

Domestic Relations Division
Summit County Court of Common Pleas

Judge Carol J. Dezso
Judge John P. Quinn

May 20, 2008

TO: Summit Legal Community

FROM: Kenneth R. Teleis, Court Administrator

RE: Domestic Relations Local Rules

After lengthy and detailed work by our local rules committee, which consisted of court staff and members of the Akron Bar Association Family Law Section, the Summit County Domestic Relations Court is pleased to present a final draft of its local rules for public comment.

The 2008 draft of the rules can be found on our web site:
<http://www.drcourt.org/rules.htm>.

We invite anyone interested in the rules to submit comments to the court no later than **Friday, June 20, 2008 at 4:00 PM**. Comments may be submitted by letter addressed to: Local Rules Committee, Summit County Domestic Relations Court, 205 S. High St., Akron, OH 44308, or by email (preferred) to: Rules@drcourt.org. Members of the Family Law Section of the Akron Bar Association should also refer comments on the rules to your section officers.

All comments received will be reviewed by the rules committee at the conclusion of the comment period. A final version of the rules will be adopted after reviewing the comments.

We welcome your input and look forward to adopting the revised rules soon.

Sincerely,

Kenneth R. Teleis, JD, CPCU, AIC
Court Administrator

Domestic Relations Court, 205 S. High Street, Akron, OH 44308

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RULE 1 COMPLIANCE WITH OHIO RULES OF CIVIL PROCEDURE

Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure and the Local Rules of this court.

RULE 2 PLEADINGS, MOTIONS, AND ORDERS

2.01 Form

(A) Case Designation Form

Upon the filing of any new case, each party shall complete a Case Designation Form which shall contain the names, social security numbers, and dates of birth of all parties to the case as well as names and dates of birth of all minor children involved in the case. This form shall be stored in electronic format only by the Clerk of Courts.

(B) The caption of all complaints, petitions, answers, counterclaims and any other initial filing, 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., QDRO's or capias orders, etc). The caption of all initial post-decree filings 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 plaintiff, defendant and any other party who has a relevant interest 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 by their names in the body of the motion.

(D) All papers, including orders, filed with the Clerk of Courts shall be typewritten on 8 1/2" x 11" paper, without backing. The face caption of all papers shall provide a blank space approximately 3" in diameter in the upper right portion of the page, sufficient to permit the Clerk of Courts to add the time-stamp imprint. Child Support Enforcement Agency (CSEA) forms are excepted 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, and e-mail address (if available). 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 (if available).

(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 support shall specify the SETS number in the caption.

- (H) All child support orders shall include a child support worksheet and SETS number.

2.02 Initial filings and affidavits

- (A) **Divorces, annulments, legal separations.** When a complaint is filed, a party shall also file an Affidavit of Income, Expenses and Property (a sample is provided on the court's website: www.drcourt.org). If there are minor children, the party shall file an Information for Parenting Proceeding Affidavit as well as an application for child support services non-public assistance applicant (JFS 07076) provided by the CSEA (a sample parenting affidavit is provided on the court's website: www.drcourt.org). The affidavit shall be served on the defendant with the complaint.
- (B) **Parentage complaints.** When a parentage complaint is filed, a party shall also file an Affidavit of Income and Expenses, Information for Parenting Proceeding Affidavit, and an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by CSEA (a sample parenting affidavit is provided on the court's website: www.drcourt.org). The affidavits shall be served on the defendant with the complaint. See also Rule 28.
- (C) **Answers and counterclaims.**
 - (1) **Divorces, annulments, legal separations.** A party who files an answer and/or counterclaim shall also file an Affidavit of Income, Expenses and Property (a sample is provided on the court's website: www.drcourt.org). If there are minor children, the party shall file an Information for Parenting Proceeding Affidavit, as well as an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by the CSEA (a sample parenting affidavit is provided on the Court's website: www.drcourt.org). The affidavit shall be served on the plaintiff with the answer and/or counterclaim.
 - (2) **Parentage Complaints.** A party who files an answer and/or counterclaim shall also file an Affidavit of Income and Expenses, Information for Parenting Proceeding Affidavit, and an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by CSEA (a sample parenting affidavit is provided on the court's website: www.drcourt.org). The affidavit shall be served on plaintiff with the answer and/or counterclaim.
- (D) **Dissolution.** When a petition for a dissolution is filed, the parties shall file a Dissolution Affidavit of Property and Income (a sample is provided on the court's website: www.drcourt.org). If there are minor children, the parties shall file an Information for Parenting Proceeding Affidavit as well as an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) for services provided by the CSEA (a sample parenting affidavit is provided on the Court's website: www.drcourt.org). A child support worksheet shall also be completed. See Rule 39.

- (E) **All cases with children.** In cases involving children the parties are required to attend an educational program.

(1) Upon the initial filing of a complaint for divorce, legal separation, or annulment, or a filing of a petition for dissolution of marriage, where minor children are involved the Clerk of Courts shall docket an order requiring both parties to attend the Remember the Children program within 60 days. A schedule of program dates is provided on the court's website at www.drcourt.org. The Clerk of Courts shall serve this order on the defendant along with the complaint and provide the filing party with a copy of the order.

No dissolution hearing will be scheduled until both parties attend the Remember the Children program. No final decree of divorce, legal separation or annulment shall be issued until both parties attend the Remember the Children program. This requirement may be waived for good cause only.

(2) An initial complaint to establish parentage and parenting rights shall include an order requiring both parties to attend the Working Together program on a specific date and time. A sample complaint and program notice is included on the court's website at www.drcourt.org. Attendance at the program will occur prior to any hearing on the case. The court will dismiss the complaint if the filing party fails to attend the program without leave of court for good cause shown. See Rule 28 for further requirements.

2.03 Court exhibit file.

- (A) When a complaint for divorce, annulment, or legal separation, an answer, or a petition for dissolution is filed, the Domestic Relations Court shall keep a separate Court file for the Affidavits of Income, Expenses and Property and exhibits for each family.
- (B) This file will include, but will not be limited to the Affidavits of Income, Expenses and Property and 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 affidavits and exhibits contained within this file shall be considered as part of "the original papers and exhibits filed in the trial court" for purposes of the record. App. R. 9(A).

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; and
 - (6) Changing or establishing a new residence for the parties' minor children 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 (a sample is provided on the court's website: www.drcourt.org). 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, 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.
- (B) If an answer has been filed, a status hearing 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 along with the mandatory exchange of discovery order required by Rule 20.03.

2.06 Leave to plead. When a party desires a leave to plead, the party shall do the following:

- (A) When no previous leave to plead has been taken, a party may obtain one automatic leave to plead by filing with the Clerk of Courts a certification that the party has not previously obtained any leaves to plead in that particular case. The leave to plead may not be for more than 21 days and a copy shall be mailed to the opposing party.
- (B) One additional leave to plead may be obtained by a party for a period of 21 days by the filing of a stipulated leave to plead, noting the opposing party's consent and the length of the prior leave.
- (C) Leave to plead instanter may be granted at the discretion of the court.
- (D) Except as provided above, leaves to plead may be obtained only by written motion and order to the court. The motion shall set forth the number of leaves to plead previously obtained and the total length of those leaves.

2.07 Post-decree motions.

- (A) Each post-decree motion will be assigned a motion number. If there are multiple motions, each item/branch will have a separate letter. A hearing cannot be scheduled until the motion has been filed and assigned a number.

- (B) Post-decree motions which involve parental rights and responsibilities shall be accompanied by an Information for Parenting Proceeding Affidavit, which shall be filed and served on the opposing party with the motion (a sample parenting affidavit is provided on the court's website: www.drcourt.org).
- (C) Post-decree motions to modify or to terminate child support or spousal support shall be accompanied by an Affidavit of Income and Expenses, which shall be filed and served on the opposing party with the motion (a sample is provided on the court's website: www.drcourt.org). The responding party shall file and serve an Affidavit of Income and Expenses on the moving party prior to the scheduled hearing.
- (D) **Cases on microfilm.** For any case for which the content of the court's file has been converted to microfilm, it shall be the responsibility of the moving party to attach to the motion copies of all pertinent documents including but not limited to, decrees, agreements, support calculations, and relevant court orders/decisions. The motion with attachments shall be served upon the opposing party.
- (E) Unless the motion has not been served, 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. *See Rule 10.*

2.08 Motions and orders.

- (A) All motions filed shall contain a request for service or a certification of service of the motion upon opposing counsel or unrepresented party and, if appropriate, a copy shall be mailed to all interested parties including, but not limited to, Family Court Services, guardians *ad litem*, and the Child Support Enforcement Agency.
- (B) It is the responsibility of the attorney or party filing a motion to obtain a hearing date and time from the Domestic Relations assignment clerk. The attorney or party may use the phone in the Clerk of Court's office, which connects directly to the assignment clerk.
- (C) A party filing a motion on a routine matter which does not require a hearing (including but not limited to: motion to withdraw as counsel, motion for continuance, motion for extension of time to supplement an objection), shall deliver a time-stamped copy of that motion, with a proposed order, to the court.

2.09 Notice of Intent to Relocate.

- (A) Except as provided in Revised Code section 3109.051, (G) (2),(3) and (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 Summit County Clerk of Courts, Domestic Relations Division, the following documents:
 - (1) A notice of intent to relocate, and

- (2) Instructions for service by ordinary U.S. mail to other party at the last known address.

Except for good cause shown this notice shall be filed no less than 60 days prior to the intended move. (A sample notice of intent to relocate form is provided on the court's website: www.drcourt.org.)

- (B) 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) **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.
- (B) **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 child is about to suffer irreparable harm, including but not limited to, physical abuse, bodily injury, or domestic violence in the other party's household;
 - (b) A residential parent is unavailable due to hospitalization or other emergency; or
 - (c) A residential parent is about to move out of the jurisdiction
 - (2) Where *ex parte* relief is granted a *de novo* hearing shall be scheduled before either the judge or magistrate of record. The emergency *ex parte* order shall remain in full force and effect until that hearing.

2.11 Third-party motions.

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

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

2.12 Motion to intervene on workers' compensation claims.

Attorneys may intervene for fees due in workers' compensation claims. Intervention for attorney's fees due in workers' compensation related issues shall be handled pursuant to *Rowan v. Rowan* (1995), 72 Ohio St.3d 486 as follows:

- (A) The attorney seeking to intervene shall file a motion to intervene and a motion setting forth the relief requested. The attorney shall deliver a time-stamped copy of those motions to the court along with proposed orders granting the intervention and the relief requested.
- (B) After the orders have been signed by the court, the attorney shall file the orders.
- (C) All motions shall comply with Local Rule 3, "Service."

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 with the exception of the Affidavit of Income, Expenses and Property which will not be time-stamped.

3.02 Appointment of process servers

- (A) **Process server (one-time appointment).** If a party desires personal service to be made by special process server pursuant to Civil Rule 4.1 (B), that party must file with the Clerk of Courts an entry appointing a special process server. The following must be stated in the 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.
- (B) **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 an application supported by an affidavit setting forth the following information:
 - (a) The name, address, and telephone number of the applicant;
 - (b) That the applicant is 18 years of age or older;
 - (c) That the applicant agrees not to attempt service of process in any case in which the applicant is a party, counsel for a party, or related to a party by blood or marriage;

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

(2) **Recording order of appointment**

- (a) The applicant requesting designation shall also submit an order 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 Civil Rule 4.1(B) for designation by the court of a person to make service of process.

3.03 Service by publication.

- (A) In all cases when service of process is to be accomplished by publication in a newspaper of general circulation such as the Akron Legal News, it shall be the responsibility of the serving party to ensure that the publication is accomplished, including the selection of the means of publication and administration of the 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 Civil Rule 4.4(A)(2), the Clerk of Courts shall cause notices to be posted in a conspicuous place in the main lobby of the Summit County Courthouse, the Auto Title Department, and the office of the Summit 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 Civil Rule 5, except that service upon a third party or parties shall not be required unless the pleading or other paper affects an interest of a third party or parties.
- (B) All post-decree motions shall be served pursuant to Civil Rule 4 through Civil Rule 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 excepted from this requirement.
- 4.02 Indigence.** If the filing party is indigent, the deposit costs may be met if the party files a financial affidavit listing the income, expenses, and assets of the party and states that the party is without funds or assets to pay the deposit accompanied by a Motion to Proceed *in Forma Pauperis*. 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. In cases where counsel is appointed by the Volunteer Legal Services Project counsel may accept the reduced retainer from the VLSP client, but shall indicate that receipt on the statement.

If a Motion to Proceed *in Forma Pauperis* is filed, the Clerk of Courts shall immediately forward that motion to the court for review. If the motion 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.

The filing of a poverty affidavit does not relieve a part from liability for court costs.

- 4.03 Subsequent deposit.** If, during the course of a proceeding, the court learns that a party who has filed a poverty 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.
- 4.04 Responsibility for costs.** All judgment entries shall contain a provision for payment of costs as ordered by the court. CSEA cases and domestic violence petitions are excepted 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.
- 4.05 Application of deposit.** The Clerk of Courts is authorized to apply the deposit when, after 90 days from the date of the final decree, all attempts to collect the costs from the designated party have failed.

RULE 5 ASSIGNMENT OF CASES

- 5.01 Assignment of Judge.** At the time of filing the initial complaint, the Clerk of Courts shall utilize the automated assignment feature of the court's case management system to randomly assign a judge to the case. The clerk shall then stamp the assigned judge's name on the complaint and summons.
- 5.02 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 shall utilize the automated assignment feature of the court's case management system to randomly assign a magistrate to the case. The clerk shall then stamp the assigned magistrate's name on the complaint and summons or other pleading being filed.
- 5.03 Domestic violence.** If a Petition for Domestic Violence Civil Protection Order has been

previously filed or is being filed simultaneously with a complaint involving the same parties, the cases shall be assigned to the same magistrate and judge, unless that magistrate or judge is no longer an employee of the court.

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

5.05 Cases heard by a judge. A judge shall hear or review the following, unless otherwise ordered:

- (A) Dissolutions, divorces, legal separations, and annulments;
- (B) Declaratory judgments and summary judgments;
- (C) Motions for continuance of pretrials and trials or other hearings scheduled before the judge;
- (D) Motions to set aside a magistrate's order;
- (E) Motions for new trial;
- (F) Motions for relief from judgment and to vacate prior orders;
- (G) Objections to a magistrate's decision;
- (H) Emergency *ex parte* orders;
- (I) Motions for stay of execution upon appeal to the Court of Appeals; and
- (J) Request for determination of validity of a prenuptial agreement.

5.06 Cases heard by a magistrate.

- (A) All other matters not assigned to the judge shall be set before the magistrate of record.
- (B) The magistrate may hear divorces, dissolutions, complaints to establish parent-child relationships, motions to dismiss, jurisdictional issues, common law marriage issues, emergency *ex parte* orders, temporary hearings, pre-decree motions, domestic violence *ex parte* hearing and evidentiary hearings, post-decree motions, CSEA administrative appeals, request for determination of validity of a prenuptial agreement, and any other matters assigned by the judge.

RULE 6 COURT REPORTERS

6.01 Cases heard by the judge. In matters heard by a judge, a court reporter may be provided by the court and taxed as costs.

6.02 Visiting judge hearings. In matters heard by a visiting judge, the matters will be recorded by an audio recording system.

6.03 Cases heard by the magistrate. All matters heard by a magistrate will be recorded by an audio recording system.

6.04 Retention of audio recordings. All 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 on written request of a party.

6.05 Transcription. Upon written request by praecipe and payment of a deposit to cover the

cost of transcription, an official court reporter will prepare a transcript of the proceedings. (A sample praecipe is provided on the court's website: www.drcourt.org). The transcript, not the audio recording, constitutes the official record of the proceeding. (See also Local Rule 27).

6.05 Back-up audio recordings

(A) The court may use a backup system to record all conversation which takes place in the courtrooms. This system is purely a backup to ensure that proceedings which are intended to be recorded are recorded in the event of a failure of the primary system. Access to the backup system shall be restricted to the court administrator and deputy court administrator.

(B) Recordings from the backup system may only be obtained in the event that there was a failure of the primary recording system. In that case, only proceedings which were intended to be held on the record may be obtained. "Intended to be held on the record" means that the magistrate or judge called the case on the record or made some indication of the case being on the record.

RULE 7 DISSOLUTIONS

(A) **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 a Dissolution Affidavit of Property and Income (a sample is provided on the court's website: www.drcourt.org). A petition for dissolution must be served on both parties unless a waiver of service is filed.

(B) **Cases with Minor Children.**

(1) **Information for Parenting Proceeding Affidavit.** In addition to the petition, the parties shall file an Information for Parenting Proceeding Affidavit, and an application for IV-D services (a sample affidavit is provided on the court's website: www.drcourt.org).

(2) **Allocation of parental rights and responsibilities.** The parties may address the allocation of parental rights and responsibilities in the separation agreement or 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.

(3) **Remember the Children.** Both parties shall attend the Remember the Children program prior to the scheduling of the dissolution hearing. This requirement may be waived for good cause only.

(C) **Hearing.** It is the responsibility of counsel, or the parties if unrepresented, to call the judge's bailiff to obtain a hearing date. 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.

- (D) **Conversion of dissolution to divorce.** Pursuant to Revised Code section 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 contain a complaint for divorce that contains grounds for a divorce and that otherwise complies with the Rules of Civil Procedure. The party wishing to convert the dissolution case to a divorce case shall file as the plaintiff. The divorce action then shall proceed in accordance with the Civil and Local Rules in the same manner as if the motion had been the original complaint in the action, including, but not limited to, the issuance and service of summons upon the defendant. No filing fee shall be charged for the motion to convert the dissolution action to a divorce action.

RULE 8 UNCONTESTED AND INACTIVE CASES

8.01 Uncontested divorces.

- (A) When a complaint for divorce is filed, the court shall assign a date for an uncontested divorce hearing. That hearing date shall be noted on the mutual restraining order and shall be served on the defendant along with the complaint. If service of the complaint is not completed at least 42 days before the uncontested hearing date, the hearing will not proceed as scheduled. A motion for continuance and proposed order shall be submitted to the court and a new hearing date obtained.
- (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.
- (C) **Failure to attend final hearing.** If the plaintiff does not attend the final hearing, the case shall be dismissed for failure to prosecute.

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

RULE 9 TEMPORARY ORDERS BY ORAL HEARING

- 9.01 By motion.** Any requests for temporary orders, other than those provided in Civil Rule 75(I), shall be made by proper motion and determined after oral hearing as provided in Local Rule 9.02. The moving party shall give the responding party at least seven days notice of hearing, pursuant to Civil Rule 6(D).
- 9.02 Oral hearings.** Each party shall exchange an Affidavit of Income, Expenses and Property at the temporary hearing if the affidavit has not been previously filed pursuant to Rule 2.02. The affidavit form is provided on the court's website: www.drcourt.org.

- (A) **Statements of counsel.** As a general rule, oral temporary hearings are conducted on statements of counsel and submission of documents. One hour is allocated for this hearing with 30 minutes allotted for each party.

Each party shall submit documents relevant to pending issues, including but not limited to, evidence of the parties' incomes and deductions from gross income as required by statute (R.C. 3119.01 et seq.), child care expenses, medical insurance expenses, and any other relevant exhibits.

- (B) **Evidentiary hearing.** If an evidentiary hearing is necessary, the moving party shall file a written motion and proposed order requesting an evidentiary hearing specifying the time needed for hearing. This motion and order shall be hand delivered to the magistrate of record. If the motion is granted, the magistrate shall then set the evidentiary hearing.

9.03 Failure to appear. If either party or counsel fails to appear at the appointed time of the scheduled hearing, the magistrate may hear the evidence of the party who is present and rely on the sworn Affidavit of Income, Expenses and Property of the parties and may, upon review of same, issue an order concerning the relief requested by the motion(s).

RULE 10 DISCOVERY STATUS CONFERENCE- INITIAL PRETRIAL CONFERENCE

10.01 Discovery and pretrial proceedings. Discovery and pretrial proceedings in contested cases shall be pursuant to orders issued in the case.

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

RULE 11 PRETRIAL CONFERENCE

11.01 Pretrial conference. The court shall schedule a pretrial conference. Both parties and their counsel shall appear unless excused for good cause shown.

11.02 Pretrial responsibility of counsel.

- (A) The purpose of the pretrial conference is to encourage settlement.
- (B) Counsel shall serve upon the court and opposing counsel at the time of the pretrial conference a pretrial statement. The pretrial statement shall not be filed with the Clerk of Courts. 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) three years income tax returns;
 - (7) health insurance information;
 - (8) a master list of household items acquired during the marriage;

- (9) proposed stipulations.
- (C) Failure to comply with the above may result in sanctions against the non-complying attorney or party.

11.03 Pretrial responsibility of the court. At the pretrial conference, the court shall:

- (A) Dispose of any pending discovery motions;
- (B) Determine, with counsel, the time needed for trial and schedule the trial date;
- (C) Determine whether trial briefs shall be submitted and upon what issues; and
- (D) Make all other orders necessary to prepare the matter for trial.

RULE 12 TRIALS AND EVIDENTIARY HEARINGS

12.01 Exhibits.

- (A) All exhibits shall be marked prior to trial or evidentiary hearing and indicate whether submitted by plaintiff or defendant. Plaintiff shall use numbers and defendant shall use letters. The exhibit marker shall indicate the date of trial or evidentiary hearing.
- (B) The parties shall submit to the court and the opposing party all expert witness reports not less than 30 days prior to the trial or evidentiary hearing absent leave of court.
- (C) Not less than seven days prior to the trial or evidentiary hearing, the parties shall submit to the court and the opposing party copies of all documents or other exhibits to be introduced at the trial or evidentiary hearing. At the trial or evidentiary hearing, the court will not admit any exhibits not timely submitted, except for good cause shown.

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 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.

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. The moving party must present a time-stamped copy of the motion, affidavit (if applicable) and proposed order to the judge or magistrate who is 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 Civil Rule 4 through Civil Rule 4.6. All contempt motions must be accompanied by a summons and the notices required by Revised Code 2705.031(C). If there is a pending case, a copy of the motion, affidavit, order and notice shall also be sent to opposing counsel by regular mail pursuant to Civil Rule 5.

13.04 Presence of alleged contemnor.

- (A) The alleged contemnor must be present at the hearing in order to proceed with contempt charges. If the alleged contemnor has been properly served with an order to appear, but does not appear, the moving party may request a *capias* for the alleged contemnor's arrest.
- (B) Failure to appear without good cause may also be prosecuted as an additional contempt.

13.05 Capias. In determining whether to issue a *capias* the court must first find from the affidavit that there is probable cause to believe that contempt has occurred. The court will also consider the manner and type of service that has been done and any other relevant factors. Prior actual notice is preferred. However, the court may issue a *capias* even without prior notice if the applicant demonstrates that such is necessary to obtain the presence of an alleged contemnor.

13.06 Appointment of counsel. The court shall appoint counsel in contempt cases, where a jail penalty has been requested, for any defending party who requests court-appointed counsel and who meets the income guidelines adopted by the state Public Defender's Office.

- (A) **Process for requesting appointed counsel.** 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. Once the affidavit is filed with the Clerk of Courts, the filing party must personally bring the time-stamped affidavit to the court's assignment office on the second floor. Court staff will review the affidavit to determine whether the applicant is qualified to receive appointed counsel. If eligible, the applicant will be informed at that time who will be appointed to represent him or her. The court staff member will ensure that the appointed

attorney is available to cover the scheduled hearing.

- (B) **Waiver of filing fee.** If a party is unable to pay the filing fee for the indigency affidavit, the party must file a motion requesting waiver of that fee at the time of filing the affidavit. A time-stamped copy of the motion as well as proposed order granting the waiver shall be brought to the court's assignment office along with the affidavit.

13.07 Procedure for selection of appointed counsel

- (A) **Qualifications of appointed counsel.** Attorneys who wish to receive appointments to represent alleged contemnors in this court shall have experience prosecuting or defending contempt of court charges in the type of contempt charged (eg: child support, parenting time, property issues, etc.). Counsel must also attend, or view the video of, the court's training seminar which details the court's procedures for contempt cases.
- (B) **Request for inclusion on the appointed counsel list.** Attorneys who desire to be placed on the court's list of appointed counsel shall send a letter to the court administrator requesting to be added to the list and setting forth their qualifications for representing litigants in the court. Counsel shall indicate in the letter the types of contempt matters they wish to accept (e.g., child support only, parenting time only, all types of contempt issues, etc.). Counsel must provide the court a telephone number at which counsel may be reached to accept appointments. Upon verification of the attorney's credentials, the court administrator will add the attorney to the appointed counsel list and note the types of cases the attorney is qualified to handle.
- (C) **Distribution of appointments.** The court will maintain a list of qualified attorneys who have requested to be placed on the court's list of appointees to represent indigent parties and will update the list at least four times per year. The court will make an equitable distribution of appointments to counsel on this list. The court administrator will review the distribution of appointments at least four times per year to ensure that appointments are made in an equitable fashion. The court may consider the skill and expertise of the appointee in the designated area and the management by the appointee of his or her caseload.
- (D) **Availability of counsel to accept assignments.** When a party requesting counsel contacts the court and is determined to be eligible for appointed counsel, court staff will call the next attorney on its appointed counsel list. If that attorney is not available to accept the appointment at that time, the court staff will note that contact attempt and shall move to the next attorney on the list, until an attorney is contacted who is available to accept the assignment. The previous attorney shall be placed back into rotation for appointment after all remaining attorneys have been called.
- (E) **Removal from appointed counsel list.** Counsel may, at any time, request to be removed from the court's list of appointees. The court may, in its discretion, remove any attorney from the list. In the event of such a removal, the court shall notify the attorney that he or she has been removed from the appointment list.

13.08 Compensation of counsel.

- (A) **Rate of compensation.** Court-appointed counsel in contempt cases shall be compensated at the rate of \$40 per hour for services rendered out-of-court and \$50 per hour for services rendered in-court up to a maximum of \$300. Appointed counsel shall be compensated by the court only for work completed in relation to the contempt matter. Any other representation of the same litigant shall be by private agreement between the defending party and counsel.
- (B) **Extraordinary fees.** In the event that fees for appointed counsel should exceed \$300, the appointed attorney shall file a motion for extraordinary fees detailing why the additional time was required on this case. Counsel shall include therewith a detailed listing of all time and expenses expended on the case along with the motion. Counsel shall also provide the court with a proposed judgment entry approving the extraordinary fees. Any award of extraordinary fees is within the sole discretion of the court and is not guaranteed.
- (C) **Procedure for payment of fees.** To obtain payment for services rendered counsel shall submit an Application for Appointed Counsel Fees – OPD Form 1026-R, to the assigned judge NO LATER THAN 30 DAYS AFTER THE ISSUANCE OF A FINAL APPEALABLE ORDER ON THE CONTEMPT MATTER. If the application is submitted later than 30 days after the final appealable order, the fees may be reduced due to state reimbursement requirements. Once the judge has signed the application, counsel shall file the application with the Clerk of Courts and obtain two certified copies. Those certified copies along with a copy of the indigency affidavit must be delivered to the County of Summit Fiscal Office, Accounting Division, on the fourth floor of the Ohio Building, 175 S. Main St., Akron, Ohio 44308. The County Fiscal Office will process the payments to counsel. (Note: The computer software for completing the form 1026-R may be downloaded at no cost from the Office of the Ohio Public Defender at <http://opd.ohio.gov/reimb/rm - reimbursement.htm>.)

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 Income and Expenses.
- (B) At 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 Revised Code section 3119.01 et seq.
- (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, 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 Income and Expenses.
- (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 Revised Code section 3105.18(C)(1)(a) through (n);
 - (4) current income, three years tax returns, and other documents as required;
 - (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) Motions for modification of parenting time and/or reallocation of parental rights and responsibilities shall be heard by the magistrate. The moving party shall file an Information for Parenting Proceeding Affidavit with the motion.
- (B) Case management.
 - (1) At the initial hearing, which is not evidentiary, the court shall determine whether the motion is contested and the basis of the motion.
 - (2) The court may order the parties to mediate. If the parties are approved for mediation, the court will set a second hearing before the magistrate.
 - (3) If the parties do not resolve their parenting issues at either the hearing or through mediation, the court may order an evaluation through Family Court Services, counseling, parent educational classes, psychological evaluations, drug and alcohol testing, supervised parenting time, and/or the appointment of a guardian *ad litem*. Unless specified otherwise by the court, fees will be assessed equally between the parties and should be deposited with the Clerk's office within 10 days of the order. Failure to comply with court orders regarding any of these matters may negatively affect the outcome of the case for the party who fails to comply.
 - (4) The court will establish a written case management plan that sets forth additional hearing dates as well as provisions for any services.
- (C) Final settlement conference. The court shall schedule a settlement conference date unless the case has been settled and finalized at an earlier stage. The purpose of the

final settlement conference is to reach a resolution with the benefit of the information that has been developed from the case plan.

- (1) Prior to the settlement conference, counsel or any *pro se* party shall review all court-ordered written reports, which shall be made available not less than one week prior to the conference date, and discuss with their clients the options that are available.
 - (2) The parties and their attorneys shall appear at the settlement conference and shall be prepared to discuss resolution of the pending issues.
- (D) Evidentiary hearing. The court will set an evidentiary hearing date for a date approximately 30 days after the final settlement conference. Counsel and parties shall follow this court's local rule on trials and evidentiary hearings.

RULE 15 DOMESTIC VIOLENCE ACTIONS

15.01 Filing for a Civil Protection Order.

- (A) **Name of parties.** 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) **Where to find assistance.** The petitioner may file for a CPO *pro se* or may hire a private attorney. The petitioner may apply for assistance from Community Legal Aid Services (330) 535-4191, or may request the assistance of a victim advocate for help in filing the necessary paperwork for the CPO and for attending all hearings.
 - (1) Both the Battered Women's Shelter and the Victim Assistance Program provide victim advocates.
 - (2) If the petitioner requests assistance from either of the victim advocate programs listed above, the victim advocate will conduct a short interview to see if the person qualifies for a CPO. If the person qualifies, a mandatory appointment is scheduled. At the appointment, the advocate will help the person complete the necessary paperwork for filing for a CPO, help the person file the necessary paperwork, and attend all hearings with the person.
- (C) **Where to obtain necessary paperwork.** The petitioner may obtain the necessary paperwork to file for a CPO from the following:
 - (1) Domestic Relations Court website: www.drcourt.org
 - (2) Domestic Relations Court (330) 643-2365
 - (3) Clerk of Courts, Domestic Relations Division (330) 643-2201
 - (4) Municipal Clerk of Courts in
 - (a) Akron (330) 375-2920
 - (b) Barberton (330) 753-2261

	(c) Cuyahoga Falls	(330) 971-8110
(5)	Akron Prosecutor's Office	(330) 375-2730
(6)	Barberton Prosecutor's Office	(330) 848-6728
(7)	Cuyahoga Falls Prosecutor's Office	(330) 971-8110
(8)	Battered Women's Shelter Legal Advocate's Office	(330) 375-2247
(9)	Victim Assistance Program	(330) 376-0040

(D) **What must be filed.** The necessary paperwork for filing for a CPO is as follows:

- (1) Petition for Domestic Violence CPO (Supreme Court standard domestic violence form 10.01). 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.
 - (c) A request for relief.
- (2) Information for Parenting Proceeding Affidavit (if the Petitioner and Respondent have children together).
- (3) Affidavit of Income and Expenses (if the petitioner is requesting support from the respondent).
- (4) Request for service.

(E) **Where to file.**

- (1) The necessary paperwork listed above must be filed at the Summit County Clerk of Court's Office, Domestic Relations Division, 205 S. High Street, First Floor, Akron, Ohio 44308.
- (2) The Clerk of Courts will assign a case number, a judge, and a magistrate. If a complaint for divorce, annulment, legal separation, to establish a parent-child relationship, or petition for dissolution involving the same parties is being filed simultaneously with the CPO or was filed before the CPO was filed, the petitioner shall inform the clerk so that the cases can be assigned to the same judge and magistrate.
- (3) After the CPO is filed, the Clerk will prepare a folder containing a copy of the paperwork filed, which the petitioner shall then take to Domestic Relations Court, third floor so that a magistrate may hold an immediate *ex parte* hearing.

15.02 *Ex parte* hearing.

- (A) The petitioner shall give the folder prepared by the Clerk of Courts to the security bailiff at the reception desk on the third floor at the Domestic Relations Court.
- (B) The *ex parte* hearing shall be held the same day the petition is filed. If the petition is filed after 2:30 p.m. it may not be possible to file the *ex parte* order or obtain service of the *ex parte* order. The *ex parte* order may not be served until the following day.
- (C) At the *ex parte* hearing, a magistrate will hear the petitioner's statement of the facts under oath.

- (D) If the magistrate 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 ten court days.
 - (2) If an *ex parte* order is not granted, the case will proceed as under the Rules of Civil Procedure.
- (E) The petitioner will complete a confidential domestic violence questionnaire provided by the court prior to the hearing and submit it to the security bailiff.
- (F) A signed copy of the *ex parte* CPO and Protection Order Notice to NCIC (Form 10A) shall be hand-delivered to the Clerk of Courts for filing.
- (G) The clerk will provide the petitioner a certified copy of the *ex parte* CPO.
- (H) The clerk will process the *ex parte* CPO for personal service on the respondent by the sheriff and for police department notification. The clerk or sheriff will notify the petitioner once the respondent has been served.

15.03 Full hearing.

- (A) At the full hearing, unless the parties reach an agreement the magistrate will take sworn testimony from each party and any witnesses presented by the parties.
- (B) If the magistrate finds that the facts meet the requirements of the law, the court will issue a full hearing 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;
 - (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.

- (F) Objections to a CPO shall be filed and served upon the opposing party within 14 calendar days after the date the decision is filed. The opposing party may file an objection or response within 10 calendar days after the first objection is filed. A copy of the objections or response shall be hand-delivered to the court. All objections shall comply with Civil Rule 53 and Local Rule 27.

15.04 Consent agreement.

- (A) At the time of the full hearing, the petitioner and respondent may enter into a Consent Agreement CPO.
- (B) All consent agreements shall be approved verbally by the magistrate and then prepared as an order by the court with no finding of domestic violence.
- (C) A completed Protection Order Notice to NCIC (Form 10A) shall be filed with the consent agreement.
- (D) 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 becomes 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. Victim advocates will not assist the petitioner or respondent with the filing of a motion to terminate the CPO.
- (B) All such motions must be filed and scheduled for hearing as set forth in Local Rule 2.08. (A sample motion is provided on the court's website: www.drcourt.org.) 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 10A) 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 Enforcement of CPO. A party may file a motion for contempt and/or orders “to show cause” in order to enforce the provisions of the CPO. All such motions must be filed and scheduled for hearing as set forth in Local Rule 13 and 2.08.

15.09 Objections to CPO. Full Hearing CPOs and Consent Agreement CPOs are treated as magistrate’s decisions under the Civil Rules and Local Rules and, thus, they are not final appealable orders. A party wishing to file an objection to a CPO must follow the objection procedure delineated in Local Rule 27 “Objections to Magistrate’s Decision.” Upon the filing of an objection, the automatic stay provision of Civil Rule 53(E)(4)(c) will automatically be suspended and the Full Hearing CPO or Consent Agreement CPO will remain in full force and effect until the court disposes of the objection.

**RULE 16 PARENTAGE: ESTABLISHMENT OF PARENT-CHILD
RELATIONSHIP, ALLOCATION OF PARENTAL RIGHTS AND
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 or not a parent-child relationship has been established by acknowledgement or any other method and shall attach documentation of such to the complaint.
- (B) If parenting orders are requested, the moving party shall file an Information for Parenting Proceeding Affidavit with the complaint.
- (C) If child support is an issue, each party shall submit an Affidavit of Income and Expenses.

16.02 Initial Hearing.

- (A) Where the allocation of parental rights and responsibilities and/or the parenting time schedule are issues, the court shall schedule a date for the parties to attend the Working Together Program. The scheduled date shall appear on the complaint. At the Working Together Program the parties will be given information and materials about the court process, the law, and the court’s expectations. The parties will then be given an opportunity to mediate their issues.
 - (1) If neither of the parties has an attorney and they reach an agreement, the court will prepare an entry for the parties to sign, and the case will be concluded.

- (2) If there is an attorney for one or both of the parties, the case will not be concluded at the Working Together Program. If the parties reach an agreement, the court will prepare a memorandum of understanding which will be mailed to the attorney(s), and the case will be set for an initial hearing before the assigned magistrate. The initial hearing will be cancelled if an agreed entry is submitted and approved prior to the hearing.
 - (3) If the moving party does not appear for the Working Together Program, the complaint or motion will be dismissed.
 - (4) If the responding party does not appear, or if both parties come but do not reach an agreement, the case will be set for an initial hearing before the assigned magistrate.
 - (5) After an initial hearing the claims will proceed in the manner described under the section of these rules titled Modification of Parenting Orders.
- (B) In cases where parentage is an issue the initial hearing will be used to determine whether the matter is contested.
- (1) If parentage is not contested the court may dispose of the claim at the initial hearing.
 - (2) If parentage is contested, the court may order genetic testing to determine whether the alleged father is the likely biological father. The matter will then be set for further hearing. If an evidentiary hearing is required, the case will proceed in the manner described in the section of these rules titled Evidentiary Hearings.
 - (a) CSEA will pay for the cost of genetic testing if parentage of the child has never been previously determined.
 - (b) The person raising the claim must pay for the testing if parentage of the child has been previously determined. Only the child and the alleged father need be tested. CSEA will arrange for the drawing of the samples. The person opposing the claim of parentage may be required to reimburse the other party for the cost of testing if the test results support the claim of parentage.
- (C) In cases where child support is an issue, the matter may be concluded at the initial hearing if all the information necessary to establish an order is presented there. Otherwise, further hearing will be set. If an evidentiary hearing is required, the claim will proceed in the manner described in the section of these rules titled Evidentiary Hearings.
- (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.

RULE 17 CHILD SUPPORT AND HEALTH INSURANCE ORDERS

17.01 Support orders.

- (A) Every child or spousal support order shall include the mandatory provisions set forth in Revised Code sections 3121.27 and 3121.29.
- (B) The Clerk of Courts will serve a copy of every order for child or spousal support upon the Summit County Child Support Enforcement Agency (CSEA). The CSEA shall prepare the required withholding notices and submit them to the employer or other withholding source.
- (C) The caption of every order for child support, or other judgment entry that includes an order for child support, shall state the SETS number, each party's address, and the obligor's Social Security number and date of birth.
- (D) Child support orders shall contain a child support worksheet, and, if there is a deviation, the reason for the deviation pursuant to the statute should be stated.

17.02 Health Insurance Orders. Every child support order shall include the health insurance provisions as required by Revised Code sections 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 Civil Rule 60(B) and Civil Rule 7(B). A copy of the judgment from which relief is sought shall be attached to the motion.

18.02 Supporting materials. The motion shall be supported by materials that demonstrate:

- (A) The timeliness of the motion;
- (B) The reasons for seeking relief; and
- (C) A material defense or claim.

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 court. The procedures contained in Civil Rule 56, regarding documents and other materials, are suggested as guidelines.

18.03 Opposition to motion. The opposing party may file a brief or memorandum and supporting materials within 14 days after service of the motion and shall serve a copy upon the moving party and hand-deliver a copy to the court.

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

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

19.01 Procedure for filings under UIFSA. (Uniform Interstate Family Support Act, R.C. 3115.39 *et seq.*)

- (A) The registration of a support order or income withholding order of another state shall be accomplished as set forth in Revised Code section 3115.39 *et seq.* A Summit County case number is assigned to the registered order.
- (B) The registering party shall prepare and submit to the court a notice to the non-registering party that complies with revised code section 3115.42.
- (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. § 3115.44(c).
- (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 Summit County case number is assigned to the registered order.
- (B) This court will modify an out-of-state custody determination only in accordance with sections 3127.15 to 3127.24 of the revised code.

19.03 Procedure for filings under Full Faith and Credit.

- (A) The registration of a foreign judgment shall be commenced by the filing of:
 - (1) A certified copy of the foreign judgment;
 - (2) An affidavit setting forth the names and addresses of the judgment creditor/obligee and judgment debtor/obligor; and
 - (3) Instructions for the Clerk of Courts to send notice of the filing, including the name and address of the judgment creditor/obligee, to the judgment debtor/obligor at the address given.
- (B) A foreign judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings as a judgment of this court.
- (C) The Clerk of Courts shall not accept any action or proceeding for filing without the required deposit as security for costs as set forth in the schedule of filing fees. A Summit County case number is assigned to the registered order.

RULE 20 DISCOVERY

20.01 In General. The exchange of information between parties is required. Civil Rule 26 through Civil Rule 37 shall apply to any action in Domestic Relations Court, including post-decree motions filed pursuant to Civil Rule 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 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 to 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. A list of documents to be exchanged is provided in Appendix B to these rules under "DOCUMENTS TO BE EXCHANGED." 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. 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's fees and amount requested.

RULE 21 SANCTIONS

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

Rule 22 EX PARTE COMMUNICATION

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

22.02 Written communication. If any attorney or party submits written correspondence to any judge or magistrate presiding over the matter without notifying opposing counsel or the

other party, if not represented, the court shall cause the correspondence to be date-stamped and delivered to the judicial attorney for the assigned judge.

- (A) Substantive pleading. If the correspondence is a substantive pleading (such as an answer, objections, motion to set aside, etc.), the court shall label the pleading type, file it with the Clerk of Courts, and mail a copy to the other party or other party's attorney.
- (B) Procedural question and miscellaneous correspondence. Procedural questions and miscellaneous correspondence will be handled by the judicial attorney for the judge assigned to the case.

RULE 23 CONTINUANCES

23.01 Form of motion

- (A) A party filing a motion for continuance of any hearing shall hand deliver to the judge or magistrate assigned to hear the matter a copy of the motion filed and a proposed order.
 - 1. The motion shall include:
 - a. the reason for the request for a 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; and
 - d. a certification of service of the motion upon opposing counsel or unrepresented party and all interested parties to the hearing, including, but not limited to, Family Court Services, the guardian *ad litem* and the CSEA.
 - 2. The proposed order shall include the following checklist:
 - a. a statement that the continuance is granted along with a place where the new hearing date may be entered;
 - b. a statement that the continuance is denied;
 - c. a statement that no further continuances shall be granted.

23.02 Procedure

- A. If opposing counsel does not approve of the request for a continuance, the assigned judge or magistrate shall arrange a conference call to discuss the matter and shall rule accordingly. If either counsel is not available for said conference call, the motion

may be granted or denied at the discretion of the court.

- B. Temporary hearings shall be rescheduled to be heard within 14 days of the original hearing date absent extraordinary circumstances. Initial hearings on parenting issues shall be rescheduled within 21 days of the original hearing date absent extraordinary circumstances. No second hearing on parenting issues shall be continued without the written permission of the assigned judge.
- C. Any continuance of any hearing shall be at the total discretion of the court.

RULE 24 WITHDRAWAL OR SUBSTITUTION OF COUNSEL

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

- (A) Counsel timely files a written motion and proposed order stating 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 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 and hand-delivered to the court.

RULE 25 ATTORNEY'S FEES AND EXPENSES

25.01 Consent entry. A written stipulation for payment of attorney's 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's fees. If the parties do not agree to payment of attorney's fees, the party seeking payment shall do so by a written motion or by another pleading, accompanied by a notice of hearing, pursuant to these rules and the Rules of Civil Procedure. A motion for attorney's fees may be combined with requests for other relief. (A sample affidavit of attorney's fees and costs is provided on the court's website: www.drcourt.org.) At a hearing on a request for attorney's fees, either party shall present evidence or stipulations sufficient for the court to make a decision under statutory guidelines.

25.03 Circumstances under which attorney's fees may be requested. Attorney's fees and litigation expenses may be requested under Revised Code section 3105.73 in actions for divorce, dissolution, legal separation, annulment of marriage, an appeal of any such action, and in post-decree proceedings which arise out of any such actions.

25.04 Factors to be considered in awarding attorney's fees. In all cases, the court may award all or any part of reasonable attorney's fees and litigation expenses to either party, if the court finds the award equitable.

- (A) **Equitability.** In determining whether an award of attorney’s fees is equitable, in actions for divorce, dissolution, legal separation, annulment of marriage or appeal of that action, the court may consider the parties’ marital assets and income, any award of temporary spousal support, the conduct of the parties, and any other relevant factors the court deems appropriate. In determining whether an award of attorney’s fees is equitable in any post-decree motion or proceeding that arises out of an action for divorce, dissolution, legal separation, or annulment of marriage or an appeal of that motion or proceeding, the court may consider the parties’ incomes, the conduct of the parties, and any other relevant factors the court deems appropriate, but it may not consider the parties assets.

- (B) **Reasonableness**
 - (1) Expert testimony is not required to prove the reasonableness of attorney’s fees.

 - (2) In determining the reasonableness of attorney’s fees requested, the court shall consider the affidavit of the attorney concerning fees and expenses, and Rule 1.5 (a) of the Rules of Professional Conduct. (A sample affidavit is provided on the court’s website: www.drcourt.org.)

- (C) **Expenses.** If a party is requesting the reimbursement or advancement of expenses of suit, that party shall demonstrate with specificity those expenses required.

RULE 26 GENERAL AND SPECIFIC POWERS OF MAGISTRATES

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

RULE 27 MAGISTRATES’ ORDERS AND DECISIONS.

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

27.02 Motion to set aside a magistrate’s order.

- (A) A motion to set aside a magistrate’s order shall be filed and served upon the opposing party within 10 days of filing of the order. A copy of a motion to set aside the order shall be hand-delivered to the judge assigned to the case. 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, a praecipe to the court reporter requesting a transcript of the proceedings must be delivered to and acknowledged by the court reporter for the assigned judge and filed with the Clerk of Courts at the time of filing the motion to set aside (a sample praecipe is provided on the Court's website: www.drcourt.org). 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.
- (D) A deposit of costs to secure the transcript must be paid to the assigned 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 assigned judge.
- (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 assigned judge.

27.03 Magistrate's decision. An entry that makes a final determination of the parties' rights and requires judicial approval shall be identified as a magistrate's decision in accordance with Civil Rule 53. The court generally adopts a magistrate's decision without waiting for objections unless it determines there is error or other defect on the face of the decision. Objections operate as an automatic stay of execution of the judgment except as otherwise provided in Civil Rule 53 (D)(4) (e) (ii) and these rules.

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 assigned judge.
- (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.
- (C) If a transcript is required, a praecipe to the court reporter requesting a transcript of the proceedings must be delivered to and acknowledged by the court reporter for the assigned judge and filed with the Clerk of Courts at the time of filing the objection (a sample praecipe is provided on the Court's website: www.drcourt.org). If a praecipe to the court reporter is not filed at the time of filing the objection, and the objection is to any fact found by the magistrate, the objection may be overruled.

- (D) A deposit of costs to secure the transcript must be paid to the assigned 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) The party who files an objection 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 his/her supplemental or responsive brief to the assigned judge.
- (F) The court may adopt, reject or modify the magistrate's decision, hear additional evidence, recommit to the magistrate with instructions, or hear the matter itself. The court may refuse to consider additional evidence unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.
- (G) A party shall not assign as error on appeal the court's adoption of any finding of fact or conclusion of law, unless the party has objected to that finding or conclusion under this rule.
- (H) Except when the court orders otherwise, objections will be determined without oral argument.

RULE 28 JUDGMENT ENTRIES PREPARED BY ATTORNEYS/PARTIES

28.01 Preparation by party. The court may order either party to prepare the judgment entry. When so ordered, the party shall prepare a proper judgment entry 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 judgment entry. 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 judgment entry.
- (B) If the opposing party fails to take any action on the judgment entry within seven days, the preparer may present the entry for journalization by certifying that the judgment entry 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. A party who does not have the proper agreed judgment entries prepared shall use the standard form agreed entry provided by the court.
- (D) Child support orders shall contain a child support worksheet and if there is a deviation, the reason for the deviation pursuant to the statute shall be stated.
- (E) All judgment entries shall contain each party's complete address.

28.02 Signature by both parties. All judgment entries and orders shall be signed by both 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.

28.03 Service of agreed judgment entries. The party preparing the agreed judgment entry shall serve a copy of the time-stamped entry by regular mail upon opposing counsel or unrepresented party, Family Court Services, any guardian *ad litem*, and the Child Support Enforcement Agency, if applicable.

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 RC. 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 FAMILY COURT SERVICES DEPARTMENT

30.01 Referral. The court may refer families with child(ren) to Family Court Services to provide and/or coordinate the following services:

- (A) Intervention only, in which the Family Court Services evaluator helps resolve the dispute between parents;
- (B) Referral to mediation and screening process;
- (C) Evaluation;
- (D) Appointment of guardian *ad litem*;
- (E) Shared parenting plan checklist approval;
- (F) Referral to or for:
 - 1. psychological evaluation;
 - 2. chemical dependency and/or drug screening;
 - 3. parenting classes;
 - 4. court educational programs;
 - 5. supervised visitation;

6. other programs as appropriate.

30.02 Report and recommendation. When referred for an evaluation, the Family Court Services evaluator will produce a report which may include a summary of the collateral information received, a summary of each parent’s concerns, strengths and weaknesses, and a recommendation as to the allocation of parental rights and responsibilities.

30.03 Family Court Services file.

- (A) The attorneys of record and unrepresented parties will be notified when the evaluation is complete. The attorney or unrepresented client must sign the Request for Review of Family Court Services and/or Guardian *ad litem* Report before reviewing the file. The Family Court Services file containing the evaluator’s report may be reviewed at Family Court Services. The file may not be photocopied, photographed, recorded, transcribed or otherwise copied verbatim, but brief notes may be taken.
- (B) Attorneys and *pro se* litigants may receive copies only of the recommendation portion of Family Court Services reports and then only after reading the report in its entirety. Attorneys and *pro se* litigants must legibly initial each page of the report before Family Court Services will provide a copy of the recommendation section.
- (C) The written reports of the Family Court Services evaluator, guardian *ad litem* or any other court ordered reports or assessments contained within this file shall be considered as part of “the original papers and exhibits filed with the trial court” for purposes of Appellate Rule 9(A).
- (D) Family Court Services files will be closed at the time agreement has been put on the record; evaluator has given testimony; or the parties have stipulated to the report. All files will be purged within three years of closing date unless a motion and order are filed to retain the file for a longer period.

30.04 Confidentiality. The court proceeding, the Family Court Services report, Guardian *ad litem* report and recommendations contain adult information which is not to be shared with the minor children. Attorneys are expected to use professional discretion in sharing information with their clients.

RULE 31 PARENTING TIME

The court’s Standard Parenting Time Schedule, as amended from time to time, shall be the default 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: www.drcourt.org.

RULE 32 EDUCATIONAL PROGRAMS AND INFORMAL PROCEEDINGS PROGRAM

32.01 Remember the Children. When parents of minor child(ren) file for divorce, legal separation, annulment or dissolution, they shall attend a three-hour program titled “Remember the Children” within 60 days. No dissolution hearing will be scheduled until both parties have attended this program. No final decree of divorce, legal separation or

annulment shall be issued until both parties attend this program. This requirement may be waived for good cause only.

32.02 Positive Solutions Program. In cases when parents of minor child(ren) file for a modification of parenting time, parents may be ordered or referred to attend the court's nine hour educational series regarding improved communication, conflict reduction and positive co-parenting. Parents are to attend together whenever possible. Parents who fail to attend the assigned class, when ordered without good cause may be sanctioned.

32.03 Working Together Program. When never married parents file an action regarding allocation of parental rights and responsibilities or parenting time issues with minor child(ren), they shall attend the Working Together Program as their "first hearing." The program consists of a one hour educational program regarding parents' rights and responsibilities, as well as issues around child development and positive co-parent cooperation and communication. The educational program is followed by the opportunity to engage in mediation regarding parenting issues with a trained mediator. Results of the program may be one of the following:

- (A) *Pro se* parents come to an agreement and enter that agreed entry onto the record. No further action is required.
- (B) *Pro se* parents do not come to agreement and an initial hearing is set.
- (C) Parties represented by counsel come to an agreement and develop a memorandum of understanding which is sent by the court to the attorneys to use in assisting parents in establishing an agreement or in subsequent hearings.
- (D) Parties represented by counsel do not come to agreement and proceed to scheduled future hearings.
- (E) Filing party fails to appear for program without prior arrangements and the motion or complaint is dismissed.

32.04 Informal Proceedings Program

(A) Eligibility for Services

1. The Informal Proceedings program is available in post decree cases only. Parties must have a current order issued by or registered with the Summit County Domestic Relations Court that allocates parental rights and responsibilities to be eligible for the Informal Proceedings program.
2. The Informal Proceedings program is available for parties experiencing "minor issues" in implementing or complying with their current order. Examples of minor issues are: transportation, school/extracurricular activities, scheduling issues, vacation time, parent communication problems, etc. The parties may participate in the Informal Proceeding program only once in any 12 month period.
3. The program does not pertain to financial issues or reallocation of parental rights and responsibilities.

4. The Informal Proceedings program is a voluntary process. Neither party can be forced to attend.
5. In any case where there has been a finding of domestic violence, the court will determine whether an Informal Proceeding is in the best interest of the child(ren) and, if so, under what terms and conditions.
6. The Informal Proceeding process may not be used to modify or terminate a civil protection order.
7. A party may not have an open case within the court when filing for an Informal Proceeding. If a motion or complaint is filed prior to the Informal conference, the Informal Proceeding will be cancelled.

(B) Referral Process

1. A party may appear at the Family Court Services Department and request assistance with “minor (parenting) issues” as referenced herein by completing the Informal Family Court Services Proceeding form and submitting the form to the receptionist in Family Court Services. Only one party needs to request an informal proceeding.
2. A party may access the court website at www.drcourt.org and download the form as a PDF file, fill in the relevant information and mail to Family Court Services.

(C) Informal Proceeding

1. A meeting between the parents and a Family Court Services mediator will be arranged.
2. When parties arrive, they are given a screening tool to complete for the mediator to assess the presence of domestic violence. Parties may then choose to engage in the informal process or decline. The mediator can also choose not to proceed.
3. The mediator will explain the Informal Proceeding process, including the limits of confidentiality.
4. At the meeting the mediator may
 - a) assist the parties in resolving the issue(s);
 - b) refer the parties to an outside mediator;
 - c) instruct the parties on filing an agreed entry which the parties draw up;
 - d) refer the parties to outside community resources;

- e) refer the parties to their attorneys.
- 5. The parties have the option of filing a formal motion if the Informal process fails.
- 6. No record shall be kept of the Informal Proceeding other than the initial request form noting the outcome of the Informal Proceeding.

If the parties cannot resolve their issue informally, the evaluator will notify the referral source. If the parents can resolve their issue, the parents may prepare and sign an agreed entry (a sample is provided on the court's website: www.drcourt.org), present it to the court for approval, and if the court approves the entry, the parents shall file the entry with the Clerk of Courts.

RULE 33 MEDIATION

33.01 Introduction. The Summit County Court of Common Pleas, Domestic Relations Division adopts Local Rule 25 effective January 1, 2007. Through Rule 25, the Summit County Domestic Relations Court incorporates by reference Revised Code section 2710 "Uniform Mediation Act" (UMA), Revised Code section 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

33.02 Purpose. It is the policy of this court to utilize mediation as opposed to litigation as the first option where disputes arise between parents with respect to allocation of parental rights and responsibilities or parenting time with their children.

33.03 Scope. The court has four mediation programs designed to assist parents in resolving disputes between them with respect to their children:

(A) **Mediation Magistrate Program**

This program is primarily targeted to pre-decree and post-decree divorce, dissolution, annulment or legal separation cases where disputes exist involving allocation of parental rights and responsibilities or parenting time issues. This program generally utilizes a mediation magistrate/social worker team in conducting mediation sessions. Mediation is mandatory in these cases except as otherwise provided by law. There is no additional cost to parents to participate in mediation under this program.

(B) **Working Together Program**

This program is targeted to cases where disputes exist involving allocation of parental rights and responsibilities or parenting time issues between never married parents. This program consists of a one hour educational program followed by the opportunity for the parties to engage in mediation of their parenting related issues. Mediation is voluntary in these cases. There is no additional cost to parents to participate in mediation under this program.

(C) **Informal Proceeding Program**

The Informal Proceeding program is available in post-decree cases only where a current order exists allocating parental rights and responsibilities but no motion is pending. This program is available for parties experiencing “minor issues” in implementing or complying with their current order (*e.g.* transportation, school, extracurricular activity, scheduling issues, vacation time, parent communication issues, etc.) This program does not pertain to reallocation of parental rights and responsibilities or financial issues. Mediation is voluntary in these cases. There is no cost to parents to participate in mediation under this program.

(D) **Out-of-Court Mediation**

The court maintains a list of qualified out-of-court mediators which is available at the Family Court Services Department. The parties may select a mediator from this list to mediate issues where disputes exist involving allocation of parental rights and responsibilities or parenting time issues. Mediation is voluntary in these cases. Mediation costs are generally divided equally by the parties unless otherwise apportioned by the court.

33.04 Procedure

(A) **Domestic Violence**

- (1) Any case referred to any of the court’s programs for mediation will be screened for domestic violence prior to beginning the mediation and throughout the mediation if necessary. In any case where there has been a finding of domestic violence, the court will determine whether mediation is appropriate, and if so, under what terms and conditions. In cases where a party has been convicted of stalking, domestic violence, or child abuse, the judge or magistrate referring a case for mediation will provide specific findings of fact that both parties wish to participate in mediation and that the mediation would be in the parties’ best interest, pursuant to Revised Code section 3109.052.
- (2) When domestic violence or fear of domestic violence is alleged, suspected, or present, mediation will only take place under the following conditions:
 - a. The mediator has at least 14 hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Advisory Committee on Dispute Resolution;
 - b. The alleged victim is fully informed about the mediation process, his or her right to decline participation in mediation, and his or her right to have a support person present;
 - c. The court and the mediator determine that the parties have the capacity to mediate without fear of coercion or control;

- d. Appropriate security measures are in place to provide for the safety of all parties involved in the mediation; and
 - e. The mediator will terminate mediation if he or she believes there is a continued threat of domestic violence or coercion between the parties.
- (3) Mediation shall not be used as an alternative to adjudication of domestic violence, to determine whether to grant, modify, or terminate a protection order, to determine the conditions of a protection order, or to determine the penalty for violation of a protection order.
- (4) This does not prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

(B) Legal Advice

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

(C) Mediation Process

(1) Mediator's report

At the conclusion of mediation, the mediator shall prepare a report to the court which shall contain only the following information:

- (a) whether the mediation occurred or was terminated;
- (b) whether settlement was reached on all, some or none of the issues;
- (c) attendance of the parties.

(2) Mediation agreements

Agreements reached in mediation shall not be binding until signed by both parties and reviewed and approved by each party's attorney, if applicable, and journalized by the court.

(3) Termination of Mediation

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, the mediator shall inform the parties and the court that mediation is terminated. Pending cases shall then proceed to hearing before the original judge or magistrate assigned to the

case. Parents in non pending cases shall be referred to the respective attorneys.

33.05 Confidentiality All mediation communications related to or made during the mediation process are subject to and governed by the “Uniform Mediation Act” (UMA) Revised Code sections 2710.01 to 2710.10, Revised Code section 3109.052, the Rules of Evidence and any other pertinent judicial rule(s). Statements made during the course of mediation assessment or the mediation sessions shall not be admissible as evidence in any subsequent proceeding in this court except as required by law. The mediator shall not be made a party to, and shall not be called as a witness, or testify in, any proceeding other than as set forth in Revised Code section 3109.062 (C), even if both parents give their consent thereto. In furtherance of the confidentiality set forth in this rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written “Agreement to Mediate” prior to the mediation session. If a new or different person(s) attends a subsequent session, his or her signature shall be obtained prior to proceeding further in the process. A blank “Agreement to Mediate” form is available for review by any prospective participant by contacting the Family Court Services Department. The foregoing confidentiality requirements shall not preclude mediators from testifying as to a crime committed in their presence nor shall they be construed to exempt any person from the statutory duty to report child abuse pursuant to Revised Code section 2151.421 or to limit any of the exceptions to confidentiality contained in Revised Code section 2710.05.

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

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

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

(D) Adherence to the ethical standards of mediators' profession, the Model Standards of Practice for Family and Divorce Mediation (adopted by the American Bar Association, Association of Family and Conciliation Courts, and the Association for Conflict Resolution) and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs.

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

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

33.10 Continuances. No continuances of a court ordered mediation session shall be granted without the approval of the assigned judge.

RULE 34 GUARDIANS AD LITEM

34.01 Procedure. When requested by either party or by the court, Family Court Services, after conferring with the parties, will recommend a guardian *ad litem* to be appointed by the court. This request for a guardian *ad litem* shall be made no later than the status conference date or initial pretrial date in divorce cases or the initial hearing in parentage or post decree cases, absent good cause shown.

34.02 Qualifications. A guardian *ad litem* shall possess an advanced degree in law, social work, counseling or other related fields and a minimum of five years of experience in practice involving domestic relations law.

At the discretion of the court, in order to be included on the court's appointment list, candidates shall:

- 1) complete a formal application and interview process;
- 2) provide the court with proof of a valid driver's license and current liability insurance;
- 3) complete a BCI criminal background check; and
- 4) provide three completed reference forms.

Following acceptance, guardians must initially complete eight hours of required guardian *ad litem* training through the Supreme Court of Ohio and complete six hours of mandatory training by the Summit County Domestic relations Court annually.

Guardians will be evaluated on an annual basis, through a formal evaluation process to determine their continued inclusion on the court's list. Guardians may be removed from the list at their own request. The court may, in its discretion, remove any guardian *ad litem* from the list. In the event of such a removal, the court shall notify the guardian *ad litem* that he or she has been removed from the appointment list.

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

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

Unless otherwise specified by the court, the guardian *ad litem* will:

- (A) meet with each parent individually;
- (B) meet with child alone as often as time permits;
- (C) observe each child's interaction with each parent;
- (D) explore collateral resources such as grandparents, neighbors, medical and/or mental health providers and school personnel;
- (E) review legal and criminal records; and
- (F) create a written report.

34.05 Guardian ad litem reports

- (A) The attorneys of record and unrepresented parties will be notified when the guardian report is submitted to the court. The attorney or unrepresented client must sign the Request for Review of Family Court Services and/or Guardian ad Litem Report before reviewing the file. The guardian report may be reviewed at Family Court Services. The file may not be photocopied, photographed, recorded, transcribed or otherwise copies verbatim, but brief notes may be taken.
- (B) Only the recommendation portion of guardian reports will be copied for attorneys and *pro se* litigants. Any person requesting a copy must first read the report in its entirety. Attorneys and *pro se* litigants must legibly initial each page of the report before Family Court Services will provide a copy of the recommendation section.
- (C) The written report of the guardian *ad litem* shall be considered as part of "the original papers and exhibits filed with the trial court" for purposes of Appellate Rule 9(A).
- (D) Guardian ad litem reports and recommendations contain adult information which is not to be shared with the minor children. Attorneys are expected to use professional discretion in sharing information with their clients.

34.06 Fees. Fees for guardians *ad litem* will be based upon 20 hours at \$75.00 per hour or \$1500.00 total, unless the guardian *ad litem* is serving at a reduced rate. Unless specified otherwise by the court, fees will be assessed equally between the parties and should be deposited with the Clerk of Court's office within 10 days of the appointment. Fees shall not exceed \$1,500 without prior written approval of the court.

34.07 Appointments. Appointments of guardians *ad litem* will be recommended by the Family Court Services on a rotating basis. Special needs of a particular case, (e.g. child abuse, medical or psychological issues), may be considered in the appointment of a guardian with specialized qualifications or skills; however, every effort will be made to ensure an equitable distribution of cases. A review of case distribution shall be conducted annually. In cases returning to court and requiring a guardian, every effort will be made to ensure the reappointment of the previous guardian to the case, unless otherwise specified by the court.

RULE 35 COURT DECORUM

At court hearings, all parties shall be properly attired. 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.

RULE 36 CONFLICTS OF INTEREST

The court, including all of its judges, magistrates, and employees, shall not accept any gift, favor, or item from any attorney or party.

RULE 37 SPECIAL NEEDS *E.G.*, INTERPRETERS, TRANSLATORS, 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 court administrator at (330) 643-2082 seven days prior to the hearing so that appropriate arrangements can be made.

RULE 38 ELECTRONIC 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 and dates of birth of any person including minor children;
 - (2) bank account or credit card numbers;
 - (3) separation agreements;
 - (4) shared parenting plans;
 - (5) Affidavits of Income, Expenses and Property; Affidavits of Income and Expenses; Dissolution Affidavit of Property and Income.
 - (6) Family Court Services referrals;
 - (7) income tax returns;
 - (8) third-party pleadings that contain any of the above information;
 - (9) exhibits attached to pleadings or submitted at hearings;
 - (10) letters;
 - (11) pretrial, post-trial, and post-decree briefs, statements, and memoranda;
 - (12) transcripts;

- (13) Qualified Domestic Relations Orders; or
- (14) other documents and pleadings as ordered by the court not to be made available for electronic viewing.

RULE 39 RECORDS RETENTION

- (A) All court records shall be retained according to the record retention schedule set forth in Rule 26 of the Supreme Court Rules of Superintendence.
- (B) Family Court Services files will be closed at the time an agreement is put on the record; evaluator has given testimony; or the parties have stipulated to the report. All files will be purged within three years of closing date unless a motion and order are filed to retain the file for a longer period.

RULE 40 SPECIAL PROJECTS FEE

Pursuant to Revised Code section 2303.201(E), the Clerk of Courts may charge, in addition to all other court costs, a special project fee on the filing of each action or proceeding. The purpose of a special project fee is to maintain the efficient operation of the court and the fees acquired shall be used to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services.