

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

**RANDALL D. FULLER, JUDGE**

Adopted April 10, 2017

Amended June 27, 2025

<b>RULE 1</b>	<b>COMPLIANCE WITH OHIO RULES OF CIVIL PROCEDURE .....</b>	<b>11</b>
<b>RULE 2</b>	<b>PLEADINGS, MOTIONS, AND ORDERS.....</b>	<b>11</b>
2.01	Form.....	11
2.02	Initial Filings and Affidavits.....	12
2.03	Court Exhibit File.....	13
2.04	Mutual Restraining Order.....	13
2.05	Case Management Plan.....	14
2.06	Leave to Plead.....	14
2.07	Post-Decree Motions.....	15
2.08	Motions and Orders.....	15
2.09	Notice of Intent to Relocate.....	16
2.10	Emergency <i>Ex Parte</i> Motions and Orders.....	16
2.11	Third-Party Motions.....	17
2.12	Blank Forms.....	17
<b>RULE 3</b>	<b>SERVICE.....</b>	<b>17</b>
3.01	Service of Complaints, Motions, Etc.....	17
3.02	Appointment of Special Process Servers.....	17
3.03	Service by Publication.....	19
3.04	Service of Pleadings, Motions, and Orders after Initial Complaint and Answer.....	19
<b>RULE 4</b>	<b>COURT COSTS .....</b>	<b>20</b>
4.01	Costs Deposit.....	20
4.02	Publication Costs.....	20
4.03	Indigence.....	20
4.04	Subsequent Deposit.....	20
4.05	Responsibility for Costs.....	21

<b>RULE 5</b>	<b>ASSIGNMENT OF CASES .....</b>	<b>21</b>
5.01	Assignment of Magistrate. ....	21
5.02	Domestic Violence. ....	21
5.03	Refiled Cases. ....	21
5.04	Consolidation. ....	21
5.05	Post-Decree Matters. ....	21
<b>RULE 6</b>	<b>OFFICIAL RECORD .....</b>	<b>22</b>
6.01	Official Record. ....	22
6.02	Retention of Audio Recordings. ....	22
6.03	Court Reporters. ....	22
6.04	Transcription. ....	22
<b>RULE 7</b>	<b>DISSOLUTIONS.....</b>	<b>22</b>
7.01	Initial Filings. ....	22
7.02	Cases with Minor Children. ....	22
7.03	Hearing. ....	23
7.04	Conversion of Dissolution to Divorce. ....	23
<b>RULE 8</b>	<b>UNCONTESTED AND INACTIVE CASES.....</b>	<b>23</b>
8.01	Uncontested Divorces or Legal Separations. ....	23
8.02	Inactive Cases. ....	24
<b>RULE 9</b>	<b>TEMPORARY ORDERS AND CIVIL RULE 75 HEARINGS .....</b>	<b>24</b>
9.01	By Motion. ....	24
9.02	Civil Rule 75 Oral Hearing. ....	24
9.03	Application for Child Support Services. ....	24
<b>RULE 10</b>	<b>STATUS CONFERENCE .....</b>	<b>25</b>
10.01	Status Conference. ....	25
10.02	Discovery. ....	25

10.03	Sanctions. ....	25
<b>RULE 11</b>	<b>PRETRIAL AND FINAL PRETRIAL CONFERENCE .....</b>	<b>25</b>
11.01	Pretrial Conference. ....	25
11.02	Discovery. ....	25
11.03	Pretrial Responsibility.....	25
11.04	Final Pretrial.....	26
<b>RULE 12</b>	<b>TRIALS AND EVIDENTIARY HEARINGS .....</b>	<b>26</b>
12.01	Exhibits. ....	26
12.02	Witnesses. ....	27
12.03	Failure to Comply. ....	27
12.04	Findings and Conclusions. ....	27
<b>RULE 13</b>	<b>CONTEMPT MOTIONS .....</b>	<b>28</b>
13.01	Specificity. ....	28
13.02	Order to Appear and Show Cause.....	28
13.03	Service.....	28
13.04	Appointment of Counsel. ....	28
<b>RULE 14</b>	<b>POST-DECREE MODIFICATION HEARINGS.....</b>	<b>28</b>
14.01	Child Support Modification. ....	28
14.02	Spousal Support Modification. ....	29
14.03	Modification of Parenting Orders. ....	29
14.04	Post Decree Agreements to Modify and/or Reallocate Parental Rights.....	30
<b>RULE 15</b>	<b>DOMESTIC VIOLENCE ACTIONS .....</b>	<b>30</b>
15.01	Filing for a Civil Protection Order. ....	30
15.02	<i>Ex Parte</i> Hearing.....	31
15.03	Full Hearing. ....	31
15.04	Consent Agreement.....	32

15.05	Duration of CPO. ....	32
15.06	Effect of Other Court Cases on CPO. ....	32
15.07	Modification, Extension, or Termination of CPO.....	33
15.08	Objections to CPO. ....	33
<b>RULE 16</b>	<b>PARENTAGE: ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP, ALLOCATION OF PARENTAL RIGHTS RESPONSIBILITIES, AND/OR COMPANIONSHIP ACTIONS.....</b>	<b>33</b>
16.01	Commencement of the Action. ....	33
16.02	Status Conference. ....	34
16.03	Temporary Orders and Civil Rule 75 Hearings. ....	35
<b>RULE 17</b>	<b>CHILD SUPPORT, SPOUSAL SUPPORT, AND HEALTH INSURANCE ORDERS.....</b>	<b>35</b>
17.01	Support Orders. ....	35
17.02	Health Insurance Orders.....	36
<b>RULE 18</b>	<b>MOTION FOR RELIEF FROM JUDGMENT .....</b>	<b>36</b>
18.01	Civil Rule 60(B).....	36
18.02	Supporting Materials.....	36
18.03	Opposition to Motion. ....	36
18.04	Determination.....	37
18.05	Civil Rule 60(A).....	37
<b>RULE 19</b>	<b>PROCEDURES TO REGISTER, ENFORCE, OR MODIFY FOREIGN DECREES.....</b>	<b>37</b>
19.01	Procedure for Filings under UIFSA. ....	37
19.02	Procedure for Filings under UCCJEA.....	37
<b>RULE 20</b>	<b>DISCOVERY.....</b>	<b>38</b>
20.01	In General.....	38
20.02	Interrogatories. ....	38
20.03	Completion of Discovery. ....	38

20.04	Income and Pension Information. ....	38
20.05	Motions to Compel or to Impose Sanctions or to Extend Discovery. ....	38
<b>RULE 21</b>	<b>SANCTIONS .....</b>	<b>39</b>
<b>RULE 22</b>	<b><i>EX PARTE</i> COMMUNICATION.....</b>	<b>39</b>
22.01	Oral Communication.....	39
22.02	Written Communication.....	39
<b>RULE 23</b>	<b>CONTINUANCES .....</b>	<b>39</b>
23.01	Form of Motion.....	39
<b>RULE 24</b>	<b>WITHDRAWAL OR SUBSTITUTION OF COUNSEL.....</b>	<b>40</b>
24.01	Withdrawal of Counsel of Record. ....	40
24.02	Substitution of Counsel of Record. ....	41
<b>RULE 25</b>	<b>ATTORNEY FEES AND EXPENSES.....</b>	<b>41</b>
25.01	Consent Entry.....	41
25.02	Motion for Payment of Attorney Fees. ....	41
<b>RULE 26</b>	<b>GENERAL AND SPECIFIC POWERS OF MAGISTRATES.....</b>	<b>41</b>
<b>RULE 27</b>	<b>MAGISTRATE’S ORDERS AND DECISIONS.....</b>	<b>41</b>
27.01	Magistrate’s Order. ....	41
27.02	Motion to Set Aside a Magistrate’s Order. ....	42
27.03	Magistrate’s Decision. ....	42
27.04	Objections to Magistrate’s Decision. ....	43
<b>RULE 28</b>	<b>JUDGMENT ENTRIES, MAGISTRATE ORDERS, AND MAGISTRATE DECISIONS PREPARED BY ATTORNEYS/PARTIES .....</b>	<b>44</b>
28.01	Preparation by Party.....	44
28.02	Signature by Both Parties.....	44

<b>RULE 29</b>	<b>CONCILIATION AND COUNSELING.....</b>	<b>45</b>
29.01	Procedure. ....	45
29.02	Counseling. ....	45
<b>RULE 30</b>	<b>PARENTING TIME .....</b>	<b>45</b>
30.01	Standard Parenting Time Schedule. ....	45
30.02	Automatic Reduction in Child Support in Conjunction with R.C. 3119.051.....	45
<b>RULE 31</b>	<b>MEDIATION.....</b>	<b>45</b>
31.01	Introduction.....	45
31.02	Mediator Qualifications and List. ....	46
31.03	Referral to Mediation. ....	47
31.04	Third-Party Resources.....	49
31.05	Confidentiality and Privilege. ....	49
31.06	Conflicts of Interest.....	50
31.07	Termination of Mediation. ....	50
31.08	Comments and Complaints. ....	50
31.09	Harassment of a Mediator. ....	51
31.10	Sanctions. ....	51
31.11	Reference to the Rules of Superintendence. ....	51
<b>RULE 32</b>	<b>GUARDIANS AD LITEM .....</b>	<b>51</b>
32.01	Definitions.....	51
32.02	Guardian ad Litem Qualifications and List.....	51
32.03	Appointment of Guardian ad Litem. ....	53
32.04	Fees and Expenses. ....	54
32.05	Responsibilities of a Guardian ad Litem.....	55
32.06	Specific Duties of a Guardian ad Litem.....	56
32.07	Guardian ad Litem Reports. ....	57

32.08	Confidentiality. ....	58
32.09	Conflicts of Interest.....	58
32.10	Termination or Modification of Order of Appointment; Resignation of Guardian ad Litem. ....	58
32.11	Comments and Complaints. ....	59
32.12	Harassment of a Guardian ad Litem.....	59
32.13	Sanctions. ....	59
32.14	Reference to the Rules of Superintendence. ....	59
<b>RULE 33</b>	<b>PARENTING COORDINATION .....</b>	<b>59</b>
33.01	Definitions.....	59
33.02	Parenting Coordinator Qualifications and List. ....	60
33.03	Case Selection for Parenting Coordination. ....	62
33.04	Third-Party Resources.....	64
33.05	Order Appointing Parenting Coordinator.....	64
33.06	Fees and Expenses. ....	65
33.07	Role of Parenting Coordinator. ....	65
33.08	Parenting Coordinator Agreements, Decisions, and Objections. ....	66
33.09	Communication with the Court and Access to Court Filings.....	68
33.10	Conflicts of Interest.....	69
33.11	Termination or Modification of Order of Appointment; Resignation of Parenting Coordinator. ....	69
33.12	Comments and Complaints. ....	70
33.13	Harassment of a Parenting Coordinator. ....	70
33.14	Public Access to Parenting Coordinator’s Files.....	70
33.15	Sanctions. ....	70
33.16	Reference to the Rules of Superintendence. ....	70



<b>RULE 34</b>	<b>COURT DECORUM, HEARING TIMES, AND CHILD WITNESSES.....</b>	<b>71</b>
<b>RULE 35</b>	<b>SPECIAL NEEDS <i>E.G.</i>, INTERPRETERS AND HEARING ASSISTED DEVICES.....</b>	<b>71</b>
<b>RULE 36</b>	<b>BROADCASTING, TELEVISIONING, AND RECORDING COURT PROCEEDINGS .....</b>	<b>72</b>
36.01	Administration. ....	72
36.02	Revocation of Permission. ....	72
<b>RULE 37</b>	<b>PUBLIC ACCESS TO COURT RECORDS .....</b>	<b>72</b>
<b>RULE 38</b>	<b>ELECTRONIC FILING OF COURT DOCUMENTS.....</b>	<b>73</b>
<b>RULE 39</b>	<b>NEUTRAL EVALUATION.....</b>	<b>74</b>
39.01	Definitions.....	74
39.02	Purpose.....	74
39.03	Scope.....	74
39.04	Case Selection and Referral. ....	74
39.05	Participation. ....	75
39.06	Pre-Session Procedure.....	75
39.07	Neutral Evaluation Session Procedure. ....	76
39.08	Domestic Abuse and Domestic Violence.....	77
39.09	Neutral Evaluator Qualifications.....	78
39.10	Neutrality of Evaluators. ....	78
39.11	Confidentiality. ....	79
39.12	Privileged Communications.....	79
39.13	Comments and Complaints .....	79
39.14	Harassment of a Neutral Evaluator. ....	80
39.15	Sanctions. ....	80
39.16	Reference to the Rules of Superintendence. ....	80

<b>RULE 40</b>	<b>CUSTODY EVALUATION.....</b>	<b>80</b>
40.01	Definitions.....	80
40.02	Applicability. ....	81
40.03	Custody Evaluator Qualifications and List. ....	81
40.04	Order of Appointment.....	83
40.05	Scope of Custody Evaluation.....	84
40.06	Fees and Expenses. ....	84
40.07	Communication with the Court.....	85
40.08	Responsibilities of Custody Evaluator.....	86
40.09	Custody Evaluation Report.....	87
40.10	Court Access to the Custody Evaluation Report.....	87
40.11	Disclosure of the Custody Evaluation Report.....	88
40.12	Testimony and Report at Final Hearing or Final Trial.....	88
40.13	Removal and Resignation of Custody Evaluator.....	89
40.14	Comments and Complaints.....	89
40.15	Harassment of the Custody Evaluator.....	89
40.16	Sanctions.....	89
40.17	Reference to the Rules of Superintendence .....	89
<b>RULE 41</b>	<b>DRUG TESTING .....</b>	<b>90</b>
<b>RULE 42</b>	<b>RESERVED - COMPLIANCE OFFICE.....</b>	<b>90</b>
<b>RULE 43</b>	<b>USE OF NOMAD EQUIPMENT .....</b>	<b>90</b>
<b>RULE 44</b>	<b>RECORDS RETENTION .....</b>	<b>90</b>
<b>RULE 45</b>	<b>CITATION .....</b>	<b>90</b>

## **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* Local 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. 1.3(A).
- (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 to the Court a proposed order granting the joinder.
- (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 Local Rule 2.08 and Local 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; and
  - (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 of Courts 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 Local Rule 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 Local 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 Ohio 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 Ohio Rules of Civil Procedure and these 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* Local Rule 11.03(C)(1)-(8)). 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 Local 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 Local Rule 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 Local Rule 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 Local Rule 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 Courts' 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 of Courts 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 Ohio Rules of Civil Procedure.
- (D) The Clerk of Courts will provide the petitioner a certified copy of the *ex parte* CPO.
- (E) The Clerk of Courts will process the *ex parte* CPO for personal service on the respondent by the sheriff and for police department notification. The Clerk of Courts 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 Local 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 Local 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 Local 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 Courts. 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 Local 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* Local 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 Local 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; and
    - (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 of Counsel of Record.**

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 Local Rules and the Ohio 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 Ohio Rules of Civil Procedure.

## **RULE 27 MAGISTRATE'S 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 of Courts 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 of Courts 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 make 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 Local 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 Local 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 Local Rule 30.01 parenting time schedule is ordered, incorporated, and attached to the order or rewritten fully therein, and filed with the Court, Local 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.**

Mediation is a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute. 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 of Delaware County Domestic Relations cases using mediation.

The Court incorporates herein by reference R.C. Chapter 2710, commonly known as the "Uniform Mediation Act" ("UMA").

## **31.02 Mediator Qualifications and List.**

### **(A) Training and Experience.**

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

- (1) Possess a bachelor's degree, or equivalent educational experience as is satisfactory to the Court, and at least two years of professional experience with families, including counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the Court;
- (2) Complete "Fundamentals of Mediation Training" approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution. A Mediator shall not be required to complete this training if either of the following apply:
  - (a) Prior to January 1, 2020, the Mediator has completed at least twelve hours of basic mediation training; or
  - (b) Prior to January 1, 2020, the Mediator has served as a full-time mediator for a minimum of three years or mediated at least forty-five cases, in which case the Mediator shall complete the "Advanced Mediation Workshop" approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution;
- (3) Complete "Specialized Family or Divorce Mediation Training" approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution; and
- (4) Complete "Specialized Domestic Abuse Issues and Mediation Training" approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution, unless the Mediator is co-mediating with another Mediator who has completed the training.

Upon request of the Court, a Mediator shall provide documentation indicating compliance with all training and education requirements. The documentation shall include information detailing the date, location, contents, credit hours, and sponsor of any relevant training.

(B) **Model Standards.**

In order to provide a fair mediation process for parties, a Mediator who mediates for the Court shall remain impartial and neutral and shall comply with all of the following:

- (1) The “Core Values of Mediation,” as approved by the Supreme Court of Ohio Dispute Resolution Section in accordance with recommendations established by the Commission on Dispute Resolution;
- (2) The “Model Standards of Conduct for Mediators” adopted by the American Bar Association, American Arbitration Association, and the Association for Conflict Resolution; and
- (3) The “Model Standards of Practice for Family and Divorce Mediation” adopted by the Family and Conciliation Courts.

(C) **Mediator List.**

- (1) The Court will maintain a list of court-approved Mediators.
- (2) The Court will review applications of persons seeking to be added to the list of court-approved Mediators in accordance with the procedures adopted by the judge of the Domestic Relations Court.
- (3) To remain on the list of court-approved Mediators, the Mediator shall submit to the staff attorney, on or before December 31st of each year, an Annual Compliance Statement certifying the Mediator’s contact information, billing rates, qualifications, and that the Mediator is unaware of any circumstances that would disqualify the Mediator from accepting mediation referrals.
- (4) If the Court determines an individual is no longer qualified to serve as a Mediator, the individual will be removed from the list of court-approved Mediators and shall not be eligible for any new referrals until the individual has cured the issue resulting in disqualification.

**31.03 Referral to Mediation.**

- (A) The Court may order the parties to participate in mediation either upon its own motion, or upon the motion of a party or guardian ad litem, at any time after completion of service in any proceeding for divorce, legal separation, annulment, allocation of parenting responsibilities, or custody, including post-decree proceedings.
- (B) The appointed Mediator shall be selected from the court-approved list by the Court, which may take into consideration any agreement of the parties.

- (C) The Court will not refer any domestic violence cases brought pursuant to R.C. 2919.25, 2919.26, 2919.27, or 3113.31 to mediation. Nothing in this provision shall prevent the Court from ordering mediation in a subsequent proceeding for divorce, legal separation, annulment, allocation of parenting responsibilities, or custody, even though the case may result in the termination of the provisions of a protection order issued pursuant to R.C. 3113.31.
- (D) The Mediator shall screen the case, and if there is any reason the Mediator or the parties are unable to perform the mediation, then the Mediator shall notify the administrative assistant of the judge or magistrate assigned to the case.
- (E) The Mediator shall screen all cases for domestic abuse and domestic violence prior to the commencement of the mediation process. Mediation shall not occur or continue if domestic abuse or domestic violence is present, alleged, feared, or suspected unless the following conditions are satisfied:
  - (1) Screening is conducted, both before and during mediation, for domestic abuse and domestic violence and for the capacity of the parties to mediate;
  - (2) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the mediation process, right to decline participation in the mediation process, and of the option to have a support person, in addition to an attorney, present at the mediation sessions;
  - (3) The parties have the capacity to mediate without fear of coercion or control;
  - (4) There are reasonable precautions in place to create a safe mediation environment for the parties and all other persons involved in the mediation process;
  - (5) There are procedures in place for the Mediator to terminate a mediation session if there is a threat of domestic abuse, domestic violence, or coercion between the parties; and
  - (6) The Court issues written findings of fact when referring certain cases involving domestic violence to mediation, as required by R.C. 3109.052.
- (F) The Order referring a case to mediation will set forth the following:
  - (1) The Mediator's name and contact information;
  - (2) Designation of the persons required to attend mediation and the persons permitted to attend mediation;
  - (3) The issues to be mediated;
  - (4) Provisions for the Mediator's fees and expenses and the allocation of fees and expenses to the parties for services performed by the Mediator;



- (5) Orders to the parties to contact the Mediator within a specified period of time;
  - (6) A provision that any party to the mediation execute an Agreement to Mediate, if requested by the Mediator;
  - (7) That agreements reached during mediation shall be reduced to writing and become binding when made an order of the Court;
  - (8) A provision that upon the conclusion of the mediation process, the Mediator shall submit a Mediation Outcome Notice to the administrative assistant of the judge or magistrate assigned to the case; and
  - (9) Any other provisions the Court deems necessary.
- (G) A case referred to mediation shall be stayed for Supreme Court reporting purposes to permit the parties to engage in mediation.
- (H) All court orders shall remain in effect during the mediation process. No order is stayed or suspended, except by written court order. Discovery shall continue through the mediation process in accordance with the applicable Ohio Rules of Civil Procedure and these Local Rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

#### **31.04 Third-Party Resources.**

The Mediator is prohibited from offering legal advice. However, the Mediator may provide any party with appropriate referrals to services and/or assistance for legal counsel, counseling, parenting courses or education, and other support services, including services for victims and suspected victims of domestic abuse and domestic violence.

#### **31.05 Confidentiality and Privilege.**

- (A) Except as provided in R.C. 121.22 and 149.43, mediation communications are confidential to the extent agreed by the parties or provided by other sections of the Revised Code or rules adopted under any section of the Revised Code. “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.
- (B) The files maintained by a Mediator, but not filed with the Clerk of Courts or submitted to the Court, shall not be available for public access pursuant to Sup.R. 44 through 47.

- (C) Except as otherwise provided by the UMA, mediation communications are privileged and not subject to discovery or admissible in evidence in any proceeding unless waived or precluded as provided in the UMA. The following privileges apply:
- (1) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication;
  - (2) A Mediator may refuse to disclose a mediation communication and may prevent any other person from disclosing a mediation communication of the Mediator; and
  - (3) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.

**31.06 Conflicts of Interest.**

- (A) A Mediator shall avoid any actual or apparent conflicts of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the dispute. A Mediator shall avoid self-dealing or association from which the Mediator might directly or indirectly benefit, except from compensation for services as a mediator.
- (B) Upon becoming aware of any actual or apparent conflict of interest, a mediator shall notify the parties as soon as practicable.
- (C) The requirements of this Local Rule are in addition to, and do not supersede, the requirements of the UMA. Wherever a conflict exists between this Local Rule and the UMA, the UMA shall control.

**31.07 Termination of Mediation.**

If the Mediator determines that further mediation efforts would be of no benefit to the parties, the Mediator shall inform all interested parties and the Court that the mediation is terminated by submitting a Mediation Outcome Notice to the administrative assistant of the judge or magistrate assigned to the case.

**31.08 Comments and Complaints.**

- (A) A party or counsel who has a comment or complaint regarding the performance of a court-appointed Mediator shall first call the staff attorney to discuss the matter.
- (B) If the comment or complaint is not resolved via phone call, the comment or complaint may be submitted to the staff attorney in writing on a form promulgated by the Court via regular mail, email, facsimile, or hand-delivery. The comment or complaint shall not be filed with or accepted by the Clerk of Courts.

### **31.09 Harassment of a Mediator.**

No party shall directly or indirectly harass, threaten, abuse, hinder, or intimidate the Mediator, whether in person or by telephone, text, email, social media, or otherwise. No party shall direct or permit a third person to engage in any act prohibited by this section.

### **31.10 Sanctions.**

If any individual ordered by the Court to attend mediation fails to attend mediation without good cause, or otherwise violates this Local Rule, the Court may impose sanctions that 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 Court.

### **31.11 Reference to the Rules of Superintendence.**

References in this Local Rule to “Sup.R. \_\_\_\_” shall mean the Rules of Superintendence for the Courts of Ohio. In the event of any conflict between these Local Rules and the Rules of Superintendence, these Local Rules shall control.

## **RULE 32 GUARDIANS AD LITEM**

### **32.01 Definitions.**

As used in this Local Rule:

- (A) “Guardian ad Litem” (“GAL”) means an individual appointed to assist a court in its determination of a child’s best interest.
- (B) “Child” means either of the following:
  - (1) A person under 18 years of age; or
  - (2) A child under R.C. 3109.04 or a disabled child under R.C. 3119.86 who falls under the jurisdiction of a domestic relations court.

### **32.02 Guardian ad Litem Qualifications and List.**

#### **(A) Qualifications and Application.**

- (1) A GAL must be an attorney licensed and in good standing with the Supreme Court of Ohio.
- (2) An applicant seeking to serve as a GAL shall complete the required pre-service education as prescribed in Sup.R. 48.04. An individual who was serving a court as a GAL on January 1, 2021, shall be deemed compliant with the pre-service education requirement.

- (3) An applicant seeking to serve as a GAL shall submit to the Court the Application for the Guardian ad Litem Appointment List and complete the background process of the Court.
- (4) An applicant shall provide the following documents in addition to the application:
  - (a) A resume stating the applicant's education, foreign language proficiency, experience, and expertise demonstrating the applicant's ability to successfully perform the duties and responsibilities of a GAL;
  - (b) For an applicant who was not actively serving as a GAL on January 1, 2021, a certificate of completion of the required pre-service education set forth in Sup.R. 48.04;
  - (c) For an applicant who was actively serving as a GAL on January 1, 2021, a certificate of completion, from the preceding year, of 6 hours of GAL related continuing education, of which at least 3 hours were a live webinar or in-person education program, and documentation indicating active service as a GAL on January 1, 2021, in another Ohio court;
  - (d) A Certificate of Good Standing with Disciplinary Information from the Supreme Court of Ohio;
  - (e) A copy of the applicant's BCI criminal background check; and
  - (f) The applicant's Background Disclosure Statement.

**(B) Continuing Education.**

- (1) To remain on the list of court-approved GALs, the GAL shall successfully complete the required continuing education as prescribed in Sup.R. 48.05.
- (2) If a GAL fails to successfully complete the required continuing education within any calendar year, the individual may not be eligible to serve as a GAL on any new appointments until this continuing education requirement is satisfied.

**(C) Annual Certification and Updates.**

- (1) To remain on the list of court-approved GALs, the GAL shall submit to the staff attorney, on or before December 31st of each year, the following:
  - (a) An Annual Compliance Statement certifying the GAL's contact information, billing rates, qualifications, licensure status, and that the GAL is unaware of any circumstances that would disqualify the GAL from serving; and

- (b) Certificate(s) of completion and/or a copy of the GAL's CLE transcript demonstrating that the required annual continuing education required by Local Rule 32.02(B) has been completed for that calendar year, including the date, location (live webinar, in-person, self-study), topic, credit hours, and sponsor of any relevant training.
- (2) A GAL shall immediately notify the Court of any changes to their contact information, billing rates, licensure status, disciplinary actions, grounds for disqualification, and any other issue affecting their ability to serve as a GAL.

**(D) Guardian ad Litem List.**

- (1) The Court will maintain a list of court-approved GALs.
- (2) The Court will review applications of attorneys seeking to be added to the list of court-approved GALs in accordance with the procedures adopted by the judge of the Domestic Relations Court.
- (3) The Court will review its list of GALs annually to determine if all persons on the list are in compliance with the requisite continuing education requirements.
- (4) The Court will review the Annual Compliance Statement and certificates of continuing education and/or a copy of the GAL's CLE transcript of each court-approved GAL to verify the GAL continues to meet the education, training, and other required qualifications.
- (5) If the Court determines an individual is no longer qualified to serve as a GAL, the individual will be removed from the list of approved GALs and shall not be eligible for any new appointments until the individual has cured the issue resulting in disqualification. The Court retains discretion to continue current appointments and reappointments of a GAL who is not in compliance with the education, training, and other required qualifications.

**32.03 Appointment of Guardian ad Litem.**

- (A) Upon motion of the Court or any party, the Court may appoint a GAL to protect the best interest of a child.
- (B) The appointed GAL shall be selected from the Court's approved list by the Court. If a party to the case objects to the appointment of a particular GAL, the party shall file a motion supported with an affidavit supporting the objection with specificity.
- (C) Whenever appropriate, the same GAL shall be reappointed for a specific child in any subsequent case or proceeding.

- (D) The GAL shall be considered a party to the proceeding and shall have full access to court records and relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case.
- (E) The order appointing the GAL will set forth the following:
  - (1) The GAL's name and contact information;
  - (2) The name(s) and date(s) of birth of the child(ren) for whom the GAL is being appointed;
  - (3) The scope of authority of the GAL;
  - (4) That the appointment shall remain in effect until discharged with an order of the Court, with the Court filing a final order in the case, or by Local Rule;
  - (5) Provisions for the GAL's fees and expenses and the allocation of fees and expenses to the parties for services performed by the GAL;
  - (6) That the GAL shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices, and other documents filed in the case;
  - (7) Orders to the parties to contact the GAL within a specified period of time;
  - (8) A provision that the parties shall sign any releases of information so as to allow the GAL to gather the information necessary to perform the GAL's duties; and
  - (9) Any other provisions the Court deems necessary.

#### **32.04 Fees and Expenses.**

- (A) The Order of Appointment will set forth with specificity the allocation of payment of the GAL's fees, expenses, and initial deposit by each party.
- (B) The Court will consider the advance deposit amount and the hourly rate of compensation required by the GAL and the ability of each party to pay the fees and expenses of the GAL. In making this determination, the Court will consider the income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit of income and expenses, testimony to the Court, or evidence of qualification for any means-tested public assistance.
- (C) If any party has filed an affidavit of indigency, the Court, in its discretion, may not require that the party pay an initial deposit, fees, and/or expenses.

- (D) On no less than a quarterly basis, the GAL shall file a motion for fees, a detailed invoice indicating services charged and amounts paid by both parties, and a request for an additional deposit when appropriate.
- (E) Upon a motion of any party and for good cause shown, the Court may reallocate the fees or expenses of the GAL, or require a party to reimburse another party, in part or in whole, for fees or expenses paid. Good cause shall include, but not be limited to, a change of financial circumstances, the conduct of any party, or any circumstance that was unforeseen at the time fees and expenses were last allocated.
- (F) Payment of the fees and expenses of the GAL shall be made by the parties directly to the GAL after approval by the Court. The failure to pay the GAL as ordered may be punishable by contempt or by other enforcement remedies authorized by law.

### **32.05 Responsibilities of a Guardian ad Litem.**

To provide the Court with relevant information and an informed recommendation regarding the child(ren)'s best interest, the GAL shall perform the responsibilities stated in this Local Rule, unless specifically relieved by the Court in the Order of Appointment.

- (A) The GAL shall represent the best interest of the child(ren) for whom the GAL is appointed.
- (B) The GAL shall maintain independence, objectivity, and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom, and shall have no *ex parte* communications with the Court regarding the merits of the case.
- (C) The GAL shall act with respect and courtesy in the performance of the duties of the GAL.
- (D) The GAL shall appear and participate in any hearing for which the duties of the GAL or any issues substantially within the GAL's duties and scope of appointment are to be addressed.
- (E) The GAL may file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses under the applicable Ohio Rules of Civil Procedure and these Local Rules. The GAL shall be entitled to participate in the hearing in the same manner as counsel.
- (F) When the GAL determines a conflict exists between a child's best interest and the child's wishes, the GAL shall, at the earliest practical time, advise the Court of the conflict and address its resolution.
- (G) The GAL shall immediately identify themselves as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the GAL's role and that documents and information obtained may become part of court proceedings.

- (H) The GAL shall perform responsibilities in a prompt and a timely manner, and, if necessary, the GAL may request timely court reviews and judicial intervention in writing with notice to the parties or affected agencies.
- (I) The GAL shall keep accurate records of the time spent, the services rendered, the expenses incurred in each case, and the payments received from the parties.

### **32.06 Specific Duties of a Guardian ad Litem.**

To provide the Court with relevant information and an informed recommendation regarding the child(ren)'s best interest, the GAL's investigation should include the following, unless specifically relieved by the Court or otherwise warranted by the nature of the case:

- (A) Becoming informed about the facts of the case and contact all relevant persons;
- (B) Observing the child(ren) with each parent, foster parent, guardian, or physical custodian; and conducting at least one interview with the child(ren) where none of these individuals is present;
- (C) Visiting the child(ren) at the child(ren)'s residence in accordance with any court-established standards;
- (D) Ascertaining the wishes and concerns of the child(ren);
- (E) Interviewing the parties, foster parents, legal custodians, and other significant individuals who may have relevant knowledge regarding the issues of the case;
- (F) Reviewing pleadings and other relevant court documents in the case;
- (G) Reviewing criminal, civil, educational, and administrative records pertaining to the child(ren) and, if appropriate, to the child(ren)'s family or to other parties in the case;
- (H) Interviewing school personnel, medical and mental health providers, child protective services workers, and relevant court personnel and obtaining copies of relevant records;
- (I) Recommending that the Court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the GAL deems necessary or helpful to the Court;
- (J) Reporting any suspected child abuse or neglect to a public children services agency, law enforcement, or other appropriate authority pursuant to the procedures set forth in R.C. 2151.421, and any apparent serious risk of harm to any party, any party's family or household member, or any third-party; and
- (K) Performing any other investigation necessary to make an informed recommendation regarding the best interest of the child(ren).



- (L) Appear with a child or children during any in camera interviews conducted by the Court.

### **32.07 Guardian ad Litem Reports.**

- (A) The GAL may provide an interim written or oral report at any time.
- (B) Not fewer than seven days before the final hearing date, unless the due date is modified by the Court, the GAL shall provide a written Report to the Court, unrepresented parties, and legal counsel, who shall provide the Report to their client. The Court must approve any additional disclosure of the Report or its contents. Unauthorized disclosure of the Report or its contents may be subject to court action, including the penalties for contempt, which include fine and/or incarceration.
- (C) The written Report of the GAL shall be filed with the Clerk of Courts. The Clerk of Courts shall file a notice in the public file stating the date that the Report was filed. The Report and any attachments shall be placed in the Family File.
- (D) The Report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted, and all other relevant information considered in reaching the GAL's recommendations and in accomplishing the duties required by statute, this Local Rule, or the Court's Order of Appointment.
- (E) The Court will consider the recommendation of the GAL in determining the best interest of the child(ren) only when the Report or a portion of the Report has been admitted as an exhibit.
- (F) Unless the Court and the parties agree, the Report of the GAL shall not be entered into direct evidence absent the testimony of the GAL. The parties may cross-examine the GAL concerning the contents of the Report and the basis for the GAL's recommendations.
- (G) The Report of the GAL shall contain the following notice on the first page, in **bold** type:

#### **NOTICE**

**The Guardian ad Litem Report shall be provided to the Court, unrepresented parties, and legal counsel, who shall provide the Report to their client. Any other disclosure of the Report must be approved in advance by the Court. Unauthorized disclosure of the Report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration.**

- (H) The GAL shall be available to testify at any relevant hearing and may orally supplement the Report at the conclusion of the hearing.

**32.08 Confidentiality.**

- (A) The GAL shall make no disclosures about the case or the investigation, except to the parties and their legal counsel, in reports to the Court, or as necessary to perform the duties of the GAL.
- (B) The GAL shall maintain the confidential nature of personal identifiers, as defined in Sup.R. 44, and addresses where there are allegations of domestic violence or risk to the safety of a party or child.
- (C) The GAL may recommend that the Court restrict access to the Report or a portion of the Report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the child(ren) for whom the GAL was appointed. Upon application and under such conditions as may be necessary to protect any witness from potential harm, the Court may order disclosure of, or access to, information required to challenge the truth of the information received from a confidential source.

**32.09 Conflicts of Interest.**

- (A) The GAL shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. The GAL shall avoid self-dealing or associations from which the GAL might benefit, directly or indirectly, except for compensation for services as a guardian ad litem.
- (B) Upon becoming aware of any actual or apparent conflict of interest, the GAL shall immediately take action to resolve the conflict, advise the Court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary.
- (C) Because a conflict of interest may arise at any time, a GAL has an ongoing duty to comply with this Local Rule.

**32.10 Termination or Modification of Order of Appointment; Resignation of Guardian ad Litem.**

- (A) **Termination or Modification.** The Court may sua sponte, or upon written motion of a party or the GAL, and for good cause shown, terminate or modify an Order of Appointment. The motion shall be served upon all counsel of record, unrepresented parties, and the GAL.

Any party or the GAL may file a response within ten (10) days of the filing of the motion. No reply will be permitted without prior approval of the Court.

- (B) **Resignation.** A GAL may resign upon written motion prior to the expiration of the term of appointment only upon a showing of good cause, notice to the parties and counsel of record, an opportunity to be heard, and with the approval of the Court. The motion shall be served upon all counsel of record and any unrepresented parties.

Any party may file a response within ten (10) days of the filing of the motion. No reply will be permitted without prior approval of the Court.

### **32.11 Comments and Complaints.**

- (A) A party or counsel who has a comment or complaint regarding the performance of a GAL shall first call the staff attorney to discuss the matter.
- (B) If the comment or complaint is not resolved via phone call, the comment or complaint may be submitted to the staff attorney in writing on a form promulgated by the Court via regular mail, email, facsimile, or hand-delivery. The comment or complaint shall not be filed with or accepted by the Clerk of Courts.

### **32.12 Harassment of a Guardian ad Litem.**

No party shall directly or indirectly harass, threaten, abuse, hinder, or intimidate the GAL, whether in person or by telephone, text, email, social media, or otherwise. No party shall direct or permit a third person to engage in any act prohibited by this section.

### **32.13 Sanctions.**

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

### **32.14 Reference to the Rules of Superintendence.**

References in this Local Rule to “Sup.R. \_\_\_\_” shall mean the Rules of Superintendence for the Courts of Ohio. In the event of any conflict between this Local Rule and the Rules of Superintendence, this Local Rule shall control.

## **RULE 33 PARENTING COORDINATION**

### **33.01 Definitions.**

- (A) “Parenting coordination” means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parenting plan or companionship or visitation using assessment, education, case management, conflict management, coaching, or decision-making.

Parenting coordination utilizes a hybrid legal-mental health parenting coordinator for assessment, education, case management, conflict management, coaching, and, at times, decision-making functions.

- (B) “Parenting coordinator” (“PC”) means an individual meeting the requirements of Sup.R. 16.64 and this Local Rule and is court-appointed to conduct parenting coordination.
- (C) “Parenting coordination communication” means a communication between the PC and the parties, the children, the parties’ attorneys, and/or other relevant persons, whether oral, in a record, verbal or nonverbal, or in writing, that is made for the purposes of considering, conducting, participating in, initiating, continuing, or reconvening parenting coordination.

Except as provided by law, parenting coordination communications are not confidential or privileged.
- (D) “Proceeding pertaining to the allocation of parenting responsibilities” means a divorce, dissolution of marriage, legal separation, annulment, or any other related proceeding involving a child.

### **33.02 Parenting Coordinator Qualifications and List.**

#### **(A) Licensure and Experience.**

To serve as a parenting coordinator, a person must meet the following licensure and experience qualifications:

- (1) Be an independently licensed mental health professional or a licensed attorney to practice law in Ohio, or possess education and experience satisfactory to the Court; and
- (2) Possess extensive practical and professional experience with situations involving children. This experience includes, but is not limited to, counseling, casework, or legal representation in complex family law matters; serving as a guardian ad litem or mediator; or other equivalent experience satisfactory to the Court.

#### **(B) Pre-Appointment Education.**

Prior to being appointed as a PC, an individual must complete all of the following education and training courses:

- (1) “Fundamentals of Mediation Training” as approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution under Sup.R. 16.23(A)(1) or qualify for an exception as provided in Sup.R. 16.23(A)(2);
- (2) “Specialized Family or Divorce Mediation Training” as approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution under Sup.R. 16.23(B)(1)(c);

- (3) “Specialized Domestic Abuse Issues in Mediation Training” as approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution under Sup.R. 16.23(B)(1)(d); and
- (4) “Parenting Coordination Training” as approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution.

**(C) Continuing Education.**

- (1) A PC shall complete a minimum of six hours per calendar year of continuing education relating to children, mediation, or diversity.

The diversity training may include awareness and responsiveness, cultural and racial diversity, and the effects of a PC’s personal biases, values, and styles on the parenting coordination process.

- (2) The continuing education hours may include continuing education for lawyers, social workers, psychologists, or other licensed mental health professionals, and professional development events that are acceptable to the Court.

**(D) Annual Certification and Updates.**

- (1) To remain on the list of court-approved PCs, the PC shall submit to the staff attorney, on or before December 31st of each year, the following:

- (a) An Annual Compliance Statement certifying the PC’s contact information, billing rates, qualifications, licensure, and that the PC is unaware of any circumstances that would disqualify the PC from serving; and
- (b) Certificate(s) of completion for six hours of continuing education completed as required by Local Rule 33.02(C) for that calendar year, including the date, location, contents, credit hours, and sponsor of any relevant trainings.

- (2) A PC shall immediately notify the Court of any changes to their contact information, billing rates, licensure status, disciplinary actions, grounds for disqualification, and any other issue affecting the ability to serve as a PC.

**(E) Parenting Coordinator List.**

- (1) The Court will maintain a list of court-approved PCs.
- (2) The Court will review applications of persons seeking to be added to the list of court-approved PCs in accordance with the procedures adopted by the judge of the Domestic Relations Court.

- (3) The Court will review the Annual Compliance Statement and certificate of continuing education of each court-approved PC to verify the PC continues to meet education, training, and other required qualifications.
- (4) If the Court determines an individual is no longer qualified to serve as a PC, the individual will be removed from the list of court-approved PCs and shall not be eligible for any new appointments until the individual has cured the issue resulting in disqualification. The Court retains discretion to continue current appointments and reappointments of a PC who is not in compliance with the education, training, and other required qualifications.

### **33.03 Case Selection for Parenting Coordination.**

#### **(A) Cases Eligible for Parenting Coordination.**

- (1) The Court may order parenting coordination, when one or more of the following factors are present:
  - (a) The parties have disagreements about the implementation of a parental rights and responsibilities or companionship time order and need assistance;
  - (b) There is a history of parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
  - (c) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
  - (d) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
  - (e) One or both parties suffer from a mental or psychological condition or disability that results in an inability to reach agreements or to adjust their parenting time schedule without assistance, even when minor in nature; or
  - (f) Any other factor determined by the Court.

**(B) Cases Not Eligible for Parenting Coordination.**

- (1) The Court will not order parenting coordination to determine any of the following:
  - (a) Changes in the designation of the residential parent or legal custodian;
  - (b) Changes in the school placement of a child, in the case of shared parenting;
  - (c) Substantive changes in parenting time; and
  - (d) Modification of child support, allocation of tax exemptions or benefits, or the division of uncovered medical expenses.
- (2) The Court will not order parenting coordination in domestic violence cases under R.C. 2919.25, 2919.26, 2919.27, and 3113.31.

However, nothing in this division of this Local Rule prohibits the use of parenting coordination in a separate proceeding pertaining to the allocation of parenting responsibilities, even though the case may result in the termination of the provisions of a protection order under R.C. 3113.31.

- (3) The Court will not order parenting coordination when domestic abuse or domestic violence is alleged, suspected, or present, unless all of the following conditions are satisfied:
  - (a) The PC conducts screening before and during parenting coordination for domestic abuse and domestic violence and for the capacity of the parties to engage in parenting coordination;
  - (b) The PC informs the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process, the right to decline participation in the parenting coordination process, and at the discretion of the PC, the right to have other individuals attend and participate in the parenting coordination sessions;
  - (c) The PC assesses and determines that the parties have the capacity to participate in the parenting coordination process without fear of coercion or control;
  - (d) The PC takes reasonable precautions to create a safe parenting coordination environment for the parties and all other persons involved in the parenting coordination process; and
  - (e) The PC implements procedures to terminate a parenting coordination session if there is a threat of domestic abuse, domestic violence, or coercion between the parties.

### **33.04 Third-Party Resources.**

The PC may provide information regarding appropriate referrals to third-party resources for services and/or assistance regarding legal counsel, counseling, parenting courses or education, and other support services, including services for victims and suspected victims of domestic abuse and domestic violence.

### **33.05 Order Appointing Parenting Coordinator.**

- (A) The Court may order parenting coordination, either upon its own motion or upon the motion of a party or guardian ad litem, any time after issuing any interim or final order pertaining to the allocation of parenting responsibilities.
- (B) The appointed PC shall be selected from the court-approved list by the Court, which may take into consideration any agreement of the parties.
- (C) The Order of Appointment will set forth the following:
  - (1) The PC's name and contact information;
  - (2) The definition and purpose of the PC;
  - (3) The scope of authority of the PC;
  - (4) The term of the appointment, not to exceed forty-eight (48) months;
  - (5) The allocation of fees and expenses to the parties related to parenting coordination;
  - (6) The procedure for decision-making by the PC;
  - (7) The procedure for objecting to Parenting Coordinator Decisions;
  - (8) Orders to the parties to contact the PC within a specified period of time; and
  - (9) Any other provisions the Court considers necessary and appropriate.
- (D) The Order of Appointment shall control the PC's powers, duties, and scope of authority. The PC's powers, duties, and scope of authority shall not be set forth in a parenting plan.
- (E) The Court retains jurisdiction to enforce, modify, extend, or terminate an Order of Appointment at any time.



### **33.06 Fees and Expenses.**

- (A) The PC Order of Appointment will set forth with specificity the allocation of payment of the PC's fees, expenses, and initial deposit by each party.
- (B) The Court will consider the advance deposit amount and the hourly rate of compensation required by the PC and the ability of each party to pay the fees and expenses of the PC. In making this determination, the Court will consider the income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit or statement of income and expenses, and testimony, if any, presented to the Court.
- (C) Upon a motion of any party and for good cause shown, the Court may reallocate the fees or expenses of the PC, or require a party to reimburse another party, in part or in whole, for fees or expenses paid. Good cause shall include, but not be limited to, a change of financial circumstances, the conduct of any party, or any circumstance that was unforeseen at the time fees and expenses were last allocated.
- (D) A parenting coordinator shall maintain records necessary to document charges for services and expenses. A parenting coordinator shall issue invoices for services and expenses to the parties no less than once per month.
- (E) Payment of the fees and expenses of the PC shall be made by the parties directly to the PC.

### **33.07 Role of Parenting Coordinator.**

- (A) A PC is not a party to the proceedings.
- (B) A PC shall comply and act in accordance with the Order of Appointment and these Local Rules related to parenting coordination.
- (C) A PC shall resolve ancillary disputes between the parties consistent with the Court's orders.
- (D) A PC shall comply with the "2019 Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, and any adopted updates and amendments thereto. Wherever a conflict exists between the guidelines and Sup.R. 16.60 – 16.66, the Rules of Superintendence shall control.
- (E) A PC shall maintain independence, objectivity, and impartiality, including avoiding the appearance of partiality, in dealing with the parties and professionals.

### **33.08 Parenting Coordinator Agreements, Decisions, and Objections.**

- (A) The PC will first attempt to assist the parties in reaching an agreement that resolves their dispute(s). If the parties are unable to reach an agreement, the PC will issue a written Decision and file it with the Clerk of Courts. All written Decisions of the PC shall be effective upon filing.

#### **(B) Agreed Parenting Coordinator Decisions.**

- (1) If, during the parenting coordination session(s), the parties reach an agreement, the parties and the PC may sign a typewritten Agreed Parenting Coordinator Decision. The signatures of the parties on the Agreed Parenting Coordinator Decision shall indicate that they agree to abide by the agreements reached during the parenting coordination session(s) as set forth in the Agreed Parenting Coordinator Decision.
- (2) An Agreed Parenting Coordinator Decision as described herein shall be filed by the PC with the Clerk of Courts and copies provided to the parties and their attorneys, if any, and the GAL, if any. Additionally, the PC shall provide (a) a time-stamped copy, and (b) a Word-formatted copy of the Agreed Parenting Coordinator Decision to the staff attorney and the administrative assistant of the judge or magistrate assigned to the case.
- (3) The Court will review the Agreed Parenting Coordinator Decision and may issue a final judgment entry making the terms of the Agreed Parenting Coordinator Decision enforceable as of the filing date of the judgment entry.
- (4) All filing fees shall be waived for Agreed Parenting Coordinator Decisions.

#### **(C) Parenting Coordinator Decisions.**

- (1) If the parties are unable to reach an agreement, the PC shall issue a typewritten Decision and file it with the Clerk of Courts. All filing fees shall be waived for the Parenting Coordinator Decision only.
- (2) The PC shall provide copies of the Parenting Coordinator Decision to the parties and their attorneys, if any, and the GAL, if any. Additionally, the PC shall provide (a) a time-stamped copy, and (b) a Word-formatted copy of the Parenting Coordinator Decision to the staff attorney and the administrative assistant of the judge or magistrate assigned to the case.
- (3) The Parenting Coordinator Decision shall include the following:
  - (a) Case caption, including the case number;
  - (b) Date of the Decision;
  - (c) The Decision of the PC;

- (d) Dates of the parenting coordination session(s) or communication(s) with the parties regarding the dispute;
  - (e) The Order in dispute;
  - (f) The facts of the dispute and the facts upon which the Decision is based;
  - (g) Reasons supporting the Decision;
  - (h) The manner in which the Decision was provided to the parties;
  - (i) Any other necessary information; and
  - (j) The signature of the PC.
- (4) The Court will review the Parenting Coordinator Decision to determine whether immediate relief is appropriate and, if so, the Court may issue an interim order making the terms of the Parenting Coordinator Decision enforceable as of the filing date of the interim order.

**(D) Objections to the Parenting Coordinator Decision.**

- (1) A party or guardian ad litem may file with the Clerk of Courts an objection to the Parenting Coordinator Decision within fourteen (14) days of the filing of the Decision.
- (2) Any other party or the guardian ad litem may file with the Clerk of Courts a response to the objection to the Parenting Coordinator Decision within ten (10) days from the filing of the objection.
- (3) No reply will be permitted without prior approval by the Court.
- (4) Filing fees shall be charged for all filings docketed after the Parenting Coordinator Decision that relate to the filing of an objection to the Parenting Coordinator Decision.
- (5) The objection and any response shall include the case caption, an affidavit, and a certificate of service, and may include a brief or memorandum in support.

The objection or response, exclusive of the case caption and certificate of service, shall not exceed five (5) pages without prior approval by the Court. Any pages in excess of this limitation, without prior court approval, may not be considered by the Court.

- (6) The objection and response shall comply with the following formatting guidelines: 8" x 11.5" paper, single sided, Times New Roman or Arial, 12-point font, double-spaced, and one-inch margins on all sides.

- (7) The party filing the objection or the response shall serve it upon all parties, opposing counsel, if any, the guardian ad litem, if any, and the PC pursuant to Civ.R. 5.
  - (8) The party filing an objection or response shall provide a time-stamped courtesy copy to the staff attorney and the administrative assistant of the judge or magistrate assigned to the case.
  - (9) The Parenting Coordinator Decision shall be subject to review by the judge or a magistrate who will issue a written ruling. Except when the Court orders otherwise, objections to the Parenting Coordinator Decision may be determined on the parties' filed objection and response without oral hearing.
  - (10) The timely filing of an objection to the Parenting Coordinator Decision shall NOT operate as an automatic stay of any interim order. Unless otherwise ordered, all interim orders will remain in effect during the pendency of any objection. The parties shall comply with all interim orders until such time as the Court rules on the objections and enters a judgment.
  - (11) If no objection to the Parenting Coordinator Decision is filed, or if an objection to a Parenting Coordinator Decision is overruled, the Court may issue a final judgment entry ordering the terms of the Parenting Coordinator Decision enforceable as of the filing date of the judgment entry.
- (E) The Court retains jurisdiction to issue any Orders or Entries related to any Parenting Coordinator Decision.
  - (F) The Court may take into consideration for any purpose a party's failure to abide by a Parenting Coordinator Decision.

### **33.09 Communication with the Court and Access to Court Filings.**

- (A) A PC shall refrain from any *ex parte* communication with the Court regarding substantive matters or issues on the merits of the case.
- (B) A PC may file a notice requesting a status conference for the following purposes:
  - (1) To decline or withdraw from an appointment or request assistance for the following reasons:
    - (a) The facts and circumstances of the case are beyond the skill or expertise of the PC; or
    - (b) The PC's personal circumstances related to his/her health compromise the PC's ability to conduct parenting coordination;
  - (2) To request permission to resign from the appointment as the PC;

- (3) To notify the Court of an actual or apparent conflict of interest;
- (4) To notify the Court of a party's failure to pay the PC's fees and expenses;
- (5) To request that a party cooperate with the PC as set forth in the Order of Appointment; and
- (6) To request an extension of the term of the PC's appointment.

The PC shall serve, pursuant to Civ.R. 5, a copy of the notice to all counsel of record, unrepresented parties, and the guardian ad litem.

Any party or the guardian ad litem may file a response within ten (10) days of the filing of the notice. No reply will be permitted without prior approval by the Court.

- (C) Once the Order of Appointment is filed, the PC may access the court file using any designated method specifically outlined for PCs. If access is provided electronically, the PC shall provide notice to the Clerk of Courts to terminate electronic access upon termination of their appointment.

### **33.10 Conflicts of Interest.**

- (A) A PC shall avoid actual or apparent conflicts of interest arising from any relationship activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A PC shall avoid self-dealing or associations from which the PC may benefit, directly or indirectly, except from compensation for services as a PC.
- (B) Upon becoming aware of an actual or apparent conflict of interest, the PC shall notify the Court and parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court.
- (C) A PC shall not serve in multiple roles involving the same parties and child(ren) including, but not limited to, a child's attorney, a party's attorney, guardian ad litem, custody evaluator, neutral evaluator, mediator, therapist, parenting coach, or other mental health role. Parties may not waive this prohibition.
- (D) A PC shall not offer legal advice.

### **33.11 Termination or Modification of Order of Appointment; Resignation of Parenting Coordinator.**

- (A) **Termination or Modification.** The Court may sua sponte, or upon written motion of a party or guardian ad litem and for good cause shown, terminate or modify an Order of Appointment. The motion shall be served in accordance with the Ohio Rules of Civil Procedure upon all counsel of record, unrepresented parties, the PC, and the guardian ad litem, if any.

Any party, the guardian ad litem, and the PC may file a response within ten (10) days of the filing of the motion. No reply will be permitted without prior approval by the Court.

- (B) **Resignation.** A PC appointed to conduct parenting coordination may resign prior to the expiration of the term of appointment only upon a showing of good cause; written notice to the parties, counsel of record, and the guardian ad litem, if any; an opportunity to be heard; and with the approval of the Court. The notice shall be filed and served in accordance with Civ.R. 5 upon all counsel of record, unrepresented parties, and the guardian ad litem, if any.

Any party and the guardian ad litem may file a response within ten (10) days of the filing of the notice. No reply will be permitted without prior approval by the Court.

### **33.12 Comments and Complaints.**

- (A) A party, counsel, or guardian ad litem who has a comment or complaint regarding the performance of a PC shall first call the staff attorney to discuss the matter.
- (B) If the comment or complaint is not resolved via phone call, the comment or complaint may be submitted to the staff attorney in writing on a form promulgated by the Court via regular mail, email, facsimile, or hand-delivery. The comment or complaint shall not be filed with or accepted by the Clerk of Courts.

### **33.13 Harassment of a Parenting Coordinator.**

No party shall directly or indirectly harass, threaten, abuse, hinder, or intimidate the PC, whether in person or by telephone, text, email, social media, or otherwise. No party shall direct or permit a third person to engage in any act prohibited by this section.

### **33.14 Public Access to Parenting Coordinator's Files.**

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

### **33.15 Sanctions.**

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

### **33.16 Reference to the Rules of Superintendence.**

References in this Local Rule to "Sup.R. \_\_\_\_" shall mean the Rules of Superintendence for the Courts of Ohio. In the event of any conflict between this Local Rule and the Rules of Superintendence, this Local Rule shall control.

## **RULE 34 COURT DECORUM, HEARING TIMES, AND 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 Local 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 administrative 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 Local Rule may result in a party being held responsible for payment of the interpreter’s fees.

## **RULE 36 BROADCASTING, TELEVISION, 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 Local 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 Local 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; and
  - (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. 1.3(A).
- (B) The CSEA shall use the electronic filing system, as detailed in General Division Loc.R. 1.3(A), when filing court documents.

## **RULE 39 NEUTRAL EVALUATION**

### **39.01 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.

### **39.02 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.

### **39.03 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.

### **39.04 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.

### **39.05 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.

### **39.06 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 and supporting documents shall be submitted to the staff attorney, and one copy shall be served upon the other party and the guardian ad litem, if appointed, in accordance with this Local Rule.
  - (b) The Brief and supporting documents shall not be filed with the Clerk of Courts, nor shall the Brief and supporting documents be placed in the Family File.
- (2) The Evaluators will review the Briefs and supporting documents 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 and supporting documents, 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 Courts 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.

### **39.07 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.

**39.08 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 Local 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 Local 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.

### **39.09 Neutral Evaluator Qualifications.**

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 Local Rule 31;
  - (2) Specialized Family or Divorce Mediation Training; and
  - (3) Specialized Domestic Abuse Issues and Mediation Training.
- (D) At the request of a party to the NE, the Evaluator shall disclose his or her qualifications to evaluate the subject matter in dispute.

### **39.10 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.

### **39.11 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.

### **39.12 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.

### **39.13 Comments and Complaints.**

A party, guardian ad litem, or counsel of record who has a comment or complaint regarding the performance of an Evaluator shall first call the staff attorney to discuss the matter.

The staff attorney may accept comments and complaints submitted in writing on a form promulgated by the Court. The form may be submitted via regular mail, email, facsimile, or hand-delivery. The comment or complaint shall not be filed or accepted by the Clerk of Courts.

**39.14 Harassment of a Neutral Evaluator.**

No party shall directly or indirectly harass, threaten, abuse, hinder, or intimidate the Evaluator, whether in person or by telephone, text, email, social media, or otherwise. No party shall direct or permit a third person to engage in any act prohibited by this section.

**39.15 Sanctions.**

The Court may impose sanctions for any violations of this Local 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.

**39.16 Reference to the Rules of Superintendence.**

References in this Local Rule to “Sup.R. \_\_\_\_” shall mean the Rules of Superintendence for the Courts of Ohio. In the event of any conflict between this Local Rule and the Rules of Superintendence, this Local Rule shall control.

## **RULE 40 CUSTODY EVALUATION**

**40.01 Definitions.**

- (A) “Custody evaluation” means an expert study and analysis, by an individual qualified to be a custody evaluator, of the needs and development of a child who is the subject of an action or proceeding in which child custody and/or parenting time is an issue, and of the comparative and relative capacities of the parties and other relevant adults to care for and meet the needs and best interest of the child. “Custody evaluation” includes full or partial evaluation.
  - (1) “Full evaluation” means a comprehensive examination of the best interest of a child. A full evaluation includes the items outlined in Local Rule 40.05 unless contraindicated by the Custody Evaluator.
  - (2) “Partial evaluation” means an examination of the best interest of a child that is limited in time or scope pursuant to a court order. The Order of Appointment will set forth the specific issue(s) to be addressed through the partial evaluation.
- (B) “Custody and/or parenting time” shall include allocation of custody, parental rights, parenting rights, parenting time, or companionship.



- (C) “Custody Evaluator” means an individual meeting the requirements of Sup.R. 91.08 and 91.09 and this Local Rule. A Custody Evaluator may be one of the following:
  - (1) A “court-connected evaluator,” which is a person employed by the Court or with whom the Court contracts custody evaluation services.
  - (2) A “private Custody Evaluator,” which is a person in private practice who provides custody evaluation services to the Court.
- (D) “Custody evaluation report” is the final written report, including recommendations to the Court, that is prepared and submitted by the Custody Evaluator.

#### **40.02 Applicability.**

This Local Rule shall apply in any case in which the Delaware County Domestic Relations Court appoints a custody evaluator to perform a custody evaluation to assist the Court when child custody and/or parenting time is at issue. The Court will consider only those custody evaluation reports completed by a custody evaluator appointed by the Court. No party shall retain a separate custody evaluator to provide a report, testimony, or other evidence to the Court.

#### **40.03 Custody Evaluator Qualifications and List.**

##### **(A) Licensure.**

To serve as a Custody Evaluator, an individual must be one of the following:

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

##### **(B) Pre-appointment Education.**

Prior to being appointed as a Custody Evaluator, an individual must complete 40 hours of pre-appointment education and training provided by the Supreme Court or other provider approved by the Supreme Court.

(C) **Continuing Education.**

In each year following completion of the pre-appointment educational requirements, a Custody Evaluator shall complete a minimum of six hours per calendar year of continuing education provided by the Supreme Court or other provider approved by the Supreme Court.

(D) **Annual Certification and Updates.**

- (1) To remain on the list of court-approved private Custody Evaluators, a private Custody Evaluator shall submit to the staff attorney, on or before December 31st of each year, the following:
  - (a) The Annual Compliance Statement certifying contact information, billing rates, qualifications, licensure, and that the private Custody Evaluator is unaware of any circumstances that would disqualify the private Custody Evaluator from serving; and
  - (b) Certificate(s) of completion for six hours of continuing education completed in that calendar year.
- (2) A private Custody Evaluator shall immediately notify the Court of any changes to their contact information, billing rates, licensure status, and disciplinary actions.

(E) **Private Custody Evaluator List.**

- (1) The Court will maintain a list of court-approved private Custody Evaluators.
- (2) The Court will review applications of persons seeking to be added to the list of court-approved private Custody Evaluators in accordance with the procedures adopted by the judge of the Domestic Relations Court.
- (3) The Court will review the Annual Compliance Statement and certificates for continuing education of each court-approved Custody Evaluator to verify the Custody Evaluator continues to meet the education, training, and other requirements.
- (4) A Custody Evaluator that fails to meet the continuing education requirement shall not be eligible for new appointments until the continuing education requirement is satisfied. If the continuing education deficiency is more than three calendar years, the Custody Evaluator shall complete the initial training requirements in order to be eligible for appointments.

If, at the time of noncompliance, the Custody Evaluator is currently conducting an evaluation, the Court shall retain discretion to allow the Custody Evaluator to complete the appointment.

#### **40.04 Order of Appointment.**

- (A) The Court, upon its own motion or upon the motion of a party, guardian ad litem, or counsel for a child, may appoint a private Custody Evaluator and order a custody evaluation to aid the Court in evaluating the best interest(s) of the child(ren) in a contested custody and/or parenting time case.
- (B) The Order of Appointment will include the following:
  - (1) The name, business address, licensure, telephone number, and e-mail address of the Custody Evaluator;
  - (2) Whether the custody evaluation is full or partial and, in the case of a partial evaluation, the specific issue(s) to be addressed;
  - (3) The term of the appointment;
  - (4) A provision that a written report is required and oral testimony may be required;
  - (5) Any deadlines pertaining to the submission of reports to the Court, including the dates of any final hearing or trial associated with the furnishing of reports;
  - (6) A provision for payment of fees, expenses, deposits, and any hourly rate or fee that will be charged;
  - (7) Any provision the Court deems necessary to address the safety and protection of all parties, the child(ren) of the parties, any other child(ren) residing in the home of a party, and the Custody Evaluator being appointed;
  - (8) A provision that grants the Custody Evaluator the right to access information as authorized by the Order of Appointment;
  - (9) A provision that requires the parties to cooperate with the Custody Evaluator and provide information promptly when requested to do so;
  - (10) A provision that those individuals being evaluated shall sign any releases of information to allow the Custody Evaluator to gather the information necessary to conduct the evaluation; and
  - (11) Any other provisions the Court deems necessary.
- (C) The appointed Custody Evaluator shall be selected from the court-approved list by the Court, which may take into consideration any agreement of the parties.

#### **40.05 Scope of Custody Evaluation.**

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

- (1) Information obtained through interviews, joint or individual, with each party seeking custody and/or parenting time;
- (2) Information obtained through interviews with each child, if the child has reached a developmental age where they can meaningfully respond to the Custody Evaluator;
- (3) Information obtained through interviews with stepparents, significant others, or any other adult residing in the home;
- (4) Information obtained through interviews with step or half-siblings residing in the home, if they have reached a developmental age where they can meaningfully respond to the Custody Evaluator;
- (5) Information obtained from childcare providers, schools, counselors, hospitals, medical professionals, social service agencies, guardians ad litem, parenting coordinators, and law enforcement agencies;
- (6) Information from home visits or observations of each child with the appropriate adults involved;
- (7) Results of clinical tests administered;
- (8) History of child abuse, domestic violence, substance abuse, psychiatric illness, and involvement with the legal system; and
- (9) Investigation into any other relevant information about the needs of the child(ren).

#### **40.06 Fees and Expenses.**

- (A) The Order of Appointment will set forth with specificity the allocation of payment of the Custody Evaluator's fees, expenses, and initial deposit by the parties and any other entity or individual.
- (B) The Court will consider the advance deposit amount, the flat fee or hourly rate of reasonable compensation required by the Custody Evaluator, and the ability of each party to pay said fees and expenses. In making this determination, the Court will consider all of the following:
  - (1) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit of income and expenses, testimony to the Court, or evidence of qualification for any means-tested public assistance;
  - (2) The complexity of the issues; and

- (3) The anticipated reasonable fees and expenses of the Custody Evaluator, including any reasonable fees or expenses related to potential testimony.
- (C) The Court may reallocate reasonable fees or expenses, or require a party to reimburse another party, in part or in whole, for fees or expenses paid. Each party is responsible for paying all fees as ordered by the Court until such time as they may be reallocated. Filing a motion to reallocate fees will not act as a stay of the requirement to pay fees as currently ordered.
- (D) The Custody Evaluator shall keep accurate records of the time spent, services rendered, and costs and expenses incurred while performing the responsibilities of a Custody Evaluator.
- (E) Payment of the fees and expenses of the private Custody Evaluator shall be made by the parties directly to the Custody Evaluator.

**40.07 Communication with the Court.**

- (A) A Custody Evaluator speaks through their report and shall refrain from any *ex parte* communication with the Court.
- (B) A Custody Evaluator may file a notice requesting a status conference for the following purposes:
  - (1) to request an amendment to the scope or time frame of the Order of Appointment;
  - (2) to request additional reasonable fees and expenses;
  - (3) to request the assistance of another qualified neutral professional to gather information when one of the parties resides in another jurisdiction;
  - (4) to request that the parties cooperate with the Custody Evaluator as set forth in the Order of Appointment;
  - (5) to notify the Court of a party's failure to pay the Custody Evaluator's fees and expenses;
  - (6) to notify the Court of a conflict of interest; and
  - (7) to request permission to resign from the appointment for the custody evaluation.

The Custody Evaluator shall serve a copy of the notice to all counsel of record, unrepresented parties, and the guardian ad litem pursuant to Civ.R. 5.

#### **40.08 Responsibilities of Custody Evaluator.**

- (A) A Custody Evaluator appointed by the Court pursuant to this Local Rule shall do the following when performing the custody evaluation:
- (1) Maintain objectivity, provide and gather balanced information from both parties to the case, and control for bias;
  - (2) Strive to minimize the potential psychological trauma to the child(ren) during the evaluation and report writing by performing responsibilities in a prompt and timely manner;
  - (3) Protect the confidentiality of the parties and the child(ren) with collateral contacts and not release information about the case to any individual except as authorized by the Court or statute;
  - (4) Immediately identify themselves as a custody evaluator when contacting individuals in the course of a particular case and inform these individuals about the role of a custody evaluator and that documents and information obtained may become part of court proceedings;
  - (5) Refrain from any *ex parte* communications with the Court regarding the merits of the case;
  - (6) Not offer any recommendations about a party unless that party has been evaluated directly or in consultation with another qualified neutral professional;
  - (7) Consider the health, safety, welfare, and best interest(s) of the child(ren) in all phases of the process, including interviews with parents, extended family members, counsel for the child(ren), and other interested parties or collateral contacts;
  - (8) Not pressure the child(ren) to state a custodial preference;
  - (9) Inform the parties of the Custody Evaluator's reporting requirements, including, but not limited to, suspected child abuse and neglect and threats to harm oneself or another person;
  - (10) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child(ren) before having gathered the information necessary to support the conclusion;
  - (11) Be conscious of the socioeconomic status, gender, race, ethnicity, sexual orientation, cultural values, religion, family structures, and developmental characteristics of the parties; and
  - (12) Upon discovery, notify the Court in writing of any conflicts of interest arising from any relationship or activity with the parties or others involved in the case. A Custody Evaluator shall avoid self-dealing or associations from which the Custody Evaluator may benefit, directly or indirectly, except from services as a custody evaluator.

- (B) A Custody Evaluator shall also do the following:
  - (1) Prepare and submit to the Court a written custody evaluation report at least 30 days prior to the final hearing or trial, unless the case has reached a settlement regarding the issues related to the Custody Evaluator's appointment or as otherwise directed by the Court; and
  - (2) Establish and maintain a record-keeping system that shall include active control of their records and reasonable precautions to prevent the loss or destruction of records in compliance with established record retention standards.

#### **40.09 Custody Evaluation Report.**

- (A) The custody evaluation report shall provide a detailed analysis of the relative strengths and areas in need of improvement of the parties with respect to meeting the needs of the child(ren) as well as a comparative analysis of different parenting or companionship plans under consideration.
- (B) Unless the case has reached a settlement regarding the issues related to the Custody Evaluator's appointment or as otherwise directed by the Court, the Custody Evaluator shall submit a written report to the Court at least thirty (30) days prior to the final hearing or trial.
- (C) The custody evaluation report shall include the following notice on the first page of the report and in all capital letters and bold font:

**“THE CUSTODY EVALUATOR’S REPORT SHALL BE PROVIDED TO THE COURT FOR DISTRIBUTION TO UNREPRESENTED PARTIES LEGAL COUNSEL, WHO SHALL PROVIDE THE REPORT TO THEIR CLIENT, AND THE GUARDIAN AD LITEM. UNAUTHORIZED DISCLOSURE OR DISTRIBUTION OF THE REPORT MAY BE SUBJECT TO COURT ACTION, INCLUDING THE PENALTIES FOR CONTEMPT WHICH INCLUDE FINES AND/OR INCARCERATION.”**

- (D) The custody evaluation report shall not be considered an investigation pursuant to Civ.R. 75(D) or R.C. 3109.04(C).

#### **40.10 Court Access to the Custody Evaluation Report.**

- (A) The Court may review the custody evaluation report in advance of a hearing or final trial.
- (B) The Court will consider only those custody evaluation reports completed by a Custody Evaluator appointed by the Court and no other custody evaluator reports.

#### **40.11 Disclosure of the Custody Evaluation Report.**

- (A) At the time the custody evaluation report is submitted for filing, the Clerk of Courts shall file a notice in the public file stating the date that the custody evaluation report was filed.
- (B) The custody evaluation report and any attachments submitted for filing shall be placed in the Family File.
- (C) The custody evaluation report shall be provided to the Court for distribution to unrepresented parties, legal counsel, who shall provide the report to their client, and the guardian ad litem. Except as permitted herein, custody evaluation reports and recommendations shall not be disseminated to anyone by any means, including by social media. Neither the custody evaluation report nor its contents or recommendations shall be shared with the minor children who are the subject of the case.
- (D) Any additional disclosure of the custody evaluation report and recommendations must be approved in advance by the Court.
- (E) Unauthorized disclosure or distribution of the custody evaluation report, in whole or in part, may be subject to court action, including the penalties for contempt, which include fines and/or incarceration.
- (F) The custody evaluation report shall be subject to the Ohio Rules of Civil Procedure applicable to discovery in civil actions.
- (G) The custody evaluation report shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

#### **40.12 Testimony and Report at Final Hearing or Final Trial.**

- (A) The Court will admit the custody evaluation report into evidence at the final hearing or trial on the Court's motion. The custody evaluation report will be admitted as the Court's exhibit and will be considered the expert direct testimony of the Custody Evaluator.
- (B) Not fewer than fourteen (14) days before the final hearing or trial, a party challenging the custody evaluation report shall subpoena the Custody Evaluator to appear.
- (C) The parties shall notify the Custody Evaluator as soon as a final hearing or trial date is set. If timely subpoenaed by a party, the Custody Evaluator shall be available to testify on cross-examination regarding the custody evaluation report. A party who issues a subpoena to the Custody Evaluator shall pay the associated expert witness fees, which may include fees for preparation time for court attendance as well as fees for court attendance. Such fees shall be billed in accordance with the written agreement of the Custody Evaluator and the parties, and may be subject to reallocation in the discretion of the Court.



#### **40.13 Removal and Resignation of Custody Evaluator.**

- (A) **Removal.** Upon a motion of any party, including the guardian ad litem, or its own motion, the Court may remove a Custody Evaluator appointed to perform a custody evaluation upon a showing of good cause. Any party filing a motion requesting removal of the Custody Evaluator shall state specific grounds showing good cause. The motion shall be served upon all counsel of record, unrepresented parties, the Custody Evaluator, and the guardian ad litem.

Any party or the guardian ad litem may file a response within ten (10) days of the filing of the motion. No reply will be permitted without prior approval by the Court.

- (B) **Resignation.** A Custody Evaluator appointed to perform a custody evaluation may resign prior to the completion of their evaluation only upon a showing of good cause, written notice to the parties and their counsel of record, an opportunity to be heard, and with the approval of the Court.

Any party or the guardian ad litem may file a response within ten (10) days of the filing of the notice. No reply will be permitted without prior approval by the Court.

#### **40.14 Comments and Complaints.**

- (A) A party, guardian ad litem, or counsel of record who has a comment or complaint regarding the performance of a Custody Evaluator shall first call the staff attorney to discuss the matter.
- (B) The staff attorney may accept comments and complaints submitted in writing on a form promulgated by the Court. The form may be submitted via regular mail, email, facsimile, or hand-delivery. The comment or complaint shall not be filed or accepted by the Clerk of Courts.

#### **40.15 Harassment of the Custody Evaluator.**

No party shall directly or indirectly harass, threaten, abuse, hinder, or intimidate the Custody Evaluator, whether in person or by telephone, text, email, social media or otherwise. No party shall direct or permit a third person to engage in any act prohibited by this section.

#### **40.16 Sanctions.**

The Court may impose sanctions for any violations of this Local 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.

#### **40.17 Reference to the Rules of Superintendence**

References in this Local Rule to “Sup.R. \_\_\_\_” shall mean the Rules of Superintendence for the Courts of Ohio. In the event of any conflict between this Local Rule and the Rules of Superintendence, this Local Rule shall control.

## **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; and
  - (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 Local Rules shall be known as the "Local Rules of Practice of the Delaware County Court of Common Pleas, Domestic Relations Division." These Local Rules may be cited as "Loc.DR.R.\_\_\_\_\_."