

# **RULES OF COURT TABLE OF CONTENTS**

**CHAPTER 1 - PURPOSE, APPLICABILITY, AMENDMENTS, AND DISTRIBUTION**

**CHAPTER 2 - ADMINISTRATION OF THE COURT**

**CHAPTER 3 - FILING PROCEDURES**

**CHAPTER 4 - CIVIL CASE ADMINISTRATION**

**CHAPTER 5 - MISCELLANEOUS PROCEDURES**

**CHAPTER 6 - JURY USE AND MANAGEMENT**

**CHAPTER 7 - [Reserved]**

**CHAPTER 8 - [Reserved]**

**CHAPTER 9 - [Reserved]**

**CHAPTER 10 - RULES APPLICABLE IN ALL DOMESTIC RELATIONS CASES**

**CHAPTER 11 - PARENTING PROGRAMS**

**CHAPTER 12 - CHILD SUPPORT**

**CHAPTER 13 - GUARDIAN AD LITEM**

**CHAPTER 14 - PARENTING COORDINATOR**

**CHAPTER 15 - MEDIATION**

**CHAPTER 16 - DIVISION OF PENSIONS OR OTHER RETIREMENT PLANS**

**CHAPTER 17 - DRUG TESTING**

**CHAPTER 18 - EVALUATIONS AND INVESTIGATIONS FOR THE ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES**

**CHAPTER 19 - [Reserved]**

**CHAPTER 20 - APPLICABLE RULES TO CRIMINAL CASES**

**CHAPTER 1**  
**PURPOSE, APPLICABILITY, AMENDMENTS, AND**  
**DISTRIBUTION**

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**RULE 1.01**

**PURPOSE AND APPLICABILITY OF THESE RULES AMENDMENTS,  
SANCTIONS, AND CITATIONS**

A. The following Local Rules are adopted by the General Division of the Defiance, Fulton and Henry County Courts of Common Pleas to provide the fair and expeditious administration of Civil and Criminal Justice. The provisions herein are to be construed and applied to eliminate delay, unnecessary expense and all other impediments to a just determination of civil and criminal cases.

B. The Rules of practice of this Court for civil cases apply to all criminal and domestic relations proceedings, except where clearly inapplicable or otherwise provided.

C. These Rules of Court shall apply in all proceedings in the General Division of the Defiance, Fulton and Henry County Common Pleas Courts unless in a particular instance the Court finds justice is otherwise better served.

D. These Rules may be amended upon the approval of a majority of the Judges of the General Division of the Court of Common Pleas of the aforementioned counties.

E. Failure to comply with these Rules may result in appropriate sanctions, including but not limited to, an award of attorney fees, costs, and dismissal of the action or granting of judgment.

F. These Rules shall be cited as “Local Rule 1.01”.

## **RULE 1.02**

### **DISTRIBUTION OF LOCAL RULES**

Copies of the Local Rules shall be deposited with and available from the Defiance, Fulton and Henry County Law Libraries by personal pickup or mail, the Defiance, Fulton and Henry County Clerk of Courts by personal pickup, and the three offices of the Court of Common Pleas, General Division by personal pickup and office website of the County if applicable.

## **RULE 1.03**

### **INCORPORATION OF THE RULES OF SUPERINTENDENCE**

The Rules of Superintendence for the Courts of Ohio as promulgated from time to time and amended by the Ohio Supreme Court are hereby adopted as rules of this Court except as they may be modified or implemented herein.

**CHAPTER 2**  
**ADMINISTRATION OF THE COURT**

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**RULE 2.01**

**TERM AND HOURS OF COURT**

A. The term of the Court for the General Division shall be a calendar year with the Court being in a continuous session commencing January 1<sup>st</sup> of each such calendar year.

B. Except for those days designated by law as legal holidays, normal court hours shall be 8:30 a.m. - 4:30 p.m. Monday through Friday, subject to change at the discretion of each Court to meet special situations.

**RULE 2.02**  
**COURT SECURITY**

A. Appropriate levels of security should exist in the Court to protect the integrity of Court procedures, protect the rights of individuals before it, deter those who would take violent action against the Court or litigants, sustain the proper decorum and dignity of the Court, and assure that Court facilities are secure for all those who visit and work here.

B. Pursuant to Rule 9 of the Rules of Superintendence for the Courts of Ohio:

1. The Court has appointed a local security advisory committee, consisting of one representative of each of the following groups: judges, law enforcement responsible for court security, commissioners, and other bar and community groups as deemed appropriate by the Court.
2. The Court has implemented a local security policy and procedure plan that has addressed the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

C. The Court shall adopt a security operations manual, which manual shall set forth written directives for the purpose of ensuring security within the Court while maintaining accessibility to the community.

## **CHAPTER 3**

### **FILING PROCEDURES**

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#### **RULE 3.01**

#### **FILES AND FILING PROCEDURE**

##### **A. FORM OF FILINGS, UNLESS DIRECTED OTHERWISE BY A JUDGE.**

1. In addition to the requirements of Civ. R. 10, all papers filed with the Clerk as pleadings, motions, applications, judgments and orders shall be on 8½ by 11 inch white paper, typewritten, or printed in a neat and legible manner, securely fastened together and page numbered if consisting of more than a single sheet.
2. Each paper filed by each party shall designate on the first page thereof the parties, the case number, the name of the judge, the identification of the filing, the name, address, Ohio Supreme Court registration number, telephone number, fax number and e-mail address, if any, of the counsel filing the paper or; if there is no counsel, then the party filing the paper.
3. All papers shall have a blank space of at least two and one-half (2½) inches at the top of the first page for file marks by the Clerk. All subsequent pages shall have a top margin of not less than one (1) inch.
4. All pleadings, motions or other papers of a party represented by an attorney shall be signed by at least one attorney of record. A party who is not represented by an attorney shall sign the pleading, motion or other paper. The Clerk shall reject any unsigned filing.
5. Subsequent to the date of the appointment of a visiting judge, counsel shall supply a copy of all pleadings, motions, or other papers filed for record with the visiting judge.

##### **B. JURY DEMAND**

If a jury demand, pursuant to Rule 38 of the Ohio Civil Rules of Procedure, is endorsed upon a pleading, the caption of the pleading shall state, "Jury demand endorsed hereon". Failure

to comply with Ohio Civil Rule 38 shall result in the case being tried to the Court and failure to include this statement on the caption shall be a waiver of jury trial, unless the demand for jury is contained in the body of the pleading. (See also, Local Rule (3.02(B)(4)).

C. NUMBER OF COPIES TO BE FILED

Upon the filing of a complaint or any other pleading or motion for which the service of summons by the Clerk of Courts is required, sufficient copies shall be filed so that one copy thereof may be provided to each party.

D. FILE SHALL REMAIN IN CLERK'S OFFICE

All papers filed with the Clerk in any action or proceeding shall remain in the Clerk's office except when required by the Court. No case file shall be removed from the Clerk's office by any party or any attorney.

E. AMENDING A PLEADING OR MOTION

Pleadings and motions may be amended at such time and in a manner provided by Civ. R. 15. However, no pleading or motion shall be amended by interlineation or obliteration, except upon leave of court.

F. FILING WITH CLERK OF COURTS BY ELECTRONIC MEANS

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to the court subject to the following conditions:

1. The following documents will not be accepted for fax filing: original wills and codicils, cognovit and promissory notes.
2. A document filed by fax shall be accepted as the original filing. The person making a fax filing need not file any source document with the Clerk of Courts but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable



rules, together with the original copy of the facsimile cover sheet used for the subject filing.

3. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for appeals are exhausted.
4. As used in these Rules, unless the context requires otherwise;
  - (a) A “facsimile transmission” means the transmission of a source document by a system that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
  - (b) A “facsimile machine” means a machine that can send and or receive a facsimile transmission.
  - (c) “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to a facsimile transmission or to a document so transmitted.
5. The person filing a document by fax shall also provide therewith a cover page containing the following information:
  - (a) The name of the court;
  - (b) The title of the case;
  - (c) The case number;
  - (d) The assigned judge;
  - (e) The title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss);
  - (f) The date of transmission;
  - (g) The transmitting fax number;
  - (h) An indication of the number of pages included in the transmission, including the cover page;
  - (i) If a judge or case number has not been assigned, state that fact on the cover page;

- (j) The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
  - (k) If applicable, a statement explaining how costs are being submitted.
6. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, the Clerk may, at his/her discretion:
    - (a) Enter the document in the Case Docket and file the document; or
    - (b) Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.
  7. The document filed by fax shall not exceed twelve (12) pages in length excluding the cover page.
  8. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing. However, if practicable, the Clerk of Courts may inform the sender of a failed fax filing.
    - (a) A party who wishes to file a signed source document by fax shall either:
      - 1) Fax a copy of the signed source or document, or
      - 2) Fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.
  9. The Clerk of Courts shall not be required to make additional copies for service. Parties requesting service by the Clerk shall supply the additional copies to be served by the Clerk within seven (7) day s of the facsimile filing.
  10. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.
  11. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

12. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.
13. Subject to the provisions of these Rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Courts will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
14. Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.
15. The Clerk of Courts may, but need not, acknowledge receipt of a facsimile transmission.
16. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Courts through whatever technological means are available.
17. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees, or which do not conform to applicable rules will not be filed.
18. No additional fee shall be assessed for facsimile filings.

G. THE COURT MAY DEVELOP RULES FOR OTHER FORMS OF ELECTRONIC FILING.

H. FILING VIDEO DEPOSITIONS

The filing of video deposition shall conform to Sup.R. 13, and in addition, a typed

certified copy of the transcript and a list of objections shall be filed along with the video deposition. (See also Local Rule 4.13).

#### I. SIGNATURE LINE

All Magistrate's decisions and all orders of the Magistrates and Judges shall have the name of the respective Magistrate or Judge printed or typed below their respective signature line.

## RULE 3.02

### COSTS AND SECURITY FOR COSTS

A. No motion to proceed In Forma Pauperis shall be granted by the Court unless there is attached thereto a statement by the attorney for the party executing such affidavit that he or she has not accepted and will not accept any attorney's fees in said cause until the costs are paid or secured to be paid.

B. Unless a motion to proceed In Forma Pauperis is filed and accepted by the Court or the Court waives deposit for costs or costs, the following amounts shall be deposited with the Clerk of Courts:

1. \$228.00 – Complaint, Counter-claim, Cross-claim or Third Party Complaint – Civil.
2. \$273.00 - Divorce, Dissolution, Alimony, Annulment or Cross-claim **with children**
3. \$223.00 - Divorce, Dissolution, Alimony, Annulment or cross-claim
  - (a) However the Court may determine at the first hearing the party most able to make the deposit; and upon Order of the Court, that party shall deposit an amount determined by the Court; and if the Court so orders, the Clerk shall refund the original deposit to the extent that combined deposit exceeds that required.
  - (b) Failure by the part to deposit the amount ordered may result in the party being sanctioned including the striking of any pleading or the case proceeding as in default.
4. \$500.00 – Service by Publication (in addition to the court deposit)
5. \$125.00 – Expungement/Sealing of Records (includes state fee)
6. \$150.00 – All Post-Judgment Motions **with children**
7. \$150.00 – All Post-Judgment Motions requiring a hearing

8. \$35.00 – Any Motion with Consent Judgment Entry modifying a previous final Judgment Entry or Decree of Dissolution of Marriage - \$plus \$3.00 per page journal charges. If A-OK ordered, the parties are to pay directly to A-OK program.
9. \$150.00 – Execution, or Order i n Aid of Execution, Debtors Exam, Garnishments
10. \$100.00 – Cognovit notes
11. \$25.00 – Service by Foreign county sheriff (for each service)
12. \$37.00 – Certificate of Judgment from another court
13. \$42.00 – Certificate of Judgment from the State of Ohio (includes release)
14. \$35.00 – Certificate of Judgment – making and filing
15. \$8.00 – Judgment Certificate – make and send to another court
16. \$43.00 – Foreign Judgment (per Am.S.B. No. 23)
17. \$5.00 – Certificate of Judgment release
18. \$5.00 – Recording of Notary Public Commission
19. \$7.00 – Recording of Notary Public Commission with oath
20. \$2.00 – Acknowledging all instruments in writing
21. \$7.50 – Victims of Crime Application filing payable to: Clerk of Courts
22. \$25.00 – Court Reporter Trials
23. Certified copy requests - \$.25 per page, plus \$2.00 per certification certificate, not added to costs paid by party requesting.
24. If a party is due a refund of deposit in any case, before making said refund, the Clerk of Courts may apply said refund to any court costs then owed by the said party.

C. Unless a poverty affidavit is filed and accepted by the Court, the following amounts shall be paid to the Clerk of Courts:

1. \$37.00- Judgment lien from another Court;

2. \$35.00 - Judgment lien from this Court;
3. \$ .25 - Copy fee per page for the first 25 pages;  
\$ .12 - per page for the next 75 pages;  
\$ .06 - per page thereafter.
4. Facsimile documents:
  - (a) A use fee of \$2.00 plus \$1.00 per page payable to the Clerk of Courts for transmitting from the Clerk's electronic facsimile machine. No fee for use of the Clerk's electronic facsimile machine shall be charged for cases involving Domestic Violence.
  - (b) The costs associated with facsimile transmissions shall be billed immediately to the party either transmitting or requesting receipt of facsimile copies.
  - (c) If the attorney requires a file-stamped copy to be returned to him or her and has not provided a copy for this purpose or if the attorney has not provided a copy for the judge's file, the charge for making copies will be \$.25 per page for the first twenty-five (25) pages, \$.12 per page for the next seventy-five (75) pages, and \$.06 per page thereafter. (See Local Rule 3.01(F)(5)).

D. If a check or other negotiable instrument for deposit for costs is dishonored for any reason, the filing may be dismissed by the Court after ten (10) days notice is given to the filer for failure to pay the required security for costs.

E. If at any time the deposit for costs becomes insufficient in any case, the Clerk shall require of the appropriate parties an additional deposit in an amount sufficient to secure the reasonably anticipated costs.

F. When a judgment entry orders payment of costs by a party who has a deposit with the Clerk, the costs shall be deducted from that party's deposit, if sufficient, and any balance shall be returned to the depositor. If, however, the deposit is insufficient or that party has no deposit, then the amount still due shall be deducted from any deposit held in the case. If there is a failure to pay within sixty (60) days from the Clerk's cost statement by the party so ordered, the Clerk shall deduct the costs from any deposit held in their case. The Clerk shall bill the party ordered to pay costs for any deficiency. Upon payment, the Clerk shall refund the deposits to the appropriate party.

G. If notice of voluntary dismissal is filed by a plaintiff or an appellant, the dismissal shall be at the cost of the dismissing party, unless otherwise ordered.

H. When the final judgment entry does not specify who is to pay costs, the Clerk shall deduct the costs equally from any deposits held and refund the remainder. If the deposits are insufficient to satisfy the Court costs, the clerk shall then assess the excess costs to the parties equally unless otherwise ordered.



I. Clerk shall keep a list of all unpaid or accrued costs in all proceedings where costs have been taxed and shall send statements to all persons against whom costs have been taxed, in all proceedings that have become final, at least every three (3) months. After two (2) such notices, if the costs have not been paid, the Clerk may issue a certificate of judgment for the amount of such costs without further order.

J. The commission charged by the Clerk of Courts pursuant to R.C. 2303.20(V) shall be paid by the party paying or depositing money with the Clerk unless otherwise ordered by the Court.

K. Arrangements for the payment of the costs of transcripts shall be made with the Court Reporter at the time the transcript is ordered.

**CHAPTER 4**  
**CIVIL CASE ADMINISTRATION**

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**RULE 4.01**  
**CASE MANAGEMENT**

**A CASE TERMINATION SCHEDULE**

While there may be exceptions due to the peculiarities of a given case, it is the intent of the Court that cases of the following classification be terminated within the time frame set forth from the date of filing:

Habeas Corpus.....	60 days
Foreclosure.....	150 days
Administrative Appeals.....	180 days
Forcible Entry and Detainer.....	120 days
Declaratory Judgment.....	210 days
Injunction.....	180 days
Other Civil.....	240 days
Worker’s Compensation.....	240 days
Personal Injury.....	360 days
Product Liability.....	360 days
Professional Torts.....	360 days
Other Torts.....	360 days
Complex Litigation.....	720 days
Ruling of Summary Judgment.	45 days

**B. SCHEDULING ORDER**

Within thirty (30) days after close of pleadings, the Court schedule an initial pre-trial conference.

**C. CONTINUANCES**

All applications for the continuance of any scheduled event must be in writing and

directed to the Judge or Magistrate assigned to the case.

1. No event will be continued without contemporaneously reassigning a fixed date.
2. All applications for continuances shall be submitted to the Court at least fourteen (14) days prior to the scheduled date for the event sought to be continued, absent emergency or cause deemed sufficient by the Court.
3. All applications for continuances shall contain the following information:
  - (a) The reason for the request;
  - (b) The time and date of the current assignment;
  - (c) A statement indicating that counsel has informed his client of the request or in the alternative why the client has not been informed of the request.
  - (d) A statement indicating opposing counsel has been notified or in the event of an unrepresented party, the party has been notified, or the reason opposing counsel has not been notified and whether opposing counsel has consented to the continuance;
  - (e) A new date within sixty (60) days which has been approved by the Court and opposing counsel in the event the Court grants the application for continuance.
4. All requests for continuance based upon a conflict of trial assignment shall have attached thereto a copy of the conflicting assignment.
5. No party shall be granted a continuance of a trial or evidentiary hearing unless the motion is endorsed by the party as well as counsel, provided the trial judge may waive this requirement upon a showing of good cause.
6. All motions shall be accompanied by a proposed order which shall include the new date.

#### D. JURY VIEW

Except as provided by law a jury view shall be requested at least thirty (30) days before trial or unless otherwise ordered.

E. REFERRAL TO MEDIATION

The Court may order any case to mediation if it determines that the just and fair disposition of the case may be served.

F. REFERRAL TO SUMMARY JURY TRIAL

The Court may with the consent of all parties order a case to be heard by Summary Jury Trial pursuant to Local Rule 5.10.

**RULE 4.02**  
**REVIEW AND DISMISSAL OF CIVIL CASES**

A. Each Judge shall quarterly review or cause to be reviewed all cases assigned to the respective Court.

B. Cases which have been on the docket for six (6) months without any proceedings or activity taken therein shall be dismissed for lack of prosecution after notice to counsel of record or parties, unless good cause be shown to the contrary. (Civ. R. 4(E)).

**RULE 4.03**  
**MOTIONS**

A. Each motion must be submitted by separate pleading with representations of fact to support the motion and a memorandum of law containing citations to authority in support of the motion.

B. Copies of briefs and memoranda provided for the Court and for all parties shall have attached thereto a copy of all unreported cases, or other references cited or referred to, and counsel may highlight on all copies what they want the Court to review.

C. If the motion is one to continue a matter, to vacate a hearing or trial, or a similar motion where citations are not necessary, the memorandum must contain representations of fact verified by the attorney or an affidavit in support of the motion. (See also, Local Rule 4.01(C)).

D. All motions must be accompanied by a separate proposed Order.

E. The following motions may be considered *ex parte*:

1. Confirmation of sale; granted immediately if approved by all parties, otherwise, granted five (5) days after sale;
2. Amend a pleading;
3. File a third party complaint;
4. Withdraw as attorney of record; (as set forth in Local Rule 4.14);
5. Enlarge time to move or plead or respond to discovery;

6. Vacate a trial or hearing date;
7. Substitute parties;
8. Reconsider;
9. Dismiss by stipulation;
10. Temporary restraining order; (for domestic relation cases, see Local Rule 10.04);
11. To intervene;
12. For leave to answer or otherwise plead;
13. Motion in limine;
14. Motions for admission Pro Hac Vice;
15. Any other motion, for good cause shown.

F. For all motions not specified in (E) above, opposing counsel shall serve any desired response within fourteen (14) days after service of the initiating filing unless otherwise ordered.

G. Motions for summary judgment shall be deemed submitted twenty-eight (28) days after the motion is filed. Unless required by other rule or requested by counsel, all other motions shall be considered submitted upon the written motion, affidavits, and memoranda. If counsel requests a hearing, it must be endorsed upon the motion and included in the caption.

H. When a party files a motion to amend a pleading, he shall provide the Court with a proposed judgment entry which shall have attached thereto the proposed amended pleading. If the motion is granted, the amended pleading shall be filed with the Clerk by the Court.

**RULE 4.04**

**ORDERS AND JUDGMENTS**

A. The Court shall transmit, or direct the Clerk of Courts to transmit, copies of judgment entries or other orders to all counsel and unrepresented parties and represented parties if so ordered.

B. Copies of a judgment entry, or an order prepared by counsel, shall be in sufficient quantity so the Clerk of Courts may distribute one to each trial counsel and unrepresented parties. One drop copy shall be provided to the Clerk in all domestic relations cases involving the payment of child support or spousal support.

1. All judgment entries incorporating a separation and property settlement agreement or shared parenting plan shall have attached thereto a copy of the separation and property settlement agreement or shared parenting plan.
2. Judgment entries and orders of dismissal by compromise prepared by counsel shall be approved by all counsel of record, and submitted to the Court within twenty-eight (28) days after notice to the Court of settlement or as otherwise agreed by the Court.
3. Failure to submit the appropriate judgment entry or order by counsel may result in the Court preparing and filing a dismissal or taking other appropriate action.
4. If counsel to whom the entry or order has been sent does not object, then he/she shall sign the entry and return it to the preparing counsel. If counsel does not agree with the submitted entry or order, he/she shall prepare and submit the original to preparing counsel and entry with proposed modification.
5. If no response is made to original preparing counsel within fourteen (14) days, preparing counsel shall submit the entry or order along with the submitting letter to the Court with the following certification:

I HEREBY CERTIFY THAT THE FOREGOING ENTRY  
OR ORDER WAS (MAILED, DELIVERED, OR FAXED)  
TO \_\_\_\_\_, COUNSEL FOR



PLAINTIFF/DEFENDANT, ON THE \_\_\_ DAY OF \_\_\_\_\_, 20\_\_ AND HAS NOT BEEN RETURNED, REVISED NOR OBJECTED TO.

6. If counsel cannot agree on an entry or order within twenty-eight (28) days of the original submission then copies of both the original and response order or entry drafts shall be submitted to the Court. The Court may adopt either entry, make its own entry, or set a date for a hearing on the proposed entries.

C. The Court shall include the vehicle identification number (VIN), year, make and model in every order directing the issuance of title to a motor vehicle.

D. Judgment entries in all actions involving title to real property shall include a legal description of the property in question.

E. All final appealable orders will be delivered to counsel and unrepresented parties and represented parties will be delivered by the Clerk by regular U.S. mail within three (3) days of journalization. If counsel desires the Clerk to provide an additional copy in their mailbox in the Clerk's office, counsel will submit an additional copy to those required in Local Rule 3.01(C) noting thereon the special delivery requested.

**RULE 4.05**

**RULE DAYS NOT FIXED BY LAW**

In all cases where the time for the filing and service of a notice or pleading is not otherwise fixed by law or applicable rule, a response to a pleading, motion, amended pleading, or other paper shall be filed and served on or before the fourteenth (14<sup>th</sup>) day after the date of service of the pleading, motion or other paper, requiring the response. Any reply to said response shall be filed and served on or before the seventh (7<sup>th</sup>) day after the date of service of the response.

**RULE 4.06**  
**DISCOVERY**

A. Counsel shall participate in timely pretrial discovery in order to limit the issues in controversy.

B. Parties who intend to call expert witnesses are required to obtain from the expert witness a written report which shall state the expert's opinion and the factual basis for that opinion.

C. The expert's report and all relevant documents, including all records and bills of an expert witness shall be provided to opposing counsel at least ten (10) days prior to the taking of said expert's deposition or final settlement pre-trial, whichever occurs first.

D. Upon application of any party or upon the Court's own motion, the Court may order such restrictions on the use and availability of a report as the Court deems appropriate.

**RULE 4.07**  
**CIVIL PRETRIAL**

A. At any civil pretrial conference set by the Court, counsel shall be prepared to discuss the following:

1. Pleadings;
2. Jurisdiction;
3. Venue;
4. Pending motions;
5. Itemization of expenses and special damages;
6. Possibility of settlement;
7. Dates for completion of discovery and trial, unless prior order has determined such;
8. Simplification of issues;
9. Additional deposits as security for costs, including jury fees;
10. Alternate dispute resolution.

B. At final pretrial conference counsel may be directed to submit to the Court all written stipulations of fact and anything required that had not been previously submitted.

C. At the conclusion of the pretrial conference an order will be prepared reciting the action taken and controlling the subsequent course of the action. The Court may advise those parties present of the matters dealt with in the pretrial conference, on or off the record.

D. The Court shall order a settlement pretrial conference whenever a jury demand has been filed. Said settlement pretrial conference shall occur at least thirty (30) days prior to the trial date. After the conclusion of the settlement pretrial conference, the Court may order the

party who filed the jury demand to pay and additional deposit of \$350.00 to secure payment of the jury costs.

E. Settlement pretrial conferences shall be attended by all parties, insurance adjusters and trial counsel. The Court may order all parties, insurance adjusters and their attorneys to be present for preliminary pretrial conferences, except scheduled telephone pretrial conferences. All counsel shall be authorized and prepared to enter into such stipulations and agreements as may be appropriate. Any additional persons necessary to enter into agreements shall be present or immediately available to the conference.

F. Trial counsel shall be required to submit a written settlement memorandum to the Court ten (10) days prior to the settlement pretrial conference. Counsel shall further submit a notice of filing of the settlement memorandum with the Clerk of Courts. The settlement memorandum shall not be part of the record and shall be considered as an offer and compromise under the Rules of Evidence and therefore inadmissible in the case.

G. Failure of counsel or an unrepresented party to appear at any scheduled pretrial conference or otherwise fail to comply with any pretrial order, may result in dismissal, default, or the imposition of such sanctions as the Court may determine. In the event of a failure of counsel or unrepresented party to appear, the Court shall set a date within two (2) weeks of the scheduled event for which counsel or the unrepresented party failed to appear to determine what sanction should be administered.

**RULE 4.08**

**NOTICE OF HEARINGS/APPEARANCE OF COUNSEL**

A. The Court shall send written notice of all hearing dates to counsel, unrepresented parties and/or represented parties if so ordered. Notice to counsel and unrepresented parties shall be at the address on pleadings or the mailbox in the Clerk of Courts office. It shall be counsel's responsibility to notify clients of all hearing dates.

B. When a party is dismissed, withdraws or a substitution of counsel is ordered, said party and/or counsel shall be shown as dismissed on the Clerk's computerized records.

**RULE 4.09**  
**COGNOVIT JUDGMENTS**

A. When a complaint is presented to the Court for the rendering of a cognovit judgment, it shall contain or be accompanied by an affidavit to the effect:

1. That the maker of the cognovit now resides in the county in which the action is brought;
2. That the maker, or any one of several makers, of the cognovit note signed the warrant of attorney in the county in which the action is brought;
3. That the instrument does not arise out of a consumer loan or a consumer transaction. (ORC Section 2323.13(E)).

B. The attorney who represents the judgment creditor shall include in the complaint a statement setting forth to the best of his knowledge the last known address of the defendant or defendants.

C. Immediately upon the entering of any judgment, the attorney who represents the judgment creditor shall furnish a copy of the pleadings and judgment entry to the Clerk of Courts. The Clerk shall notify the defendant or defendants by mailing a copy of the pleadings and judgment entry by registered or certified mail at the address set forth in the complaint.

D. In all cases, the original note shall be presented for cancellation by the Court, or its absence adequately explained.

## **RULE 4.10**

### **TRIAL AND HEARING RULES**

A. Only one counsel for each adverse party will be permitted to speak on any interlocutory matter, or upon any question arising in the trial or proceeding. One counsel for each adverse party will be permitted to examine or cross-examine the same witness. Exceptions are by leave of court only.

B. The party requiring special presentation equipment shall be responsible for providing the equipment for trial and the cost thereof.

C. Except for court security or police officers present for security purposes, no personal communication equipment, i.e. pager, cellular phone, etc. shall be activated or used in the courtrooms.



## **RULE 4.11**

### **RETENTION OF EXHIBITS AND EVIDENCE**

A. The official court reporter shall receive and hold all exhibits proffered and/or admitted into evidence during trial in any case. The exhibits shall be secured until release is consented to, court ordered, or the documents and list of exhibits are filed with the Clerk of Courts as part of the transcript of an appeal.

B. All evidence received pursuant to "A" shall be held until the appeal time has expired. Evidence shall be returned to the party submitting it unless otherwise disposed of pursuant to court order. Persons receiving such evidence must sign a receipt.

C. Evidence held by a law enforcement agency shall be controlled by R.C. 2933.41, 2925.42 and 2925.43.

D. All exhibits offered as evidence but not admitted shall be retained by the court reporter until the time for appeal has expired. Exhibits that were not offered as evidence shall be returned by the court reporter to the owner at the end of the trial. The owner of these exhibits shall execute a receipt for exhibits returned, but no court order shall be required.

E. After all appeal time has expired the Clerk of Courts may dispose of any exhibits, depositions or transcripts remaining in his/her office. The Clerk, after notice to the parties or their attorneys, shall dispose of these items unless application is made for their return within sixty (60) days of the date of the notice.

**RULE 4.12**  
**TRANSCRIPTS**

Once a transcript of a proceeding is filed by the court reporter, it must be preserved in its original format to prevent the possibility of alteration or destruction since it has been certified as correct by the stenographer or shorthand reporter.

Therefore, in accordance with the Ohio Revised Code Section 2303.09, 2301.24, 2301.25, and other Rules of Court of Common Pleas, General Division, and the general case law of the State of Ohio, such transcripts may not leave the possession of the Clerk, except for purposes of being examined in the presence of the Clerk of Courts or one of the deputy clerks.

Failure to comply with the above Rule may render the transcript/deposition invalid as a correct and certified copy for purposes of the record and subject any party so violating this Rule to payment of the costs and expenses of another official transcript/deposition to be recertified by the official court reporter.

**RULE 4.13**  
**VIDEOTAPE DEPOSITIONS**

The taking of and filing of video depositions shall conform to Sup. R. 13 and the following rules:

A. Objections must be made after the question or answer. Counsel should state the basis for the objection on the record and may read citations into the record.

B. With the Court's approval videotape depositions may be made available for inspection or viewing after filing and prior to use at trial. Upon court order, the officer before whom the video was made may use such videotape for purposes of making a copy for a party.

C. The party filing the video deposition other than a VHS video is responsible for checking with the Court to see if the necessary equipment is available.

D. The costs of trial depositions may be taxed as costs.

## **RULE 4.14**

### **SUBSTITUTION AND WITHDRAWAL OF COUNSEL/ENTRY OF APPEARANCE**

A. Any attorney filing a Complaint, Answer, Motion or Entry of Appearance shall be regarded by the Court as being the trial attorney and as having responsibility for the case until substitution of counsel or motion to withdraw is received and approved by the Court.

B. Substitution of counsel may be approved only upon entry of appearance by succeeding counsel or upon submission of the following to the Court:

1. A proposed entry of substitution approved by withdrawing and succeeding counsel.

C. Withdrawal of counsel may be approved only upon compliance with the terms set forth in DR 2-110 of the Code of Professional Responsibility and upon submission the following to the Court:

1. A certification from the attorney seeking to withdraw from the case stating:
  - (a) The reason for the need to withdraw;
  - (b) That the client has received the withdrawing attorney's entire file on the case, or that the client has been given express written notice of where and when the entire file may be obtained;
  - (c) That a written notice containing all court dates and deadlines have been given to the client.
2. A proposed entry.

**RULE 4.15**

**MAGISTRATES IN CIVIL CASES**

The Court may by order of reference assign a Magistrate to a case or motion or for specified period of time pursuant to terms and limitations of Civ. R. 53.

CHAPTER 5  
MISCELLANEOUS PROCEDURES

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**RULE 5.01**  
**NOTARY PUBLIC**

Any persons contacting the Common Pleas Court or the Clerk of Court's office regarding appointment as a Notary Public shall be provided with an application form and shall be directed to the office of Judge or Judges who are currently approving notary applicants.

The Court shall establish procedures for approving notary applications and for any and all charges to be incurred in the filing of an application therefore.

**RULE 5.02**

**GUARDIAN AD LITEM IN NON DOMESTIC RELATION CASES**

A. Except as provided in Local Rule no person other than an attorney at law admitted to practice in the State of Ohio, shall be appointed Guardian ad Litem in a non domestic relations case in this Court

B. Upon the application of any party to a proceeding for the appointment of a Guardian ad Litem, the Court shall require a deposit of a sum not less than \$500.00, unless the Court determines a lesser sum is appropriate. All costs in excess of the deposit shall be taxed as court costs and paid as determined by the Court.

**RULE 5.03**  
**ATTORNEY'S FEES**

A. Attorney fees relative to all matters shall be governed by the Code of Professional Responsibility, DR 2-106.

B. In any case where attorney fees are to be awarded, counsel may be required to provide to the Court an itemized statement showing the hours worked and a detailed accounting of expenses.

C. An indigent's counsel in a case shall be paid at the rate adopted by the Defiance/Fulton/Henry County Commissioners.

D. Attorneys requesting fees in a partition action are not required to provide an itemized statement as set forth in (B) above if the amounts fall within the following guidelines:

1. Seven percent (7%) on the first \$20,000.00 of the sale price;  
Three percent (3%) on the next \$80,000.00;  
Two percent (2%) on all sums in excess of \$80,000.00  
However, the minimum fee shall be \$500.00.
2. The fees shall be distributed pursuant to R. C. 5307.25.
3. Other fees may be permitted by leave of court only, under extraordinary circumstances.



## **RULE 5.04**

### **FORECLOSURE, QUIET TITLE, PARTITION AND JUDICIAL SALE**

A. In cases to quiet title, for partition, and for the marshalling and foreclosure of liens on real property, (other than delinquent real estate tax foreclosure actions) counsel for plaintiff must file the following with the Clerk at the time of the filing of the original complaint or petition:

1. A statement of owners and lienholders or a preliminary judicial report, including the names of the owners of the property, and a reference to the volume and page and date of recording of the next preceding recorded instrument by or through which the owners claim title, as the same shall have been prepared and extended by a responsible title company to a date not over thirty (30) days prior to the filing of the complaint, the costs of which are taxed as costs;

B. After all the defendants have been served with the complaint, counsel for the plaintiff shall obtain and file an updated title report establishing all lienholders have been made parties and served with the complaint.

#### **C. APPRAISER'S FEES**

1. \$.50 per \$1,000.00 or fraction thereof of the appraised value up to \$50,000.00.
2. \$.25 per \$1,000.00 or fraction thereof of the appraised value of all over \$50,000.00.
3. A minimum fee for each appraiser based on the above amounts shall be \$15.00.

D. Appraisers shall be granted access to the real property for the purpose of appraising

the premises to be sold at Sheriff's sale. If a landowner or occupier of the premises to be sold does not permit the appraiser to enter the premises, the Sheriff may aid the appraiser in gaining access without further order of the Court.

E. No order of sale shall be approved unless the following conditions have been met:

1. Counsel has filed a written declaration to the Court that all lien holders of record have been notified of the application for order of sale;
2. The proposed order of sale contains a legal description certified by the appropriate county official as being accurate.

F. Advertisements for any judicially ordered sale shall state that the successful bidder must deposit ten percent (10%) of the successful bid on the day of the sale with the balance due within thirty (30) days of the date of confirmation.

G. At the time of publication of any judicially ordered sale, the Sheriff shall provide the Clerk of Court written notice of the time, date and location of the sale. The Clerk of Courts shall provide written notice to all counsel and unrepresented parties of the time, date and location of the judicially ordered sale.

H. Failure of the successful bidder to pay the balance of proceeds due within thirty (30) days of confirmation shall subject the ten percent (10%) deposit to forfeiture to apply to the costs of sale and other losses incurred by the distributees.

I. Plaintiff's counsel shall file the proposed deed with the Sheriff within thirty (30) days of the order confirming sale.

**RULE 5.05**  
**RECEIVERSHIPS**

A. In all cases where receivers are appointed by this Court, the following procedure shall apply:

1. Unless the Court by entry specifically authorizes the continuation of a business, the receiver shall promptly take control of the assets of the defendant debtor and cause the same to be inventoried and appraised; give notice to all the same to be inventoried and appraised; give notice to all known creditors of the receivership by regular mail, and to all unknown creditors by publication; afford the creditors an opportunity to present and prove their claims; determine the validity and priority of all claims presented; take such steps as may be necessary to reduce the assets to cash; and, make distribution thereof to the creditors.
  - (a) Within sixty (60) days after being appointed, the receiver shall file an inventory and appraisal of assets, and an account of receipts and disbursements to date. The several matters herein referred to shall be considered by the Court, and approval thereof shall be by entry, after due notice to the creditors.
  - (b) Semi-annually thereafter, the receiver shall file consecutively numbered reports as to all activities of the receivership since the last report, and outline the plans for the receivership during the next six (6) months.
  - (c) In cases involving receivers appointed to take charge of property and to collect rents and other income, the receiver may expend funds, without first having obtained court approval thereof, to pay insurance premiums, utility bills, and such emergency repairs as are necessary for the preservation of the property. All other expenditures shall require prior approval of the Court.
  - (d) In all receiverships in which the appraised value of the property is in excess of \$1,000.00, the receiver shall file a report in advance of any sale, either public or private, or the estimated expenses to be incurred in conducting the sale.
  - (e) No payment of fees and expenses may be made to the receiver or counsel for the receiver except upon written motion, accompanied by an itemized statement, setting forth the time spent on

enumerated items since the last application for payment of fees, the amount of funds on hand, the current status of the receivership, and an estimate of the amount of time and expenses necessary to conclude the work of the receivership. Notice of hearing thereon and an opportunity to file objections shall be given to the creditors.

- (f) Failure to file an inventory and appraisalment, accounts, or other reports as required by this rule shall constitute just cause for the removal of the receiver and/or counsel for the receiver, and/or for withholding of their fees.

**RULE 5.06**  
**PUBLICITY**

A. No attorney, nor officer or employee of the Court shall discuss matters with the media that might interfere with a fair trial or otherwise prejudice the administration of justice.

B. Where deemed appropriate, the Court may issue a special order governing:

1. Extra-judicial statements by counsel or others;
2. Spectators at trial;
3. Sequestration of witnesses and jurors; and
4. Any other matters the Court may deem necessary.

## **RULE 5.07**

### **BROADCASTING, RECORDING AND PHOTOGRAPHING DURING COURT SESSIONS**

A. Broadcasting, televising, recording and photographing during Court sessions shall be permitted only under the following conditions:

1. Requests for permission of media to participate under this Rule shall be made in writing to the Judge or Magistrate to whom the case was assigned no later than five (5) days prior to the session involved. The Judge or Magistrate involved with the particular session may waive the advance notice requirement for good cause.
2. The Court shall grant the request in writing or by order consistent with Canon 1 of the Code of Judicial Conduct, Superintendence Rule 12, and these Rules in the event the Court determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial or hearing. The written permission shall be made a part of the record in the case.
3. In the event of a continuance of the court proceeding for which media permission has been granted for a period of more than thirty (30) days, a new media request shall be required.
4. All media representatives interested in recording courtroom proceedings shall do so through the pooling of their respective resources. Such arrangements shall be made prior to reopening of the court session and without imposing on the trial court or court personnel. In the event disputes arise over the arrangements between or among media representative, the Court shall exclude all contesting representatives from the proceeding;
5. The Court shall specify the locations(s) in the courtroom where the operators and equipment are to be positioned. Media representatives shall be afforded a clear view of the proceedings in the courtroom. Any equipment shall be ready for operation prior to commencement of court sessions. No persons will be permitted to bring equipment into or remove equipment from the courtroom or move about during times when Court is in session;
6. No interview shall be conducted inside the courtroom during any time that Court is in session;
7. Only one video camera shall be permitted in the courtroom operated by no more than one person;

8. No artificial lighting shall be used other than normal courtroom lighting;
9. Only one still photographer shall be permitted in the courtroom;
10. Only one audio system for radio broadcast shall be permitted in the courtroom;
11. Audio tape recording equipment may only be used with permission of the Court involved;
12. Media pooling equipment shall be located outside the courtroom;
13. Changes of tape or reloading audio and video equipment is not permitted inside the courtroom during proceedings;
14. No equipment shall be used inside the courtroom that produces distracting sounds as determined by the Judge or Magistrate involved;
15. There shall be no audio pick up or broadcast of conferences conducted between attorneys and clients, co-counsel, opposing counsel, or trial court and counsel at bench conversations;
16. There shall be no video, film, audio, or still photo of victims, or witnesses who object thereto;
17. There shall be no video, film, audio, or still photo of jurors;
18. Media is not permitted access to proceedings in either the Judge's chambers or in the jury deliberation room;
19. Media is not permitted to record in any manner any document or exhibit used at the session except those audio-visual aids used during the session that are clearly perceived by the gallery at large unless permission to do so is granted by the Court;
20. Proper courtroom decorum shall be maintained by all media representatives, i.e. proper attire and demeanor;
21. All bags, equipment or other materials brought to the courtroom shall be subject to search by security officers at anytime.

**RULE 5.08**  
**FOREIGN JUDGMENTS**

A. When a foreign judgment is presented to the Clerk of Courts for the purpose of a proceeding in aid of execution, the Clerk shall assign a case number.

B. The proponent submitting the foreign judgment must provide a judgment entry with original certifications of authenticity from the foreign jurisdiction.



**RULE 5.09**

**OUT OF STATE SUBPOENAS TO BE SERVED IN DEFIANCE, FULTON  
AND HENRY COUNTY**

A. When a request is presented from an out-of-state litigant to have subpoenas served upon Defiance, Fulton and Henry County residents, the Clerk shall assign a case number to such action and assign such action to a Judge.

B. The Clerk of Court shall secure a deposit for costs before processing and serving the subpoenas as required by the out of state litigant.

## **RULE 5.10**

### **SUMMARY JURY TRIAL (SJT)**

A. The Court may with consent of all parties, order SJT to be undertaken in any civil case as a settlement procedure and as such shall not be binding unless otherwise stipulated by the parties.

B. The matter should be trial ready prior to SJT. Counsel shall assume that no additional discovery may be completed between the SJT and the traditional trial.

C. The Court may conduct a prehearing conference to consider proposed stipulations and to review the following:

1. Proposed jury instructions and briefs on any novel issue of law;
2. A list of all witnesses to be introduced by reference during the SJT presentation;
3. A list of all physical exhibits, documents and expert reports to be introduced to the jury.

D. Each party shall deposit with the Clerk \$100.00 as security for the payment of costs incurred upon the case being assigned for SJT and no later than thirty (30) days prior to the date set for SJT.

E. The matter shall ordinarily be heard before a jury of six (6). Unless otherwise agreed a venire of ten (10) prospective jurors shall be selected by random draw from the jury pool or by other means as the Court determines. Each counsel will be permitted no more than two (2) challenges following a brief voir dire examination to be conducted by the Judge. Ordinarily there will be no alternate jurors.

F. All parties and adjusters or other liable parties will be in attendance at the SJT.

G. No witnesses will be called to testify. All evidence will be presented through the attorneys for the parties. The attorneys may summarize and comment on the evidence and may summarize or quote directly from depositions, interrogatories, requests for admissions, documentary evidence, and sworn statements of potential witnesses. However no witness's testimony may be referred to unless the reference is based upon one of the products of the various discovery procedures, or upon a written sworn statement of the witness.

H. Subject to modification at the Court's discretion, each party shall have a maximum of one (1) hour for case presentation and argument.

I. Objections will be received if during the presentation counsel exceeds the limits of propriety in presenting statements as to evidence or argument thereon.

J. After counsels' presentations the jury will be given an abbreviated charge on the applicable law. The content of the charge will be reviewed with counsel prior to the SJT. However, the Court will remain final authority.

K. The jury will be encouraged to return a consensus verdict as to liability and or damages. Jury verdict forms will be utilized for comparative negligence and other issues when applicable. Five (5) jurors must concur in verdict.

L. Upon rendering the advisory verdict the jury will be encouraged to share its observations and opinions with counsel, the parties and the Court.

M. The Court shall initially advise the jurors of the abbreviated, experimental nature of SJT. The jury will be advised that its verdict is advisory only upon its return of a verdict.

N. Unless specifically otherwise ordered by the Court, the proceedings will not be recorded. Any party desiring a transcript shall make arrangements for a court reporter and cause such transcript to be prepared at the requester's expense, and it shall not be taxed as costs.

O. Neither the presentation of counsel nor the jury verdict may be used as evidence in any subsequent trial.

P. Counsel may stipulate that a verdict by jury will be deemed final determination on the merits and the judgment be entered thereon by the Court, or may stipulate to any other use of the verdict that will aid in resolution of the case.

Q. These provisions may be modified by the Court to accommodate specific or unique circumstance. All stipulations entered into concerning these proceeding shall be written as an addendum to the order for SJT and shall meet with the approval of the Court.

R. The procedure shall be construed and implemented to secure the just, speedy and inexpensive conclusion of the case.

## **RULE 5.11**

### **MEDIATION IN CIVIL CASES (NON-DOMESTIC RELATIONS)**

Upon order of the Court, a civil action filed in this Court may be submitted to mediation as provided in this Rule. By participating in mediation, a non-party participant, as defined by Ohio Revised Code Section 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

Mediator is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer.

A. CASE SELECTION AND TIMING FOR MEDIATION - All civil cases may be referred to mediation. Before the scheduling conference in the case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel. Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order, or to determine the penalty for violation of a protection order.

At the scheduling conference the parties and counsel shall advise the Court of the results of their discussions concerning whether or not to send a case to mediation. At the time and at subsequent conferences, if necessary, the Court may explore with the parties and counsel the possibility of using mediation.

B. REFERRAL TO MEDIATION - The case is referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the joint motion of counsel or upon referral by the mediator. A party opposed to either the referral or the appointed mediator must file a written objection with the Court within seven days of receiving the order to mediation and explain the reasons for any opposition.

C. CONTINUANCES - Continuances shall be granted only for good cause shown and after a mutually acceptable future date has been determined. No continuance will be granted if the mediation cannot be scheduled prior to the settlement conference.

D. NO STAY OF PROCEEDINGS - All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

E. MEDIATION PRIVILEGE - Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05.

F. CLIENT DEFINED CONFIDENTIALITY - If the parties believe that confidentiality is necessary, then the parties shall effect a written confidentiality agreement prior to the mediation.

G. MEDIATOR'S DUTY - The mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

H. DUTIES OF ATTORNEYS/PARTIES - Trial counsel, all parties and, if applicable, the principal insurance adjuster(s), all with authority to settle, shall personally attend all mediation sessions and be prepared to discuss all relevant issues, including settlement terms, unless excused in advance by the Mediator with notice to the other parties and provided the party or person shall be available at all times during the mediation session by telephone conference. A party other than a natural person must be represented by a person other than counsel.

If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge of such fact.

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have been subject to domestic abuse or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to

disclose such information to the mediation staff. Such parties shall have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 prior to, and, in the mediator's discretion, during the mediation session(s).

I. SANCTIONS - If any of the individuals identified in the above-paragraph fail to attend mediation without good cause, the Court may impose sanctions, including the award of attorney's fees and other costs, contempt or other appropriate sanctions.

J. IMMUNITY - A mediator acting pursuant to this local rule shall have all immunity conferred by statute, rule and common law.

K. NO ADVICE - The efforts of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The mediator is authorized to provide such referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

L. ADMINISTRATIVE DISMISSAL - If the parties fail to dismiss a settled case within the later of sixty (60) days or the time noted in the entry that gave the Court notice of settlement, then the Court may dismiss the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

**RULE 5.12**

**APPEALS FROM ADMINISTRATIVE AGENCIES**

A. Except as otherwise provided by specific rule, statute or court order, in all cases originating in administrative agencies and appealed to this Court, the following briefing schedule shall be followed:

1. The appellant's brief shall be filed within thirty (30) days after the record is filed by the administrative agency;
2. The appellee's brief shall be filed within fourteen (14) days after service of appellant's brief;
3. The appellant may file a reply brief within seven (7) days after service of appellee's brief.

B. This Rule shall not apply to any determinations of the Child Support Enforcement Agency.



**CHAPTER 6**  
**JURY USE AND MANAGEMENT**

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**RULE 6.01**

**ADMINISTRATION OF THE JURY MANAGEMENT RULES**

The implementation and oversight of these Rules shall be the responsibility of the Administrative Judge. Oversight shall include, but not be limited to:

A. A periodic review of the jury source list for its appropriateness and sufficiency to meet the demands of the Courts and the ends of justice; and

B. A periodic review of the procedures used in selecting, notifying and utilizing jurors to assure that jurors are being utilized efficiently and without unnecessary inconvenience.

## **RULE 6.02**

### **GOALS OF THE JURY MANAGEMENT RULES**

These Rules are intended to ensure the following:

A. Qualified Defiance, Fulton or Henry County residents meet their obligation to serve as jurors when summoned;

B. Person will not be excluded from prospective jury service because of improper or illegal discriminatory practices, including, but not limited to, those matters related to race, national origin, gender, sex, or age;

C. Every reasonable accommodation shall be made to secure the comfort and peace of mind of the jurors, including, but not limited to the following:

1. Prospective jurors shall be informed of their duties and responsibilities prior to a call to service;
2. Jurors shall be summoned as necessary for the administration of justice;
3. The Court will provide special accommodations for prospective jurors with disabilities.

## **RULE 6.03**

### **PROCEDURES FOR OBTAINING ANNUAL JURY LISTS**

A. In the month preceding the annual jury year, as determined by the Court from time to time, the Jury Commissioners, pursuant to R.C. 2313.01, shall select such number of prospective jurors as the Court may determine is needed for the following annual jury year by using the key number system pursuant to R.C. 2313.07 - .08. Pursuant to R.C.2313.21(C) the Court authorizes and directs the Jury Commissioners to conduct the drawing of the jurors by the use of automated data processing.

B. Deputy Jury Commissioners are appointed by the Jury Commissioners and approved by the Court and may perform any duties or class of duties which a Jury Commissioner may perform and as assigned to the Deputy by the Jury Commissioners, may administer an oath or affirmation in relation to any matter embraced in R.C. 2313.01 to 2313.47 inclusive.

C. The names of potential jurors shall be randomly obtained from a list provided by the Board of Elections containing the most recent names and addresses of registered voters.

The procedure shall provide for the retention of names of persons selected but not used as jurors, the printing of venires containing the names and addresses of the persons drawn, and reasonable safeguards against unlawful tampering or activation of the automated system.

The list or required number of persons eligible to serve as jurors shall be compiled by the Jury Commissioners and shall be known as the Annual Jury List.

D. The original Annual Jury List shall be certified by the Jury Commissioners and filed in the office of the Clerk of Common Pleas Courts. The Jury Commissioners may, by order of the Court, add to said list or enter on a supplementary list the names of persons who shall thereafter be qualified to serve as jurors.

## **RULE 6.04**

### **PROCEDURES FOR SUMMONING JURORS**

A. Appropriate management techniques shall be used to adjust the number of individuals summoned for jury duty and the number assigned to jury panels.

B. The Jury Commissioners shall once a year, randomly draw from the annual jury list the names of sufficient jurors to satisfy the needs of the Court for the subsequent term. The names selected shall be divided into a grand jury list and a list of sufficient number of prospective jurors for each four (4) month period during the term.

C. The Jury Commissioners over the signature of the Defiance, Fulton or Henry County Sheriff shall notify by ordinary mail prospective jurors of their selection for jury service and their requirement to respond. The notice to prospective jurors shall specify the four (4) month period for which the juror was selected and inform the prospective juror that a subsequent notice will be sent seven (7) days before the prospective juror will actually have to appear at the Court. Each prospective juror shall receive a Juror "Dear Citizen Letter," Sheriff's Summons, Juror Questionnaire with an Excuse/Postponement Form duplexed on the back, and a return envelope, to be completed and returned within ten (10) days to the Jury Commission Office. The Juror Questionnaire shall be reasonably understandable by an individual unfamiliar with the legal and jury systems and shall request information appropriate for the purpose of voir dire.

The prospective jurors shall be given a telephone number to obtain answers to any questions and trial verification number to use the day before the juror's court appearance.

The questionnaires may be provided to counsel prior to trial. The questionnaires shall not be duplicated by counsel and shall be returned to the Court upon completion of jury selection.

The questionnaires shall not be disclosed as public records (*State Ex Rel. Blankenship*

*v. Baden, Clerk, et.al.*, 115 Ohio App.3d 127).

D. Notice shall be sent by the Jury Commissioners before a scheduled trial with the date, time and location of the juror's required attendance at the Court, parking facilities, and telephone access.

E. Departures from the random selection procedures may occur only when by reason of challenges or other causes, not enough jurors to make up a jury panel are present. Talesmen then may be summoned for said panel until the deficiency is made up. Further, the Court may defer a prospective juror called for service to a date or dates certain if it is found that requiring the prospective juror to serve when initially called would create a substantial hardship.

F. Persons summoned for jury service shall be paid a reasonable fee for each one-half or full day.

G. Following each jury trial and period of Grand Jury service, the Court shall notify the Jury Commissioners of those who have served on a trial jury or Grand Jury whose names will then be deleted from potential jury service through the next calendar year following their period of service.

## **RULE 6.05**

### **EXCUSES AND DEFERRALS FROM JURY SERVICE**

A. The only excuses from jury service are those set forth in the statute and pursuant to R.C.2313.16.

B. Eligible persons who are summoned for jury service may be excused from jury service upon presenting a letter from a physician stating the reason why the individual is not mentally or physically capable of jury service. In the event a juror believes an unusual continuing hardship to themselves or others may occur unless they are excused or deferred from jury service, a prospective juror shall file a written request with the Court. The Court may grant the request for excuse or deferral after review of the written request.

**RULE 6.06**

**VOIR DIRE**

A. To reduce the time required for voir dire, returned jury questionnaires will be available to counsel of record or pro se litigants prior to the day of jury selection. All prospective jurors should be questioned and all challenges should be disposed of by the Court.

B. The trial court may give the jurors preliminary instructions before the voir dire examination.

C. The trial court shall conduct a preliminary voir dire examination and then counsel shall be permitted to question the panel for a reasonable period of time set by the Court. To ensure that the privacy of prospective jurors is reasonably protected, voir dire regarding personal or sensitive matters may be conducted in camera.

## **RULE 6.07**

### **SATISFACTION OF JURY SERVICE OBLIGATION**

Once a juror has completed four (4) months of being on call for jury service or has served as a juror, the juror is discharged of all obligations for the balance of that jury year. A person who has served on a jury in a jury trial or as a member of the Grand Jury in any Court of the State is thereafter prohibited from jury service through the calendar year following the day of his/her last service pursuant to R.C. 2313.34.



## **RULE 6.08**

### **PROSPECTIVE JUROR PRIVACY**

A. To preserve the privacy and confidentiality of prospective jurors, when deemed advisable by the Court, lists of potential jurors submitted to counsel may be identified only by number, and other identifying data, i.e. telephone numbers, addresses, etc., may be withheld and sealed. Counsel shall make no copies of Juror Questionnaires and shall return said questionnaires to the Court upon completion of jury selection.

B. The Court may order that identifying data of prospective jurors and information contained on Juror Questionnaires provided counsel shall not be disclosed by counsel to litigants, defendants, or others not directly associated with counsel's professional office.

C. This Rule shall apply to both potential grand and petit jurors.

**CHAPTER 7**  
**[Reserved]**

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**CHAPTER 8**  
**[Reserved]**

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**CHAPTER 9**  
**[Reserved]**

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**CHAPTER 10**  
**RULES APPLICABLE IN ALL DOMESTIC RELATIONS CASES**

**Rule 10.01**

**MANDATORY AFFIDAVITS**

- A. In all cases in which allocation of parental rights for minor child(ren) may be involved, a DR-2 form (uniform child custody jurisdiction and enforcement act affidavit) shall be filed at the time of the complaint or any other pleading requesting the allocation of parental rights and responsibilities for minor child(ren). No case involving the allocation of parental rights and responsibilities for minor child(ren) may be filed without a DR-2 form.
- B. DR-1 and DR-1A forms and an extra copy thereof for the county Child Support Enforcement Agency (“CSEA”) shall be filed with a petition for dissolution of marriage, with the original complaint in all annulment, legal separation and divorce cases, and with all post-judgment motions for modification of child and/or spousal support (Parts A and B). The responding party shall file DR-1 and DR-1A forms with his or her answer, response, objections to *ex parte* orders, counterclaims or counter-motions. If the responding party does not file a response, (s)he must file DR-1 and DR-1A forms at least ten days prior to a hearing on temporary orders or a scheduled mediation or at least sixty days prior to a pretrial or the final hearing, whichever is earlier. A DR-1 form shall be updated prior to any further pretrial, final hearing or trial, when necessary to correct or complete any information previously provided. Failure to provide or update the information required by the DR-1 form may result in the Court’s acceptance of the party’s information provided on the DR-1 form as filed, as well as other available sanctions for failure to provide discovery. However, the Court may modify these time limitations for good cause shown.

- C. Blank DR-1, DR-1A and DR-2 forms shall be made available by the Clerk of Courts to any person, upon request. The Clerk shall include a blank copy of DR-1 and DR-1A forms with the items to be received by the responsive party at the time of service.

## **Rule 10.02**

### **COURT SCHEDULES**

- A. Included within these Rules are Schedule A (“Parenting Time Guidelines for Travel Distances Under 150 Miles One Way”), Schedule B (“Long Distance Parenting Time Guidelines Over 150 Miles One Way”), Schedule C (“Maintenance of Insurance and Payment of Extraordinary Expenses for Minor Children”), “Schedule D” (“Provision of Health Insurance for Minor Children”) and Schedule E (“Application for Child Support Services”).
- B. The parties are encouraged to create their own parenting time schedules for their child(ren) and Appendix A (“Age Appropriate Parenting Access Plans”) is included within these rules for consideration by parents wishing to do so. Nevertheless, Schedules A and B may be used in cases in which they are appropriate and, unless findings to the contrary are made by the Court, shall be deemed the minimum parenting schedule in cases in which a schedule is not specified.
- C. In any case in which there are minor child(ren), orders shall issue regarding the parties’ responsibility to provide health insurance for the child(ren) and for payment of those health related expenses for the child(ren) not paid by insurance coverage. Schedule C sets out the standard Court order for insurance and payment of expenses and will be adopted by the Court unless a different order is submitted by the parties and approved by the Court. Schedule D sets out requirements for provision of health insurance and shall be completed and attached to the

judgment entry filed in every case in which there are minor children or, in the alternative, appropriate language as set out within Schedule D may be incorporated in the judgment entry.

- D. At such time as a child support order is issued by the Court, Schedule E shall be completed with the original forwarded by the Clerk of Courts to the Child Support Enforcement Agency and a copy filed in the family file.

### **Rule 10.03**

#### **FAMILY FILE**

- A. Documents filed in any case containing sensitive personal information shall be kept in a separate family file to be maintained by the Clerk of Courts in such manner and in such location as the Clerk deems appropriate.
- B. The family file shall contain the following items:
1. The parties' DR-1 affidavit form and attachments thereto;
  2. Tax returns;
  3. Reports of psychological or custody evaluations;
  4. Medical reports;
  5. Reports of supervised parenting time or supervised parenting time exchanges;
  6. Reports of a home study evaluator or guardian *ad litem*.
  7. Reports of medical or drug testing;
  8. Copy of Application for Child Support Services;
  9. Letters to the Court from the parties, the child(ren) and/or other individuals.
  10. Other items as directed by the Court.
- C. Upon motion of any party or upon the Court's own motion, other documents containing sensitive personal information may be ordered to be kept in the family file. If there are documents which

are to be filed in the “public file” containing social security numbers or any other individual identifying information, the same shall be redacted on those documents in the “public file.”

- D. The “public file” shall contain, in place of the document contained in the family file, a Notice of Filing prepared by the Clerk of Courts reflecting the filing of the document maintained in the family file and the date thereof (e.g., “Notice is hereby given that on [*date of filing*] a [*name of document*] was filed by [*person or party filing document*], which shall be maintained in the Family File”).
- E. In the event that the Court conducts an *in camera* interview of any child, upon request of any party or in its own discretion, the Court shall hold said recording or transcript of the recording in a separate file. The recording shall not be made available to either party or counsel without Court approval. A transcript of said recording shall only be made available to counsel or the parties after the filing of Objections to a Magistrate’s Decision to the Court or an appeal to the Court of Appeals.
- F. Contents of the family file may be inspected and reviewed by the parties, an attorney or the county’s CSEA’s counsel or representative only upon request made to the Court. Court Order 7 may be used to request and order inspection and review of the family file. Contents of the family file shall be otherwise available for inspection and review only by court personnel, guardians ad litem and parenting coordinators in the performance of their required duties or as the Court may direct.



## **Rule 10.04**

### **TEMPORARY RESTRAINING ORDERS AND *EX PARTE* ORDERS**

- A. Upon commencement of an action for divorce, annulment, or legal separation, the Court shall issue a preliminary injunction enjoining both parties from engaging in certain actions as delineated in Court Order No. 1 (Preliminary Injunction).
- B. Applications for *ex parte* orders relating to the allocation of parental rights, child support, spousal support, or for sole and exclusive use of the marital residence shall contain the following information:
1. The basis for the claimed exigent circumstance which requires the issuance of an *ex parte* order. The factual basis of said exigent circumstances shall be supported by an affidavit sworn to by the requesting party;
  2. A statement by counsel as to the efforts made to contact either opposing counsel or, if unrepresented, the opposing party or, in the alternative, the reason why opposing counsel or the unrepresented party should not be given notice;
  3. All *ex parte* orders shall advise the opposing party of the right to request a hearing and shall contain the following language in bold print:  
  

**The Court has made this order solely upon the evidence provided by \_\_\_\_\_ . You may request a hearing on this matter. You have the right to counsel and should have counsel present with you at any hearing. This is a temporary order and the Court will review all the evidence of the parties at any requested hearing.**
- C. Upon a filing for a request for hearing by the enjoined party, the court shall schedule a hearing on the merits within ten (10) days. In the event no request for hearing is received, the court shall schedule a hearing within three (3) weeks from the date of service.
- D. All motions shall be submitted for consideration to the assigned judge or magistrate unless the assigned judge or magistrate is unavailable to address the matter in a timely manner.

## **CHAPTER 11**

### **PARENTING PROGRAMS**

#### **Rule 11.01**

#### **ATTENDANCE AT ASSISTING OUR KIDS (“A OK”) PROGRAM**

Parties to any action in which the allocation of parental rights and responsibilities for their child(ren) is being considered shall attend the Assisting Our Kids (“A OK”) Program within seventy-five (75) days after filing a complaint or motion initiating the action, unless the same is waived by the Court or, if a party lives out of the area, a court-approved substitute program is completed. If a party completes the “A OK” Program in the county in which the case is filed, the cost of the class shall be paid from the court cost deposit made in the case. However, if a party chooses to complete the program at another location, the party shall directly pay the cost of the program at the time of attendance.

#### **Rule 11.02**

#### **ATTENDANCE AT HOW TO RAISE THE BEST CHILDREN POSSIBLE PROGRAM**

- A. Parties to any action in which the allocation of parental rights and responsibilities for their child(ren) is being considered may, by Court order, be required to attend the How to Raise the Best Children Possible Program, if the same is available in the county in which the action is pending. The Court may make an order to attend the program (see “Court Order 4”) when one or more of the following factors are present:
1. The parents have serious on-going disagreements about the implementation of an order for the allocation of parental rights and responsibilities and/or parenting time;

2. There is a history of extreme or ongoing parental conflict which has been undeterred by previous litigation or other interventions and from which the children are suffering;
3. The parents have very young child(ren) whose parenting time schedule will require frequent adjustment to maintain age-appropriate contact with both parents and the parents have been previously unable to reach agreements on their parenting time schedule without Court intervention;
4. The parents have child(ren) with medical or psychological conditions or disabilities which require frequent decisions regarding treatment or frequent adjustments in parenting time schedules and the parents have been previously unable to reach agreements without Court intervention;
5. One or both parents suffer from mental or psychological condition(s) or disability(s) which have resulted in an inability to reach agreements or make adjustments in the parenting time schedule, even when minor in nature, without assistance;
6. A parenting coordinator has been or will be appointed in the case.

**CHAPTER 12**  
**CHILD SUPPORT**

**Rule 12.01**

**ORDERS FOR CHILD SUPPORT**

- A. All orders for child support shall contain the full names of both parties. The Application for Child Support Services (“Court Schedule E”) must be filed with any child support order. The original of the Application shall be forwarded to the Child Support Enforcement Agency by the Clerk of Courts, together with a copy of the child support order. A copy of the Application shall be filed in the family file.
- B. Unless:
1. A child is mentally or physically disabled and is incapable of supporting or maintaining himself or herself and the Court has made other appropriate orders for the duration of the support of the child; or
  2. Unless the child(ren)’s parents have agreed to continue support beyond that time required by law pursuant to a separation agreement that was or is incorporated into a decree of divorce or dissolution;

all orders establishing or modifying a child support order shall contain the following language:

**Pursuant to Ohio Revised Code §3119.86, this child support order will remain in effect beyond the age of eighteen (18) as long as the child continuously attends any recognized and accredited high school on a full time basis. Support will continue during seasonal vacations until the order terminates. Nevertheless, no current obligation for support will remain in effect beyond the child’s attainment of the age of nineteen (19) subject to the continuing jurisdiction of the Court. In the event the child is not attending an accredited high school, support will terminate upon the child’s eighteenth (18<sup>th</sup>) birthday.**

- C. Under any circumstances, all orders establishing or modifying a child support order shall contain the following language:

**The Obligor shall pay as and for current support the sum of \$\_\_\_\_\_ per month, for the \_\_\_\_\_ minor child(ren), which amount will be collected in periodic**

payments based upon the Obligor's regular pay cycle. (A copy of the child support worksheet is attached hereto as "Exhibit \_\_\_\_\_").

All payments ordered herein will be accompanied by an additional 2% administrative fee for a total monthly payment of \$ \_\_\_\_\_ and shall be paid through the Ohio Child Support Payment Central, PO Box 182394, Columbus, Ohio 43218, or as directed by the \_\_\_\_\_ County Child Support Enforcement Agency. Any sums not paid through said agency shall be considered a gift and not credited on the obligations contained herein.

The Obligor will notify the Child Support Enforcement Agency immediately of any change in employment, income or address.

Whenever the Obligor received income of any kind and the ordered child support or spousal support is not automatically withheld from the Obligor's income/wages pursuant to an income withholding, the Obligor will pay the child support directly through the Ohio Support Payment Central, PO Box 182394, Columbus, Ohio 43218, or directly through the \_\_\_\_\_ County Child Support Enforcement Agency.

All support under this order shall be withheld or deducted from the incomes or assets of the Obligor pursuant to a withholding or deduction notice or appropriate Court order issued in accordance with Chapters 3119, 3121, 3123, and 3125 of the Revised Code or a withdrawal directive issued pursuant to §§3123.24 to 3123.38 of the Revised Code and shall be forwarded to the Obligee in accordance with chapters 3119, 3121, 3123, and 3125 of the Revised Code.

Each party to this support order must notify the Child Support Enforcement Agency in writing of his or her current mailing address, current residence address, current residence telephone number, current driver's license number, and of any changes in that information. Each party must notify the agency of all changes in that information until further notice from the Court. If you are the Obligor under a child support order and you fail to make the required notifications you may be fined up to \$50.00 for a first offense, \$100.00 for a second offense, and \$500.00 for each subsequent offense. If you are an Obligor or Obligee under a support order and you willfully fail to make the required notification, you may be found in contempt of Court and be subjected to fines up to \$1,000.00 and imprisonment for not more than ninety (90) days.

If you are an Obligor and you fail to make the required notifications, you may not receive notice of the following enforcement actions against you: imposition of liens against your property; loss of your professional or occupational license, or recreational license; withholding from you income; access restriction and deduction from your accounts in financial institutions; and any other action permitted by law to obtain money from you to satisfy your support obligation.

- D. A copy of the worksheet shall be attached to all orders establishing or modifying a support obligation, including temporary orders.
- E. All Court orders modifying a child support obligation shall be effective the date of the filing of the motion to modify, unless otherwise agreed to by the parties or otherwise ordered by the Court. In cases in which an administrative modification is adopted by the Court, unless otherwise ordered, the effective date shall be as set forth in the administrative determination.
- F. All final orders shall state whether any arrears accruing from temporary orders for support shall be carried forward. Failure to specifically reserve the carryover of arrears shall result in those arrears being waived.
- G. All orders establishing or modifying a child support obligation shall contain a certificate of service certifying that a file-stamped copy of the judgment entry has been provided to the county Child Support Enforcement Agency.

### **Rule 12.02**

#### **TERMINATION OF CHILD SUPPORT ORDERS**

- A. In the event the Child Support Enforcement Agency determines, upon investigation, that a child support order should terminate, it shall take the following actions:
  - 1. Notify the obligor and the obligee, under the order, of the results of the investigation, as required by the Ohio Revised Code;
  - 2. Submit the results of the investigation and any administrative decisions therefrom to the Court after all administrative remedies have been exhausted and either the administrative decision has become final or one or both of the parties have requested a Court hearing objecting to the administrative decision;
  - 3. Issue administratively, or submit to the Court, an order impounding any funds received pursuant to the order that was under investigation if there are no remaining child(ren) and no child support arrearage of record and

the agency determines that an order impounding any funds received for the child(ren) pursuant to the child support order is necessary to avoid excess payment by the obligor.

- B. Any excess amount paid by the obligor shall be considered as a child support credit towards any ongoing obligation. If there is no ongoing obligation and no arrearage to be repaid, said excess funds shall be refunded to the obligor.

### **Rule 12.03**

#### **QUALIFIED MEDICAL SUPPORT ORDER**

At the request of either party or in the discretion of the Court, a qualified medical support order shall issue. When preparing said order, “Court Order #3,” as included within these Rules, may be used.

### **Rule 12.04**

#### **DETERMINATION OF HEALTH INSURANCE PROVIDER**

In accordance with Ohio Revised Code 3119.30, every support order shall include a determination of the person or persons responsible for health care of children, to include an appropriate order for provision and maintenance of health insurance for the minor child(ren) of the parties. No court order shall specify the provision of Medicaid by either party as satisfying this requirement. If not contained in the body of the support order in substantially similar form, schedules C and D shall be completed and included in every support order issued by the Court.

**CHAPTER 13**  
**GUARDIAN AD LITEM**

**Rule 13.01**

**GUARDIAN AD LITEM IN DOMESTIC RELATIONS CASES**

- A. When requested by a party or upon the Court’s own motion, a Guardian *ad Litem* shall be appointed to protect the interests of a child. A party requesting a Guardian *ad Litem* shall do so by oral or written motion.
- B. A Guardian *ad Litem* may be an attorney, a trained mental health professional, or a qualified volunteer, if one is available and the appointment is appropriate.
- C. An entry shall be prepared as provided in the form attached to these Rules as “Court Order #2.” The entry shall include the role of the Guardian *ad Litem*, the nature of payments to be made by the parties, and the amount of the deposit to be paid. In establishing these amounts and the nature of the payments, these criteria shall apply:
1. For all delinquent, unruly, dependent, neglected or abused children cases and for those allocation of parental rights and responsibilities cases in which the parents are indigent and in which an attorney is appointed as Guardian *ad Litem*, compensation shall be in accordance with that provided for court-appointed counsel, which shall be stated in the entry.
  2. For all non-indigent cases, in which an attorney or a mental health professional is appointed, the fees shall be in accordance with the rate stated in the entry.
  3. For all cases in which a qualified volunteer is appointed, unless otherwise ordered, he or she shall be reimbursed for his or her expenses (e.g., mileage, telephone calls, etc.) by the parties pursuant to orders made by the Court and, if a Court Appointed Special Advocate (“CASA”)/Guardian *ad Litem* is appointed, that program shall be paid by the parties pursuant to orders made by the Court.
- D. The Guardian *ad Litem* shall be considered a party to the proceeding and, as such, shall have full access to court records and shall have the right to subpoena court records and any agency



personnel or records, including physicians, physical and mental health professionals, educational facilities, other professionals, or any individual who may provide information the Guardian *ad Litem* believes to be relevant to the best interest of the minor child(ren). The Guardian *ad Litem* shall have the right to subpoena any individual or entity for any reasons allowed under the Ohio Rules of Civil Procedure. In the event the Guardian *ad Litem* is an attorney at law, the Guardian *ad Litem* shall be entitled to participate in the hearing in the same manner as counsel for the parties.

If the Guardian *ad Litem* is not an attorney, the Guardian *ad Litem* may prepare written questions the Guardian *ad Litem* wishes to address to the parties or other witnesses. The written questions shall be submitted to the Court. The Court shall determine what questions shall be proffered to the parties or witnesses. The Court will examine the parties and witness as to those questions.

- E. The Guardian *ad Litem* shall interview each parent and the child(ren) separately and observe any interaction between parent and child(ren). In addition, the Guardian *ad Litem* shall investigate any significant persons as the Guardian *ad Litem* deems necessary.
- F. The Guardian *ad Litem* shall attend all pretrials, hearings and/or mediations scheduled in the case, unless excused by the Court. The Guardian *ad Litem* shall be subject to cross-examination if called by either party to testify. A report shall be prepared by the Guardian *ad Litem* and filed with the Court at least seven (7) days prior to the final hearing unless otherwise ordered by the Court.
- G. The Guardian *ad Litem* shall be served with copies of all pleadings and shall be provided notice of all hearings. All judgment entries shall be submitted to the Guardian *ad Litem* for approval.

H. Upon completion of the case or at other appropriate time, the Guardian *ad Litem* shall submit application for fees and/or costs to the Clerk of Courts and to the parties. The balance of the unpaid fees and/or costs over and above the deposit shall be taxed as court costs or shall be subject to orders for payment issued by the Court.

**Chapter 14**  
**PARENTING COORDINATOR**

**Rule 14.01**

**ALLOWING FOR THE APPOINTMENT OF A PARENTING COORDINATOR**

**A. Definitions:** As used in this Chapter:

1. *Domestic abuse* means a pattern of abusive and controlling behavior that may include physical violence, coercion, threats, intimidation, isolation or emotional, sexual or economic abuse.
2. *Domestic violence* has the same meaning as in ORC §3113.31(A)(1).
3. *Parenting coordination* means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching or decision making. *Parenting coordination* is not mediation subject to ORC Chapter 2710 or Sup.R. 16.
4. *Parenting coordinator* means an individual appointed by the Court to conduct parenting coordination.

**B. Circumstances under which a parenting coordinator may be appointed:** In cases in which the Court determines that one or more of the following factors is present, at any time after a parental rights and responsibilities, custody or companionship time order is filed, and upon the request of any party or upon the Court's own motion, the Court may order parenting coordination:

1. The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;
2. There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
3. The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the court or division, to maintain age-appropriate contact with both parties, and the parties have been previously

unable to reach agreements on their parenting time schedule without intervention by the court or division;

4. The parties have a child with a medical or psychological condition or disability that requires frequent decision regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the court or division, and the parties have been previously unable to reach agreements on the child's treatment or their parenting time schedule without intervention by the court or division.
5. One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;
6. Any other factor as determined by the court or division.

**C. Qualifications to be appointed as a parenting coordinator:** For appointment by the Court as a parenting coordinator, an individual shall have the following qualifications:

1. Possess a master's degree or higher, law degree or education and experience satisfactory to the Court;
2. Possess at least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;
3. Have completed in the following order the following training approved by the Dispute Resolution Section of the Supreme Court of Ohio and that meets standards established by the Supreme Court Commission on Dispute Resolution:
  - a. At least twelve hours of basic mediation training;
  - b. At least forty hours of specialized family or divorce mediation training;
  - c. At least fourteen hours of specialized training in domestic abuse and dispute resolution; and
  - d. At least twelve hours of specialized training in parenting coordination.

**D. Additional qualifications to be appointed as parenting coordinator in abuse, neglect or dependency cases:** In addition to the qualifications set out above, in

order to be appointed as parenting coordinator in an abuse, neglect or dependency case, an individual shall have the following qualifications:

1. Possess significant experience working with family disputes; and
  2. Have completed at least thirty-two hours of specialized child-protection mediation training that has been approved by the Dispute Resolution Section of the Supreme Court of Ohio and that meets standards established by the Supreme Court Commission on Dispute Resolution.
- E. **Conflicts of interest:** An individual is prohibited from serving in multiple roles within the same family that creates a professional conflict, even with the parties' consent, including, but not limited to serving as a child's attorney or child advocate, guardian ad litem, custody evaluator, therapist, consultant, coach or other mental health role to any family member, or attorney for any party. Nevertheless, with the parties' written consent, a mediator may serve as a parenting coordinator with the same family, upon approval by the Court.
- F. **Continuing approval to act as parenting coordinator:** In order for the Court to appoint and to continue to appoint an individual as parenting coordinator, he or she shall comply with the following:
1. Complete at least three hours per calendar year of continuing education relating to children. Said education may include continuing education for lawyers, social workers, psychologists, or other licensed mental health professionals and professional development events that are approved by the Dispute Resolution Section of the Supreme Court and that meet standards established by the Supreme Court Commission on Dispute Resolution;
  2. On or before, January 1 of each year, report to the Court a list of all continuing education training completed during the previous year as set out above, including the sponsor, title, date and location of each training;
  3. Provide the Court with and continue to update the Court with any changes in his or her name, address, telephone number and, if available his or her electronic mail address;
  4. Provide the Court with a resume documenting compliance with the parenting coordinator qualifications set out above in paragraphs C and, if applicable, D; and
  5. Provide the Court with an updated resume in the event of any substantive changes to the information contained in the resume.

- G. Failure to comply with continuing education requirements:** If a Parenting Coordinator fails to comply with the continuing education requirements set out above, he or she shall not be eligible to serve as a parenting coordinator until the requirements are satisfied. In order to be reinstated as a parenting coordinator, he or she shall complete three hours of continuing education for each calendar year of deficiency.
- H. Inappropriate use of parenting coordination:** The court shall not order parenting coordination to determine any of the following:
1. Whether to grant, modify or terminate a protection order;
  2. The terms and conditions of a protection order;
  3. The penalty for violation of a protection order;
  4. Changes in the designation of the primary residential parent or legal custodian; or
  5. Changes in the primary placement of a child.
- I. Use of parenting coordination when domestic abuse or domestic violence is alleged, suspected or present:** When domestic abuse or domestic violence is alleged, suspected or present, parenting coordination may proceed only if all of the following conditions are satisfied:
1. The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the parenting coordination process and of the option to have a support person present at parenting coordination sessions;
  2. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons involved in the parenting coordination process; and
  3. Procedures are in place for the parenting coordinator to terminate a parenting coordination session if there is a continued threat of domestic abuse, domestic violence or coercion between the parties.
- J. Appointment order:** When ordering parenting coordination, the Court shall issue a written appointment order providing information regarding the appointment of the parenting coordinator, including, but not limited to, the following information:

1. The name of the parenting coordinator and any contact information for the parenting coordinator the Court may choose to include;
2. The specific powers and duties of the parenting coordinator;
3. The term of appointment;
4. The scope of confidentiality; and
5. The parties' respective responsibility for fees and expenses for services rendered by the parenting coordinator, and, if appropriate any contribution which may be made to said fees and expenses by the Court or other services or agencies in the event one or more of the parties is/are indigent.

**K. Court's responsibilities:** The Court shall do all of the following:

1. Maintain a roster of all parenting coordinators appointed by the Court, including the name, address, telephone number and, if available, electronic mail address of each parenting coordinator;
2. Require each individual on the Court's approved parenting coordinator list to comply with the terms and conditions of this rule;
3. On or before February 1 of each year, file with the Dispute Resolution Section of the Supreme Court, all of the following:
  - a. A copy of this local rule together with any amendments which may be made from time to time;
  - b. A copy of the current roster of parenting coordinators appointed by the Court;
  - c. A copy of each new or updated resume received by the Court from a parenting coordinator during the previous year;
  - d. A copy of each list of continuing education training received by the Court from a parenting coordinator.

**L. Conduct and responsibilities of parenting coordinator during parenting coordination:**

1. While conducting parenting coordination, the parenting coordinator shall:
  - a. Comply with the requirements of and act in accordance with the appointment order issued by the Court;
  - b. Maintain independence, objectivity and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom

- c. Avoid any clear conflicts of interest arising from any relationship, activity, including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case.
- d. Avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.
- e. Upon becoming aware of a clear conflict of interest, advise the Court and the parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court.
- f. Use appropriate methods for screening for domestic abuse and domestic violence before and during sessions.
- g. Make appropriate referrals to legal counsel, counseling, parenting courses, and other support services for all parties, including, but not limited to victims and suspected victims of domestic abuse and domestic violence.
- h. Allow parties, their attorneys and any other individuals designated by the parties to attend and participate in parenting coordination sessions.
- i. Report any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.
- j. Inform the parties that he or she will report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement or other appropriate authority.
- k. Report child abuse or neglect pursuant to the procedures in ORC §2141.421.

2. While conducting parenting coordination, the parenting coordinator shall not:

- a. Have any ex parte communications with the Court regarding substantive matters or issues on the merits of the case.
- b. Offer legal advice.

**M. Parenting coordination process:** In compliance with the parenting coordination order issued hereunder, when a dispute arises between or among the parties, the Parenting Coordinator shall comply with the following process:

- 1. He or she shall first attempt to utilize mediation techniques to resolve the dispute. If the matter is resolved, the same shall be reduced to writing, signed by each party and their attorneys, if any, and, if the parties, the



parenting coordinator or the attorneys believe the same is necessary, filed with the Court for approval as a consent entry.

2. If the dispute is not resolved, the Parenting Coordinator shall issue a written decision that shall be filed with the Court, with a copy sent by the Parenting Coordinator to each party and the attorneys, if any. Thereafter, each party shall have fourteen days in which to object to the decision, by filing an objection with the Court. If one party files an objection within the fourteen day period, the other party shall have ten days thereafter in which to file his or her objection, if any. At that time, the dispute shall be assigned for hearing.
3. Pending hearing on any objection(s), all parties shall comply with the Parenting Coordinator's decision, unless the Court relieves the parties of that responsibility.
4. Any court costs incurred for filings made by the Parenting Coordinator shall be paid by the parties according to the terms and conditions of the order appointing the Parenting Coordinator, unless the parties have filed and the Court has accepted their affidavit of indigency in which case all court costs shall be waived.
5. If no objections are filed within the allotted time, the Court shall review, and if appropriate, adopt the Parenting Coordinator's Decision as its order. In addition, at the discretion of the Court, the Parenting Coordinator's Decision may be amended, or further hearing may be set on the matter.

**N. Guidelines for parenting coordination:** The court and all Parenting Coordinators appointed hereunder shall comply with the *Guidelines for Parenting Coordination* developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Whenever a conflict exists between the guidelines and Ohio Rules of Superintendence 90 through 90.13, the rules shall control.

**O. Confidentiality, privilege and public access:** The following terms shall apply to all parenting coordinations:

1. *Confidentiality:* Except as provided by law, communications made as part of parenting coordination between the parties and their children and the parenting coordinator, those made between the parenting coordinator and other relevant parties and those with the court, shall not be confidential.
2. *Privilege:* Except as provided by law, parenting coordination shall not be privileged.

3. *Public Access to Parenting Coordinator Files:* The files maintained by a parenting coordinator shall not be available for public access pursuant to Sup. R. 44 through 47, unless they are filed with the Clerk or submitted to the Court.
- P. **Complaints and evaluations of parenting coordinators.** Any complaints made regarding parenting coordinators by those involved in the case shall be made in writing on a form maintained by the Court administrator. When a complaint is made the parenting coordinator shall be advised of the same and provided with a copy. He or she shall then have ten days in which to respond in writing. The Court administrator shall then have thirty days in which to make an investigation and report any recommended action to the court, to the parties and to the parenting coordinator. Should any party object to the recommended action, the matter will be set for hearing before the Court. On an annual basis, the Court will review those cases assigned for parenting coordination and, may, if deemed necessary ask for brief performance evaluations from those attorneys whose cases have had parenting coordinators to include whether disputes have been resolved or decided in a timely fashion and whether the parenting coordinator at issue has acted in accordance with these rules, the rules of Superintendence and the Guidelines for Parenting Coordination referred to herein.

## **CHAPTER 15**

### **MEDIATION**

#### **Rule 15.01**

#### **MEDIATION IN DOMESTIC RELATIONS MATTERS**

Upon order of the Court (see Court Order 8), a domestic relations matter, filed in this Court may be submitted to mediation as provided in this Rule.

- A. A domestic relations case may be referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the motion of counsel, upon referral by the mediator or upon agreement of the parties. A case may also be referred to mediation by random selection. In addition, if the parties' order sets out that, in the event of a future dispute, they may return to mediation after their case is closed, they may do so by contacting the mediation office and establishing an appointment. At such time as they so return to mediation, they may be required to pay a fee, as may be established by the Court from time to time.
- B. All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.
- C. Continuances of scheduled mediations shall be granted only for good cause shown and by the Mediation Coordinator or the Judge or Magistrate who referred the case. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.
- D. Pursuant and subject to the provisions of the "Uniform Mediation Act" (UMA) O.R.C. 2710.01 to 2710.10, the Rules of Evidence, and any other pertinent judicial

rule, all communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA. Upon written agreement, all communications may be confidential. At the conclusion of mediation, the mediator shall issue a report, informing the Court who attended the mediation session(s) and whether the case settled. If the case has not settled, then the report shall set out whether the case is scheduled for further mediation or is returned to the Court for further proceedings. No other information shall be communicated by the mediator to the Court.

- E. A mediator acting pursuant to this Local Rule shall have all immunity conferred by statute, rule and common law.
- F. The efforts of the mediator shall not be construed as giving legal advice.
- G. All parties shall attend the mediation sessions, including, unless previously excused, the guardian ad litem. Further, if the parties choose, and pursuant to the UMA, they may have their attorney and/or such other support person or persons attend the mediation session. However, the mediator shall have the right not to conduct the mediation session if a party insists upon bringing a person to the session that the mediator believes is inappropriate or would harm the process. The mediator shall also have the right to require the attendance of the attorneys at the session if the mediator determines it is appropriate and necessary for the process. Attorneys may, at their option, and shall, if required by the mediator, submit mediation memoranda which shall include the following:

1. The elements of each claim asserted by the party filing the mediation memorandum;
2. A brief statement of the claimed facts supporting those claim(s);

3. A statement of admitted or undisputed facts;
4. A statement of remaining issues of facts to be tried;
5. Any amendments which have been made to pleadings;
6. Any tender of issues in the pleadings that are to be abandoned;
7. A proposal for settlement of the claim(s). This proposal may be submitted in camera.

Mediation memoranda may be submitted in confidence or exchanged by counsel at their preference. However, any attorney who submits a mediation memorandum in confidence shall advise the opposing counsel it is their intention to file the memorandum in confidence. Any mediation memorandum submitted under this Rule shall be provided to the mediator at least 5 working days prior to the scheduled mediation session.

H. Any mediator hired to work for the court's Mediation Service or hired by the service as a contract mediator shall meet the following qualifications:

1. **General qualifications and training.** A mediator employed by the Court's Mediation Service or to whom the service makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect, and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:
  - a. Possess a bachelor's degree, or equivalent education experience as is satisfactory to the Mediation Coordinator, 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 such other equivalent experience satisfactory to the division.
  - b. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Mediation Coordinator.

- c. After completing the training required by division (H)(1)(b) of this rule, complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Ohio Supreme Court Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.
  2. **Specific qualifications and training: domestic abuse.** A mediator employed by the Mediation Service or to whom it makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution Section in accordance with 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 had completed the specialized training.
- I. Any mediator providing services for the court shall ensure that they are utilizing procedures for:
  1. Ensuring that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation;
  2. Screening for domestic violence both before and during mediation;
  3. Encouraging appropriate referrals to legal counsel and other support services for all parties, including victims or and suspected victims of domestic violence;
  4. Prohibiting the use of mediation in any of the following:
    - a. as an alternative to the prosecution or adjudication of domestic violence;
    - b. in determining whether to grant, modify or terminate a protection order;
    - c. in determining the terms and conditions of a protection order; and
    - d. in determining the penalty for violation of a protection order.
- J. Further, any mediator providing services for the court shall conduct a mediation session where violence or fear of violence is alleged, suspected or present only when

that mediator has completed the training specified above and ensures that the following conditions are satisfied:

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

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

**CHAPTER 16**  
**DIVISION OF PENSIONS OR OTHER RETIREMENT PLANS**

**Rule 16.01**

**QUALIFIED DOMESTIC RELATIONS ORDER (“QDRO”)**

- A. Unless otherwise agreed, counsel for the alternate payee entitled to the pension or retirement plan, or a portion thereof, shall prepare the Qualified Domestic Relations Order (“QDRO”) for submission to the Court.
- B. Whenever the parties agree to divide a pension or retirement program by a QDRO, they or their counsel shall sign and approve the original of a QDRO submitted to the Court and shall sign and approve any subsequent QDRO submitted to the Court, unless signature is waived by the Court.
- C. If the Court ordered a division of a pension or retirement plan, the Court may assign the responsibility to prepare and submit the QDRO to the Court.
- D. The QDRO shall be prepared as soon as possible following the final hearing for submission to the Court.
- E. Unless otherwise agreed or ordered, a QDRO for a defined benefit plan shall contain the following provisions or shall be governed by the following assumptions:
1. The QDRO will be a separate interest QDRO, meaning the alternate payee’s benefits shall be independent of those of the participant;
  2. The division of benefits shall be based on the language of the case of Hoyt v. Hoyt, 53 Ohio St. 3d 177 (1999), and its progeny;
  3. The benefits assigned to the alternate payee shall include any and all temporary and supplemental benefits. Further, the benefits, as assigned to the alternate payee, shall include all early retirement subsidies and, should the alternate payee commence receipt of the benefits prior to participant’s retirement, the alternate payee’s benefits will be recalculated to reflect the subsidy;



4. The alternate payee will be deemed to be the surviving spouse of the participant to the extent of benefits assigned for the purpose of a pre-retirement survivor annuity;
5. The division of the benefits will be made as of the date of final hearing of dissolution or as of the date upon which the final hearing of divorce concludes.

F. Unless otherwise agreed or ordered, a QDRO for a defined contribution plan shall contain the following provisions or be governed by these assumptions:

1. The division of the benefits will be the date of the final hearing in the case;
2. The alternate payee's benefits shall be credited with investment earnings and/or losses from the date of division until distribution;
3. The QDRO will allow an immediate lump sum distribution of the alternate payee's benefits, if permitted by the plan;
4. Any loans from the plan shall be charged to the participant's benefits and will remain the obligation of the participant;
5. The alternate payee's share of the benefits will not reflect credit for sums deposited into the plan after the date of division which are based on service for periods prior to the date of division.

G. In all cases in which a Qualified Domestic Relations Order is to be issued, the final judgment entry shall contain the following language:

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

H. The participant shall not take actions, affirmative or otherwise, that can circumvent the terms and provisions of the Qualified Domestic Relations Order, or that may diminish or extinguish the rights and entitlements of the participants. The Court shall retain jurisdiction to enter further

orders as are necessary to enforce the assignment of benefits to the non-participant as set forth herein, including the recharacterization thereof as a division of benefits under another plan, as applicable, or to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order.

### **Rule 16.02**

#### **DIVISION OF PROPERTY ORDER (“DOPO”)**

- I. Unless otherwise agreed, counsel for the alternate payee entitled to the state pension or retirement plan, or a portion thereof, shall prepare the Division of Property Order (“DOPO”) for submission to the Court.
- J. Whenever the parties agree to divide a state pension or retirement program by a DOPO, they or their counsel shall sign and approve the original of a DOPO submitted to the Court and shall sign and approve any subsequent DOPO submitted to the Court, unless signature is waived by the Court.
- K. If the Court ordered a division of a state pension or retirement plan, the Court may assign the responsibility to prepare and submit the DOPO to the Court.
- L. The DOPO shall be prepared as soon as possible following the final hearing for submission to the Court.
- M. A DOPO shall contain those provisions approved in Sections 145.571, 742.462, 3305.21, 3307.371, 3309.671 or 5505.261, whichever is applicable to the particular state retirement plan.
- N. Unless otherwise agreed or ordered, the division of the benefits will be the date of the final hearing in the case.

- O. In all cases in which a DOPO is to be issued, the final judgment entry shall contain the following language:

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

- P. The participant shall not take actions, affirmative or otherwise, that can circumvent the terms and provisions of the DOPO, or that may diminish or extinguish the rights and entitlements of the participants. The Court shall retain jurisdiction to enter further orders as are necessary to enforce the assignment of benefits to the non-participant as set forth herein, including the recharacterization thereof as a division of benefits under another plan, as applicable, or to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order.

**CHAPTER 17**  
**DRUG TESTING**

**Rule 17.01**

**DRUG TESTING**

- A. Any party to an action may request testing for the purpose of determining the existence of illegal substances or the use of illegal substances by any party to the action. A request for drug testing shall be made in the form of a motion with supporting affidavit. The costs of the initial test shall be born by the party requesting the drug testing unless otherwise ordered.
- B. Upon request in a motion and supporting affidavit and, provided the Court finds reasonable grounds to believe drug usage is occurring, the Court shall order the party or parties to be tested under such terms and conditions the Court deems appropriate.
- C. In addition, the Court may, on its own motion, order such testing and assign the costs therefore, if the Court believes there are reasonable grounds to believe drug usage is occurring.
- D. The report of the results of any such drug testing shall not be utilized in any criminal actions or for prosecutorial purposes and shall, as required by these Rules, be placed in the family file.

**CHAPTER 18**  
**EVALUATIONS AND INVESTIGATIONS FOR THE**  
**ALLOCATION OF PARENTAL RIGHTS AND**  
**RESPONSIBILITIES**

**Rule 18.01**

**INVESTIGATIONS FOR THE ALLOCATION OF PARENTAL RIGHTS AND  
RESPONSIBILITIES**

- A. Pursuant to Rule 75(D) of the Ohio Rules of Civil Procedure and Ohio Revised Code §3109.04(C), "...the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability, and financial worth of the parties to the action." In appropriate cases in which there are questions regarding the allocation of parental rights and responsibilities for the care of children, the Court shall order that such an investigation be made by an appropriately trained individual and that a report thereof be completed and filed with the Court. The investigation may include an evaluation of the parties' and the children's psychological status. The order issued shall indicate how the costs for the investigation shall be divided. [See "Court Order 5" for an Investigation (Home Study) and "Court Order 6" for an Evaluation by a psychologist].
- B. Upon the issuance of a report, the same shall be sent by the investigator or evaluator to the Court. The original of said report shall be filed within the family file not less than seven (7) days before trial and, at discretion of the Court, copies may be provided by the Court to counsel of record or to unrepresented parties. Under any circumstances, counsel and unrepresented parties shall be notified upon the filing of the report and shall be entitled to review the same at the Court, upon conditions the Court deems appropriate.

- C. The report shall be signed by the investigator and the investigator shall be subject to cross-examination by either party concerning the contents of the report.

## CHAPTER 19

[Reserved]

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**CHAPTER 20**  
**APPLICABLE RULES TO CRIMINAL CASES**

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**RULE 20.01**

**PERSONAL RECOGNIZANCE BONDS**

A. Any defendant seeking release upon a recognizance (O.R.) bond shall be required to sign a written bond application.

B. All O.R. bonds shall be subject to the following standard conditions:

1. The defendant shall timely appear at all scheduled court appearances and obey all court orders and directives;
2. The defendant's attorney must be able to contact the defendant at all times. The defendant shall keep in contact with his/her attorney and comply with all directives of said attorney;
3. The defendant must maintain a current address and phone number with defense counsel, the Clerk of Court and, if so ordered by the Court, with the Adult Probation Department. Any change of address or phone number must be reported by the defendant to the above parties by the next business day after the change. The defendant may not change his/her address or phone number without prior approval from the Court or the Adult Probation Department.
4. Unless permission is secured from the Adult Probation Department, the defendant's travel shall be restricted to either of the following:
  - (a) The confines of the Ohio County in which he/she now resides, or
  - (b) The State of the defendant's residence, if other than Ohio.
5. The defendant shall not be charged with nor commit any serious traffic or criminal offenses.

C. The Court may impose any other constitutional conditions considered reasonably necessary to ensure appearance or public safety.



## **RULE 20.02**

### **COURT APPOINTMENT**

A. Any attorney appointed to provide legal representation for indigent defendants shall be compensated pursuant to Section 120.33 et.seq., Revised Code of Ohio, and any other applicable Ohio law. Such attorneys shall be reimbursed for expenses reasonably incurred not to exceed one hundred dollars (\$100.00) without prior court approval. Necessary expenses in excess of \$100.00 may be allowed only if approved by the trial Judge in advance of incurring the expense and if the amount thereof is determined to be reasonable by the trial Judge. No attorney shall be appointed to represent an indigent defendant if that attorney has received compensation or has been promised compensation from any source for representing that defendant in the case at bar.

B. Additional payment shall be made for extraordinary cases and then only upon application under oath by the attorney showing extraordinary services, and after approval by the trial Judge.

C. Attorneys appointed by the Court to represent an indigent defendant shall be responsible for the filing of the Affidavit of Indigency with the Clerk of Courts on the form provided by the Court within fifteen (15) days of the arraignment of the defendant.

D. Within thirty (30) days of the conclusion of the case or the termination of the

attorney's services, whichever should occur first, the attorney shall submit an application, motion and judgment entry for fees. Said application, motion, and judgment entry shall be submitted to the Clerk of Courts in triplicate with each bearing original signatures. Copies shall be provided to the Clerk if the attorney desires file stamped copies.

E. In any contempt action, if the alleged contemnor is determined indigent, he/she shall be provided legal representation by the appointed counsel.