calendar year of continuing education relating to neutral evaluation, negotiation, mediation, or the area of law in which the Evaluator evaluates, i.e., counseling or financial analysis.

If an Evaluator fails to comply with the continuing education requirement, the Evaluator shall not be eligible to serve as an Evaluator until the continuing education requirement is met.

- (E) The Domestic Relations Court Staff Attorney will maintain a list of qualified Evaluators. All individuals interested in being on the list of qualified Evaluators shall submit on or before January 1st of each year to the Court Staff Attorney an updated curriculum vitae (including a list of training related to the field of dispute resolution and profession or association memberships) and continuing education certificates. The Court will review applications of persons seeking to be added to the list of qualified Evaluators in accordance with the procedures adopted by the judge of the Domestic Relations Court.
- (F) At the request of a party to the NE, the Evaluator shall disclose his or her qualifications to evaluate the subject matter in dispute.

**39.11 Neutrality of Evaluators.**

- (A) If at any time during the NE process an Evaluator or a party becomes aware of a conflict of interest or an issue with respect to the neutrality of the Evaluator(s), the Evaluator, the party, or the party's counsel, when applicable, shall disclose the facts of the purported conflict. A party may agree to waive the conflict after a full disclosure of the facts. If a party requests that the Evaluator withdraw, or if the Evaluator believes it necessary that he or she withdraw from the case, the Court may appoint another Evaluator.
- (B) An Evaluator shall not serve as a witness, consultant, attorney, or expert in any pending or future action relating to a dispute for which the Evaluator conducted a NE session.

**39.12 Confidentiality.**

- (A) Neutral Evaluation communications are confidential.
- (B) Exceptions to confidentiality include, but are not limited to, the following:
  - (1) Parties may share NE communications with their attorneys;
  - (2) Allegations of abuse or neglect of a child;
  - (3) Certain threats of harm to other people or oneself;
  - (4) Statements made during the NE process to plan or to hide an ongoing crime; and
  - (5) Statements made during the NE process that reveal a felony.
- (C) The foregoing confidentiality requirements shall not preclude Evaluators and participants in a NE session from testifying as to a crime committed in their presence, nor shall they be construed to exempt any person from the statutory duty to report child abuse pursuant to R.C. 2151.421 or to limit any exceptions contained in R.C. 2710.05.
- (D) Neutral Evaluation sessions shall NOT be recorded.

### **39.13 Privileged Communications.**

- (A) A NE communication is privileged and not subject to discovery or admissible as evidence in a judicial proceeding. An Evaluator shall not be deposed or subpoenaed to testify about any NE communication unless an exception applies.
- (B) Exceptions to privilege include the following:
  - (1) The NE communication is otherwise discoverable;
  - (2) The NE communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence;
  - (3) The NE communication is intentionally used to plan, to attempt to commit or to commit a crime, or to conceal an ongoing crime or ongoing criminal activity; and
  - (4) The NE communication is required to be disclosed pursuant to R.C. 2921.22.

### **39.14 Sanctions.**

The Court may impose sanctions for any violations of this Rule which may include, but are not limited to, attorney fees and other costs, contempt, and any other appropriate sanctions at the discretion of the Court.

## **RULE 40 COURT INVESTIGATOR**

### **40.01 Introduction.**

Through Rule 40, the Delaware County Domestic Relations Division incorporates by reference R.C.3109.04(C).

### **40.02 Procedure.**

The Court, upon its own motion or motion of a party, may appoint a Court Investigator in order to complete an investigation as to the character, family relations, past conduct, earning ability, and financial worth of each parent and request the Court to order the parents and their minor children to submit to medical, psychological, and psychiatric examinations.

### **40.03 Court Investigator Report.**

- (A) The report of the investigation, and examinations, shall be made available to either parent and/or counsel of record not less than seven (7) days before trial. The report may be available at the settlement conference or final pretrial provided that a final hearing has already been scheduled.
- (B) The report shall be signed by the investigator, and the investigator shall be subject to cross-examination by either parent concerning the contents of the report.

- (C) If counsel intends to call the investigator as a witness, a party or their counsel shall subpoena the Court Investigator seven (7) days prior to the scheduled hearing.

**40.04 Fees.**

The Court may tax as costs all or any part of the expenses for each investigation.

**RULE 41 DRUG TESTING**

- (A) For good cause shown, either or both parties may be subject to drug testing in accordance with policies and procedures established by the court. The judge or magistrate shall issue an order for drug testing on a completed Entry Ordering a Drug Test and:
  - (1) Name the parties to be tested;
  - (2) State the date on which the test(s) shall be completed;
  - (3) List the type(s) of drugs to be tested for;
  - (4) Contain an order as to the payment of costs.
- (B) All results of drug testing shall be returned to the judge or magistrate that ordered the drug testing be completed.
- (C) Upon receipt of the results of the drug testing, the court will notify the attorney(s) of record or the parties, if unrepresented, in writing.
- (D) Court ordered drug test results shall not be filed with the Clerk of Courts.

**RULE 42 RESERVED - COMPLIANCE OFFICE**

**RULE 43 USE OF NOMAD EQUIPMENT**

- (A) Parties or counsel wishing to utilize the Court's NOMAD audiovisual system shall contact the assigned Judge or Magistrate's administrative assistant no later than seven (7) days prior to the hearing in which the NOMAD system is requested to reserve use of the system and ensure its availability.
- (B) Parties or counsel wishing to utilize the Court's NOMAD audiovisual system are responsible for proper use and care of the equipment and shall verify completion of the online training program located on the Court's website at Evidence Presentation Cart Training Videos prior to use of the equipment.

## **RULE 44 RECORDS RETENTION**

All court records shall be retained in accordance with Rule 26 of the Rules of Superintendence for the Courts of Ohio.

## **RULE 45 CITATION**

These rules shall be known as the “Local Rules of Practice of the Delaware County Court of Common Pleas, Domestic Relations Division.” These rules may be cited as “Loc.DR.R.\_\_\_\_.”