

**RULES OF COURT**  
**CLERMONT COUNTY COURT OF COMMON PLEAS**  
**DIVISION OF DOMESTIC RELATIONS**  
**Effective January 15th, 2015**

**JUDGE KATHLEEN M. RODENBERG**

**Adopted this 15<sup>th</sup> day of January, 2015**

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**Judge Kathleen M. Rodenberg**



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**TITLE I: GENERAL PROVISIONS**

**DR 1. ADOPTION, SCOPE AND CONSTRUCTION OF RULES**

- (A) It is ordered that the Domestic Relations Court of Clermont County, Ohio shall adopt the following Rules for the management of proceedings of the Court pursuant to Article IV, Section Five of the Ohio Constitution, Rules of Superintendence of the Supreme Court or as required by law.
- (B) These Rules, as amended, shall be effective July 15, 2015, and supersede all previous rules promulgated by this Court.
- (C) These Rules are intended to supplement the Ohio Rules of Civil Procedure, the Rules of Superintendence for the Courts of Ohio and other controlling statutes.
- (D) These rules shall be cited as “DR \_\_\_\_.”

**DR 2. PLEADINGS AND MOTIONS**

- (A) All pleadings, motions, and other filings shall be legibly typewritten or printed. The caption of subsequent pleadings, motions, except post decree motions, and other papers shall contain the name of the Judge and the name of the Magistrate to whom the case is assigned.
- (B) All pleadings, motions and other filings shall bear the name, address, telephone number, fax number, e-mail address and Supreme Court Registry number of the attorney. Pleadings shall also contain the telephone number, fax number and email address, if available, of any self-represented party.
- (C) All substantive motions shall state with particularity the grounds, shall set forth by memorandum or affidavit the relief or order sought, and shall identify any prior order(s) at issue. A motion that does not conform to the requirements of this rule may be dismissed without further notice.
- (D) Nothing, including pleadings, motions, other papers, and any amendments, shall be removed from any file without Court order. Further, no person shall remove a file from the possession of court personnel without the express permission of the Judge or assigned Magistrate.
- (E) The documents set forth in Appendix A shall be filed with all initial pleadings, Answers/Counterclaims, 75(N) motions and post decree filings. All initial pleadings, Answers/Counterclaims, 75(N) motions and post decree filings must be presented to and acknowledged by the Compliance Officer prior to being presented to the Clermont County Clerk of Courts’ office for filing unless the filing party is represented by counsel.

**DR 3. COSTS**

- (A) The Clerk of Courts shall not accept any pleading for filing without a deposit unless otherwise not required pursuant to RC 2323.31 or RC 3113.31. Deposits shall be charged in accordance with the schedule set forth in Appendix B.
- (B) The Court may require additional court cost deposits on an interim basis.
- (C) The Clerk of Courts shall not accept post decree motions from a moving party who owes court costs in the case.

**DR 4. SPECIAL PROJECT FUND**

Pursuant to RC 2303.201(E)(1), the Court has determined that additional funds are necessary to acquire and pay for special projects of the Court. A special project fee shall be collected by the Clerk of Courts upon the initial filing of a Divorce, Legal Separation, Annulment, Dissolution and post decree motions. All fees collected under this rule shall be paid to the Clerk of Courts for deposit with the County Treasurer, to be disbursed upon order of this Court.

**DR 5. FACSIMILE FILINGS**

In conformity with Ohio Civil Rule 5(E), pleadings and other papers may be filed by fax subject to the following conditions:

- (A) A document filed by fax shall be accepted as the original filing, consistent with the Ohio Civil Rule 5(E), provided that the person sending the fax complies with all of the requirements set forth in this local rule. The person filing a fax must maintain in his/her records, and have available for production upon request of the Court, the original copy of any document filed by fax, with original signatures as required under the applicable rules. The person transmitting the document represents that the signed document is in his/her possession.
- (B) The following telephone numbers shall be used for filing by fax: (513) 732-7866; or (513) 732-7056. These are the only numbers that may be used for filing. These numbers will be available to receive faxes 24 hours per day 7 days per week.
- (C) Documents sent by fax and accepted by the Clerk of Courts shall be considered filed as of the date and time the fax was received by the Clerk of Courts. All risk of transmission is borne by the sender.
- (D) There are no costs related to filing by fax except to the extent that the filings are taxed as costs to any case.
- (E) Exhibits shall not be submitted by fax unless ordered by the Court.

- (F) The person filing a document by fax shall also include a cover page containing the following information:
  - (1) case caption;
  - (2) the case number;
  - (3) a description of the document being filed;
  - (4) the date and time of the transmission;
  - (5) the transmitting fax number;
  - (6) the number of pages being transmitted.
- (G) The following documents may not be filed by fax:
  - (1) Any filing in which the Clerk of Courts must collect a deposit against costs;
  - (2) Any filing in which the Clerk of Courts is required to effectuate service and summons;
  - (3) Any entry; and
  - (4) Any pleading which requires presentment to the Compliance Officer as set forth in DR 2(E).
- (H) This Local Rule has been instituted solely for the convenience of those filing documents with the Court. The Court does not assume any obligations or liabilities by virtue of this rule. The sender assumes all responsibilities, obligations and liabilities for using this method of filing. This rule pertains only to the method of filing. This rule does not alter, amend, revoke or otherwise change any local rule or Ohio Rule of Civil Procedure.

**DR 6. ASSIGNMENT AND SCHEDULING OF CASES**

- (A) The Judge of the Court of Common Pleas, Division of Domestic Relations shall designate an Assignment Commissioner for all cases filed in the division.
- (B) Upon the direction of the Court, the Assignment Commissioner shall set cases for hearing.
- (C) No case which has been set for a pretrial, trial, or hearing shall be continued without the Court's authorization.
- (D) A motion for a continuance shall state the following:
  - (1) the reason for the request for a continuance;

- (2) how long the case has been set for trial;
- (3) how long the case has been pending;
- (4) the number of previous continuances granted; and
- (5) at whose request the previous continuance was granted.

If a continuance is requested due to a scheduling conflict, verification of the scheduling conflict shall be attached to the motion.

- (E) All trials and hearings may be heard by the presiding Judge, by one of the Judges of the Clermont County Common Pleas Court, by a visiting Judge, or by any Magistrate appointed by the Court.

#### **DR 7. DISMISSAL OF A CASE**

- (A) An entry of voluntary dismissal must be signed by the party requesting the dismissal when there are temporary orders for child support and/or spousal support. The entry shall state that the support obligation is terminated, the support account is closed, and the overpayment or arrearage is reduced to zero.
- (B) Stipulations or notices of voluntary dismissal of an action shall be governed by the provisions of Civil Rule 41. The original shall be filed with the Clerk of Courts and the attorney/party shall deliver a copy to the Domestic Relations Court. A case may not be dismissed by stipulation or notice of voluntary dismissal if there are temporary orders for child support and/or spousal support.
- (C) A certificate by the Clerk of Courts that all costs have been paid in full or waived must be submitted at the time of filing the entry, stipulation, or notice.
- (D) Dismissals of Domestic Violence Civil Protection Orders are by the requirements of RC 3113.31.

#### **DR 8. INACTIVE CASES**

Cases that have been on the docket for six months without any proceedings in the case, except cases awaiting trial assignment, shall be set for pretrial/dismissal with notice to the attorneys of record and self-represented parties.

#### **DR 9. COMMUNICATIONS WITH JUDGES AND MAGISTRATES**

No attorney or party shall discuss the merits, either orally or in writing, of any litigation with the presiding Judge or Magistrate without the presence of opposing attorney or opposing self-represented party.

## **DR 10. WITHDRAWAL OF ATTORNEY/SUBSTITUTION OF ATTORNEY**

- (A) Upon entering an appearance, no attorney shall be relieved of his/her responsibility unless he/she timely files a written motion with the Court stating his/her grounds for withdrawing from the case together with a written notification form setting forth the party's current address, telephone number, and email address, if any. The attorney must file proof of service of the motion and hearing notice on his/her client. If an attorney presents an entry signed by his/her client together with the written notification form, there is no need to serve notice of the hearing. The attorney requesting the right to withdraw shall comply with Rule 1.16, Ohio Rules of Professional Conduct.
- (B) A written motion to withdraw as attorney shall contain the date of the next hearing. Once a final trial date has been set, the attorney may not withdraw, make a substitution of attorney, or enter an appearance without leave of Court. Except for good cause shown, a final trial date may not be continued due to the withdrawal, substitution, or entry of appearance.
- (C) Any attorney entering a case that he/she did not commence shall file a written notice of appearance prior to the first court appearance. Failure to file a written notice of appearance, however, does not relieve an attorney of the obligation to comply with DR 10(A).

## **TITLE II: PRE-TRIAL AND TRIAL RULES**

### **DR 11. MANDATORY DISCLOSURE**

- (A) Within thirty days of the filing of an answer or counterclaim, each party to a pending divorce or legal separation has the affirmative duty to disclose to the opposing party the following information and documents.
  - (1) All pension, retirement and/or profit-sharing plans including the most recent plan summary;
  - (2) All COBRA benefits to which the other party may be entitled;
  - (3) Copies of all real estate deeds and vehicle titles and registrations;
  - (4) All appraisals of real estate or personal property in which the party holds an interest;
  - (5) Copies of individual income tax returns for the last three years;
  - (6) Documentary proof of current income from all sources;

- (7) Copies of the most recent statements for all bank accounts, IRAs, pensions, retirement plans, profits sharing plans, stock accounts, mortgages, credit accounts, and all other debt; and,
  - (8) Verification of the marginal cost of medical insurance for the minor children.
- (B) Notice of noncompliance must be raised prior to scheduling the trial date. No trial date will be rescheduled for noncompliance with this rule.
  - (C) Failure to comply with this Rule may result in sanctions pursuant to Civil Rule 37, including but not limited to contempt citation, possible dismissal of claims, or restrictions on the submission of evidence.

#### **DR 12. DISCLOSURE OF EXHIBITS**

- (A) Plaintiff's exhibits **must** be marked with numbers. Defendant's exhibits **must** be marked with letters.
- (B) As a courtesy to the Court, the exhibits should be tabbed.

#### **DR 13. PRETRIAL CONFERENCE/REPORT**

- (A) Attorneys for all parties and self-represented parties shall be present at the pretrial conference and shall be:
  - (1) prepared to discuss all issues in dispute, or
  - (2) prepared to contact the client by telephone during the course of the pretrial conference for the purpose of obtaining information. Failure of an attorney or a party to appear or failure to cooperate in good faith may subject the attorney or party to sanctions provided by Civil Rule 37.
- (B) Attorneys/Parties may appear for a pretrial and reports by telephone by calling the Court at 513-732-7327 at the appointed time. Counsel should conference in the opposing counsel or party prior to calling the court.

#### **DR 14. FAILURE TO APPEAR**

- (A) If a party seeking relief fails to appear for the scheduled hearing, the Court may enter an order dismissing the action for want of prosecution. If the opposing party fails to appear and the party seeking relief does appear, the Court may allow the case to proceed.
- (B) If the attorney for a party fails to appear at the scheduled time for the trial or hearing and the party whom he/she represents is present, the Court may allow the case to proceed.

**DR 15. FINANCIAL PLAN ANALYSIS COMPUTER PRINTOUT**

In absence of expert testimony as to the accuracy of the projections, the use of a financial plan analysis computer program printout may be submitted only as part of the final argument on financial feasibility of support and not as evidence.

**TITLE III: TEMPORARY ORDERS**

**DR 16. TEMPORARY ORDERS**

- (A) Any requests for a temporary order pursuant to Civil Rule 75(N) must be filed in conjunction with the filing of a complaint, answer, or counterclaim.
- (B) The party requesting a temporary order pursuant to Civil Rule 75(N) must file a notice advising the Court of the perfection of service on the opposing party.
- (C) Any requests for a temporary order not filed in conjunction with the filing of a complaint, answer, or counterclaim will be set for oral hearing.

**DR 17. PARTIES IN THE SAME HOUSEHOLD**

Temporary spousal support, child support, or allocation of parental rights and responsibilities shall not be granted when the parties reside in the same household. Upon motion and affidavits properly filed, the Court may order payment of household expenses.

**DR 18. EXCLUSIVE OCCUPANCY**

- (A) If a party has vacated the marital residence for thirty days or more, the Court may, upon motion and affidavit, issue an *ex parte* order awarding the other party exclusive occupancy of the marital residence.
- (B) If the parties are residing in the marital residence, a motion to vacate premises may be granted after a hearing if the movant establishes that the opposing party:
  - (1) attempted to cause or recklessly caused bodily injury, or;
  - (2) placed a party, by threat of force, in fear of imminent serious physical harm, or;
  - (3) committed any act with respect to a child that would result in the child being an abused child as defined in RC 2151.031; or,
  - (4) engaged in conduct that creates an environment which causes or is likely to cause emotional and/or mental stress to the spouse and/or minor children of the parties.

## **DR 19. TEMPORARY RESTRAINING ORDERS**

At the time of the filing of a Divorce or Legal Separation, a temporary restraining order set forth in Appendix C will be issued unless a Separation Agreement is filed with the Complaint. Plaintiff shall be deemed served with the Temporary Restraining Order upon filing of the Complaint. The Temporary Restraining Order shall be served on the Defendant with the summons.

## **TITLE IV: ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES**

### **DR 20. SHARED PARENTING**

If either party is, or both parties are, requesting shared parenting, that party/parties must file a proposed Shared Parenting Plan in conformance with RC 3109.04.

### **DR 21. PARENTING TIME**

The Standard Guideline Parenting Schedule set forth in Appendix D shall be applied in all non-shared parenting cases, subject to deviation based upon consideration of the factors in RC 3109.051.

### **DR 22. INTERVIEW OF CHILDREN BY THE COURT**

- (A) In camera interviews of child(ren) will be conducted pursuant to RC 3109.04(B). The transcript of a child's in camera interview shall be sealed and no party or attorney may obtain a copy without a Court order.
- (B) Children may not be brought to their parents' hearing except as witnesses in the hearing.

### **DR 23. PARENTAL INVESTIGATION BY THE COURT**

- (A) **Parental Investigation.** The Court may cause an investigation to be made regarding the character, family relations, past conduct, earning ability and financial worth of each parent, in order to assist the Court in allocating parental rights and responsibilities.
- (B) **Parental Questionnaire.** All parties shall return their completed parenting questionnaire to the parenting investigator as ordered. Failure to return the questionnaire or other failure to comply with the investigation may subject the party to a contempt action by the Court. The parenting investigator may prepare the report without the information of any party who fails to return the questionnaire, attend appointments or return telephone calls.
- (C) **Costs.** The cost of the investigation as set forth in Appendix B shall be allocated between the parties at the time the investigation is ordered, subject to modification at final hearing.

- (D) **Parental Investigation as Evidence.** The parenting investigation report is direct evidence and the parenting investigator is subject to cross examination. If a party desires to cross examine the parenting investigator, it is the responsibility of that party to issue a subpoena to the parenting investigator pursuant to Civil Rule 45. The subpoena should be issued as soon as possible, but must be served no later than three weeks prior to the hearing.

#### **DR 24. MEDICAL/PSYCHOLOGICAL/PSYCHIATRIC EVALUATIONS**

- (A) **Evaluations.** The Court may order the parents and their minor children to submit to medical, psychological, and/or psychiatric examinations. The Court will send the entry of appointment to the physician or psychologist. It is the responsibility of the parties to contact the physician or psychologist.
- (B) **Costs.** The cost of the examination shall be allocated between the parties at the time the examination is ordered, subject to modification at final hearing.
- (C) **Medical, Psychological or Psychiatric Evaluations as Evidence.** A medical, psychological, or psychiatric evaluation may not be entered as direct evidence absent testimony of the performing physician or psychologist or consent of the parties. It is the party's responsibility to issue a subpoena to the physician or psychologist pursuant to Civil Rule 45.

#### **DR 25. DIVORCE COUNSELING FOR PARENTS**

- (A) After filing of a Complaint for divorce or legal separation involving minor children under the age of 16, an order shall be issued requiring both parents to attend a seminar for separating parents, designed to educate the parents on ways to minimize the negative impact the separation or divorce may have on their children. Each parent shall register and pay for the seminar. Both parents shall attend the class within 45 days after the filing of the order. Failure to attend may subject the party to a contempt action by the Court.
- (B) Each attorney filing original pleadings shall advise his/her client of the program and the requirements of this rule.

#### **DR 26. APPOINTMENT OF GUARDIAN AD LITEM (GAL)**

- (A) The Court may appoint a *guardian ad litem* ("GAL") to protect the best interest of the child. The appointment and practice of a GAL shall be in conformity with Rule 48 of the Rules of Superintendence.
- (B) **Scope.** The GAL shall gather and assess all information and perform all responsibilities set forth in Rule 48 of the Rules of Superintendence. The Court may appoint an attorney for the child when there is a conflict between the recommendation of the GAL and the wishes of the child.

(C) **Procedure.**

- (1) The Court shall appoint the GAL from a roster of eligible candidates comprised of attorneys or CASA (Court Appointed Special Advocates) volunteers maintained by the Court. The Court will conduct annual performance and compliance reviews of all GALs.
- (2) The Court will order the parties to pay the amount it deems appropriate for payment of the GAL's services. The GAL's fees may exceed the deposit. All GAL fees, including fees paid through the deposit, are subject to reallocation between the parties in the final hearing.
- (3) The Attorney GAL will be paid \$125 per hour for his/her billable time. The Attorney GAL must provide a monthly statement of the fee to date to all parties or their attorneys, so that all parties are aware of the amount of the bill. When requesting an order for payment of GAL services, the GAL attorney must file a motion, supported by an affidavit and an itemized statement of all services rendered and costs incurred.
- (4) The GAL must file a report with the Court as required under Rule 48 of the Rules of Superintendence.
- (5) The GAL appointment is terminated automatically with the filing of the final decree or final entry.

(D) **Qualifications.** In addition to the requirements set forth in Rule 48 of the Rules of Superintendence, the Attorney GAL shall accept one pro bono assignment per year. Refusal of this assignment **will** result in removal from the list of eligible GALs.

(E) **Complaint Process.** Any complaint regarding GAL performance shall be submitted in writing to the Court Administrator. A record of the complaint will be included in the GAL file and annual Court performance review.

**DR 27. MEDIATION OF PARENTING RESPONSIBILITIES**

(A) **When Ordered.** The Court may order the parties to participate in mediation pursuant to Rule 16 of the Rules of Superintendence.

(B) **Scope.** Only issues regarding the allocation of parental rights and responsibilities and parenting time of the minor child(ren) may be subject to mediation under this local rule. The Court shall not order mediation in any of the following situations:

- (1) As an alternative to the prosecution or adjudication of domestic violence;
- (2) In determining whether to grant, modify, or terminate a protection order;

(3) In determining the terms and conditions of a protection order; and,

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

(C) **Procedure.**

(1) If the parties to mediation so desire, they may have their attorneys and/or other designated individuals accompany them and participate in mediation.

(2) Any case referred for mediation will be screened for domestic violence prior to beginning the mediation and throughout the mediation as necessary.

(3) When domestic violence or fear of domestic violence is alleged, suspected, or present, mediation will take place only under the following conditions.

a. The alleged victim is fully informed about the mediation process, his/her right to decline to participate in mediation, and his/her right to have a support person present.

b. The Court and the mediator determine that the parties have the capacity to mediate without fear of coercion or control.

c. Appropriate security measures are in place to provide for the safety of all parties involved in the mediation.

d. The mediator will terminate mediation if he/she believes there is a continued threat of domestic violence or coercion between the parties.

Any agreement reached during mediation regarding parenting issues shall not be binding on the parties until approved by the Court, after consideration of the best interest of the child(ren).

(D) **Qualifications.** A mediator employed by the Court, or to whom the Court makes referrals for mediation, shall have the following minimum qualifications:

(1) A bachelor's degree, or equivalent education experience, satisfactory to the Court, and at least two years of professional experience with families. Professional experience with families includes mediation, casework, legal representation in family law matters, or such other equivalent experience that is satisfactory to the Court.

(2) Completion of at least 12 hours of basic mediation training or equivalent experience that is satisfactory to the Court, and at least 40 hours of specialized family or divorce mediation training conducted in a program approved by the Commission on Continuing Legal Education in

accordance with the administrative guidelines established by the Committee on Dispute Resolution of the Ohio Supreme Court.

- (3) When domestic violence or fear of domestic violence is alleged, suspected, or present, completion of at least 14 hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Advisory Committee on Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if he/she co-mediate with a mediator who has completed the specialized training.
- (E) **Confidentiality.** Neither the statements made during the course of the mediation screening nor mediation sessions nor the notes of either the mediator or the individual conducting the screening shall be discoverable or admissible as evidence in any subsequent proceeding in this Court. The foregoing confidentiality requirements shall not be construed to exempt any person from the statutory duty to report child abuse pursuant to RC 2151.421, statements that a felony has been or is being committed, violent acts that occur during mediation, and threats of harm to other people.

## TITLE V: DECISIONS AND ENTRIES

### DR 28. DECISION OF THE JUDGE

When a request for findings of fact and conclusions of law to a Judge's decision is made, the party making the request shall submit proposed findings of fact and conclusions of law within 14 days from the filing of the request.

### DR 29. DECREES, ENTRIES AND ORDERS ESTABLISHING OR MODIFYING CHILD SUPPORT ORDERS

- (A) **Child Support Worksheets.** A child support worksheet must be submitted with any decree or entry where child support is an issue. When shared parenting is ordered, two child support worksheets must be attached to the Plan, one for each party as the obligor. The decree or entry must state the amount of child support with insurance, without insurance and the cash medical support order.
- (B) **Deviations.** If there is a deviation from the child support schedule, the worksheet(s) must indicate the amount of deviation. If shared parenting is ordered, both worksheets must indicate the amount of deviation. In addition, the decree or entry shall indicate the reasons for the deviation in accordance with RC 3119.23. Language indicating that the guideline support is "unjust or inappropriate and not in the best interest of the child(ren)" must also be included in the decree or entry.

- (C) The required child support language must be included in either the shared parenting plan or the Decree. It is not, however, required to be in both documents.
- (D) **Requirements for Acceptance.** A decree or entry establishing or modifying child support must state the effective date of support, the disposition of any overage or arrearage, and the language required under RC Chapters 3119 and 3121. Sample language that complies with this rule is on the Court's website. The monthly figure listed in the decree or entry must correspond with the child support worksheet.
- (E) **Health Care Orders.** All decrees or entries establishing or modifying child support orders shall include health care language required under RC 3119.30 and RC 3119.31.

**DR 30. QUALIFIED DOMESTIC RELATIONS ORDERS AND DIVISION OF PROPERTY ORDERS**

- (A) All Qualified Domestic Relations Orders (QDRO) and Division of Property Order (DOPO) shall meet the following requirements:
  - (1) Two copies of the QDRO or DOPO must be submitted:
    - (a) The original with personal identifiers and original signatures signed by all parties and attorneys.
    - (b) A copy with the personal identifiers redacted, but including all signatures.
    - (c) Failure or refusal of the opposing party or his/her attorney to sign the QDRO or DOPO shall allow the preparer to unilaterally present the QDRO or DOPO for journalization. If a QDRO or DOPO is submitted without the signatures of all attorneys and parties, the attorney or party submitting the QDRO or DOPO shall comply with DR 31.
  - (2) The Decree of Divorce, Dissolution or Legal Separation shall reserve jurisdiction to approve, amend and/or modify any properly accepted QDRO or DOPO to comply with the requirements of the plan administrator.

A preapproval letter from the plan administrator is no longer required. It is, however, the filer's responsibility to draft the order in a format acceptable to the plan administrator.

- (B) The Clerk of Courts shall file the copy with the personal identifiers redacted in the public Court file. The Clerk of Courts shall keep the original, with personal

identifiers, in the red folder unavailable for public viewing. The Clerk of Courts will send a certified copy of the original to the plan administrator.

- (C) A certificate by the Clerk of Courts that all costs have been paid in full or waived must be submitted at the time of presentment of the QDRO or DOPO to the assigned Magistrate and/or Judge for signature.

#### **DR 31. PREPARATION OF DECREES, ENTRIES AND ORDERS**

- (A) When a party/attorney is ordered to prepare a decree, entry, or order, he/she shall prepare the document and submit it to the opposing attorney/party with a cover letter, instructing him/her to review, sign, and return the document to the preparer within 14 days. If the opposing attorney/party does not respond within 14 days, the document may be submitted to the court without his/her signature, but with a copy of the cover letter sent to the opposing counsel/party.
- (B) The decree/entry shall contain an order of the Court ordering the Clerk of Courts to serve it on the parties in the action pursuant to Civil Rule 58(B).
- (C) A certificate by the Clerk of Courts that all costs have been paid in full or waived must be submitted when the decree/entry is presented to the assigned Magistrate and/or Judge for signature.

#### **DR 32. AGREED ENTRIES**

- (A) In post-decree matters, a motion must be filed prior to the filing of an agreed entry. In pre-decree matters, agreed entries may be submitted without a motion.
- (B) Agreements reached by parties at hearings shall be read into the record, or both the attorneys and parties shall sign a written agreed entry at the hearing.
- (C) Agreed entries may be adopted by the Court, without a hearing, provided that: (1) at least one party is represented, (2) any *self represented* party's signature on the agreed entry has been notarized, and (3) the Court has determined that a hearing is not necessary and that no further documentation is necessary.

### **TITLE VI: MAGISTRATES**

#### **DR 33. POWERS OF THE MAGISTRATES**

All Magistrates shall be awarded all of the powers set forth in Civil Rule 53, and all other powers as set forth in the journal entries of this Court and the statutes of this state. A written Magistrate's decision is not required if there is an agreed entry and all parties execute a waiver of Magistrate's decision and 14 day objection period

## **DR 34. MAGISTRATE'S ORDERS AND DECISIONS**

- (A) Civil Rule 53 shall govern all procedures regarding Magistrate's decisions and orders.
- (B) When a request for findings of fact and conclusions of law to a Magistrate's decision is made, the party making the request shall submit proposed findings of fact and conclusions of law within 14 days from the filing of the request.
- (C) Any motion to set aside a Magistrate's order or objections to a Magistrate's decision based on a factual finding shall be supported by a transcript or an affidavit of the evidence if a transcript is not available.
- (D) A party shall have 14 days following the filing of the transcript within which to file supplemental objections.
- (E) Motions to set aside a Magistrate's order, objections to a Magistrate's decision, or supplemental objections to the Magistrate's decision may include a brief in support. The brief in support shall be filed within 14 days following the filing of the transcript.
- (F) If a transcript is required under Civil Rule 53 or this rule, the party filing the motion or objections shall immediately order the transcript from the Court Reporter by filing a Praecipe with the Clerk of Courts at the time of filing the objections. The transcript shall be filed within 30 days after filing the motion or objections. Failure to file the transcript timely will result in dismissal of the motion or objections unless the Court extends the time. No extensions of time will be granted for failure to order the transcript or for failure to pay for the transcript.
- (G) Each party shall have seven days after the filing of the motion to set aside, objections, supplemental objections, or brief in support to file a brief in opposition.

## **TITLE VII: SPECIAL PROCEEDINGS**

### **DR 35. DOMESTIC VIOLENCE**

An action seeking an *ex parte* Civil Protection Order may be initiated by filing a Petition for a Domestic Violence Civil Protection Order in accordance with RC 3113.31. Petitions may be filed with the Clerk of Courts from 8:00 a.m. to 2:30 p.m., Monday through Friday. The Clerk of Courts will not accept the filing of a Petition for a Domestic Violence Civil Protection Order after 2:30 p.m.

### **DR 36. REGISTRATION OF A FOREIGN PARENTING ORDER (UCCJEA)**

- (A) An order allocating legal custody, physical custody, parenting time, or visitation issued by another state or country may be registered with this Court for the

purpose of enforcing or modifying any provisions in accordance with RC 3127.01 *et seq.* (UCCJEA). If a party is seeking modification of an order allocating legal custody, physical custody, parenting time, or visitation, this Court must be able to exercise jurisdiction in accordance with the provisions of RC 3127.15-22, 3127.34, and 3127.36. The registration of a decree under this rule does not vest this Court with jurisdiction to enforce or modify child support, spousal support or property division.

(B) **Procedure.**

(1) The party seeking registration of the foreign decree under the UCCJEA shall file and serve on the opposing party a Petition requesting such registration. The Petition shall attach a certified copy of the foreign decree(s) and a Parenting Proceeding Affidavit. The Petition shall include a statement under penalty of perjury that, to the best of the knowledge and belief of the person seeking registration, the order has not been modified.

(2) The Petition shall comply with RC 3127. This original pleading shall state all facts known to the filing party relevant to RC 3127.15(A), 3127.17 and/or 3127.18, as applicable.

(C) **Enforcement/Modification.** If a motion to modify is filed simultaneously with the registration, the Court shall set the motion to modify for hearing after the foreign order has been registered and confirmed. If the motion to modify is granted, this Court has exclusive, continuing jurisdiction until it is determined that the child, the child's parents and any person acting as a parent do not presently reside in this state pursuant to RC 3127.16.

### DR 37. REGISTRATION OF A FOREIGN SUPPORT ORDER (UIFSA)

(A) A child support order issued by another state or country may be registered in this court for the purpose of enforcement or modification in accordance with RC 3115.01 *et seq.*

(B) **Procedure.** An action to register a foreign child support order for enforcement purposes only is governed by RC 3115.39 through RC 3115.45. An action to modify a foreign child support order is governed by RC 3115.46 through RC 3115.51.

(C) **Enforcement/Modification.** A Petition seeking enforcement or modification of child support may be filed with the registration or may be filed at a later time. If a motion to enforce or modify is filed simultaneously with the registration, the Court shall set the motion for hearing after the foreign child support order has been registered and confirmed. If the motion to modify is granted, this Court has continuing, exclusive jurisdiction pursuant to RC 3115.48(D).

### DR 38. CHANGE OF VENUE

- (A) If a change of venue is requested from another Ohio court in a pending case where a final divorce decree or legal separation decree has not been filed, the following must be filed before this Court will accept jurisdiction:
  - (1) A certified copy of the entry from the original court authorizing the transfer of venue.
  - (2) Transfer of the entire file from the Clerk of Courts in the original county to the Clermont County Clerk of Courts.
- (B) If a change of venue is requested for hearing a post decree motion on a case adjudicated by another Ohio court, the following must be filed with the post decree motion before this Court will accept jurisdiction:
  - (1) A certified copy of the entry from the original court authorizing the transfer of venue.
  - (2) A certified copy of the final decree and any subsequent entries modifying the final decree.
- (C) If a change of venue is requested from this Court to transfer the case to another Ohio court, the following must be filed before the request will be heard by this Court:
  - (1) A motion requesting change of venue setting forth the reasons for the request for change of venue.
  - (2) Proof of service of the motion on the opposing party by the Clerk of Courts.

### DR 39. ATTORNEY FEES

- (A) **Procedure.** A motion for attorney fees may be included in the body of the motion or other pleading that gives rise to the request for fees. If the motion for attorney fees is by separate motion, it must be served on the opposing party/attorney at least seven days prior to the hearing on the motion or other pleading that gives rise to the request for fees. Except for good cause shown, no oral motion for fees shall be entertained.
- (B) **Reasonable Fee.** Absent formal evidence, \$500 shall be considered a reasonable attorney fee, unless otherwise determined by the Court. In determining the necessity for and the reasonableness of attorney fees, the Court may rely on its own knowledge and observations of time and effort expended, tactics used, results obtained, discovery cooperation shown, settlement efforts made, and compliance with Court orders demonstrated. The Court may also

consider the amount of attorney fees the opposing party has incurred in the same matter.

- (C) **Evidence in Support of Motion.** At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney shall present the following:
- (1) An itemized statement describing the services rendered, the time for such services, the requested hourly rate, and necessary expenses and cost for litigation.
  - (2) Testimony as to whether the case was complicated by any factor which necessitated extra time being spent on the case.
  - (3) Testimony regarding the attorney's years in practice and experience in domestic relations cases.
  - (4) Evidence of the defending party's ability to pay, and of the moving party's need for an award of attorney fees, if not otherwise disclosed during the hearing.

#### **DR 40. EXISTING JUVENILE COURT SUPPORT ORDERS**

- (A) If there is a Juvenile Court child support order in effect at the time a divorce or dissolution is filed, the parties shall submit the following to this Court by the date of the first pretrial or hearing:
- (1) The name and address of the Juvenile Court;
  - (2) Juvenile Court Case Number; and
  - (3) A copy of the worksheet used by the Juvenile Court in establishing the support obligation.
- (B) The parties are responsible for seeking the termination of the Juvenile Court's order and the transfer of any balance owed under the Juvenile Court's order.
- (C) If a Juvenile Court child support order is transferred, the decree or entry in the Divorce or Dissolution case shall include language indicating the case number and effective date of the termination of the Juvenile Court's order, and the effective beginning date of this Court's order. The effective date of the termination and the effective beginning date should be the same date. The following is a sample language that complies with this rule:

*Obligor was ordered to pay child support under \_\_\_\_\_ County Juvenile Court Case Number \_\_\_\_\_. By agreement of the parties, the \_\_\_\_\_ County Juvenile Court child support order was terminated effective \_\_\_\_\_. CSE shall transfer the balance from the \_\_\_\_\_ County*

#### **DR 41. EARLY NEUTRAL EVALUATION**

(A) **Definitions.**

- (1) Early Neutral Evaluation (“ENE”) is a court-ordered dispute resolution process in which the Early Neutral Evaluators provide an evaluation of the probable outcome of litigation. ENE is not mediation.
- (2) An Early Neutral Evaluator (“Evaluator”) is a court-appointed individual who conducts the ENE session. The Evaluators will not be assigned later to decide the pending action if the ENE process does not result in its resolution.
- (3) ENE Communication means a statement, whether oral, in a record, verbal or nonverbal, that occurs during an ENE session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening an ENE session.

(B) **Case Selection and Referral.** Either party may request ENE through a written or oral motion to the Court or the Court may order ENE by its own motion. Once a case is ordered to ENE, the Court will assign two Evaluators and select a date, time, and location for the first ENE session. The ENE fee, unless waived, must be paid within ten days from the Entry Ordering ENE.

(C) **Participation.** ENE requires the participation of each party and his/her attorney, if applicable. No other person is permitted to participate without the Court’s approval.

(D) **Scheduling Procedure.** Each ENE sessions is scheduled for two to three hours. If additional sessions are necessary, they will be scheduled after the first ENE session.

(E) **Pre-Session Procedure.** One week prior to the ENE session, each party must submit his/her Perspective Brief to the Court and to the opposing party. The Brief must arrive at the Court and at the office of the opposing counsel (if applicable) or at the residence of the other party (if unrepresented by counsel), no later than one week before the ENE session. The Brief may be submitted by ordinary mail, hand-delivery, facsimile or e-mail.

The Evaluators will review the Briefs to gain a preliminary understanding of the concerns, interests and issues in the case. The Briefs will not be filed with the Clerk of Courts. If the Briefs are filed with the Clerk of Courts, the Court will order the briefs removed and stricken from the record. The Court’s copies of the Briefs will be shredded upon completion of the ENE process.

If a party fails to timely submit his/her Brief, the Court may assess an additional fee of \$50. Additionally, if a party fails to submit his/her Brief, the Court may assess an additional fee of \$100.

- (F) **Session Procedure.** At the ENE session, the Evaluators will oversee the discussion to allow each party and his/her attorney the opportunity to be heard in an atmosphere of cooperation and respect. The Evaluators may seek additional information from the parties. Once the information is gathered, the Evaluators will meet privately to discuss the strengths and weaknesses of each party's position and probable outcomes. The Evaluators will then present this feedback and the options to all parties present at the session. The parties will have an opportunity to consult privately with their attorneys to review and discuss the Evaluators' feedback. The parties will reconvene and discuss results. If the parties come to a full or partial agreement, the parties will reduce the agreement to writing and submit it to the assigned Judge/Magistrate.
- (G) **Confidentiality.** Early Neutral Evaluation communications are confidential. Exceptions to confidentiality include the following:
- (1) Parties may share all ENE communications with their attorneys;
  - (2) Allegations of abuse or neglect of a child;
  - (3) Certain threats of harm to other people or oneself;
  - (4) Statements made during the ENE process to plan or to hide an ongoing crime; and
  - (5) Statements made during the ENE process that reveal a felony.
- (H) **Privilege.** An ENE communication is privileged and not subject to discovery or admissible as evidence in a judicial proceeding. An Early Neutral Evaluator may not be deposed or subpoenaed to testify about any ENE communication unless an exception applies. Exceptions to privilege include the following:
- (1) The ENE communication is otherwise discoverable;
  - (2) The ENE communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence;
  - (3) The ENE communication is intentionally used to plan, to attempt to commit, or to commit a crime or to conceal an ongoing crime or ongoing criminal activity.
  - (4) The ENE communication is required to be disclosed pursuant to R.C. 2921.22.

- (I) **Continuances.** It is Court's goal to determine matters in a timely manner. No case scheduled for ENE will be continued without the Court's authorization. A motion for a continuance shall state the reason(s) for the request. A scheduled ENE session shall be continued only for good cause shown and after a future date has been determined.
- (J) **Sanctions.** Any party who violates these rules may be subject to appropriate sanctions, including but not limited to, additional fees, forfeiture of paid ENE fees, contempt of court, attorney fees, or costs.

## **TITLE VIII: CASE MANAGEMENT**

### **DR 42. STATEMENT OF PURPOSE**

- (A) The purpose of this rule is to establish, pursuant to the Rules of Superintendence for the Courts of Ohio, a case management system which will provide for the prompt, fair, and timely disposal of all cases and motions before the Court.
- (B) When litigation is initiated in this Court, it is important that the Court supervise the progress of all cases from filing to termination in a process that is fundamentally fair, but not too deliberate or too hasty. Within the bounds of applicable constitutional provisions, statutes, case law, and rules governing the courts of Ohio, the Court shall manage the sequence of events in cases to ensure the timely disposition of all matters by trial, submission for decision on legal arguments, negotiated settlement, mediation, or other means of appropriate dispute resolution.
- (C) It is incumbent upon the Court to articulate orders in each case for the uniform enforcement of procedural requirements, other rules, and time deadlines applicable in any particular case. Counsel in each case has a corresponding duty to know these rules and meet these deadlines and to inform the Court of extraordinary circumstances that would cause the standard deadlines to work a substantive injustice to their clients. In order to comply with the Case Flow Schedule, attorneys and parties need to pursue their cases vigorously.
- (D) The deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas Domestic Relations Divisions shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules. Cases should be resolved within the absolute time limits as set by the Ohio Rules of Superintendence for the Court of Common Pleas Domestic Relation Divisions.

### **DR 43. CASE FLOW SCHEDULE**

- (A) **Dissolution:**  
Upon the filing of a Petition for Dissolution with or without children, a hearing shall be scheduled not earlier than 30 days or later than 75 days from the date of the filing of the petition. An action for Dissolution with or without children shall

be concluded no later than 90 days after the petition has been filed.

- (B) Divorce, Annulment and Legal Separation:  
An action on a Complaint for Divorce, Annulment or Legal Separation shall be scheduled for a pretrial/final hearing not earlier than six weeks or later than twelve weeks after service of the Complaint. An action for a divorce, annulment, or legal separation with children shall be concluded no later than 18 months after the complaint has been filed, unless the issues are unduly complicated. An action for a divorce, annulment or legal separation without children shall be concluded no later than 12 months after the complaint has been filed unless the issues are unduly complicated.
- (C) Motions:
- (1) Requests for temporary orders filed pursuant to Civil Rule 75(N) shall be considered by the assigned Magistrate within one week upon the later of receipt of the notification of perfection of service, or fifteen days from the service of the Motion in the event the notification of perfection of service is filed prematurely. All hearings for temporary orders filed pursuant to Civil Rule 75(N) shall be scheduled on the next available docket for the assigned Magistrate but no sooner than 18 days after the motion was filed.
  - (2) All pre-decree motions shall be heard by the assigned Magistrate unless otherwise directed by the Judge. Pre-decree motions shall be scheduled on the next available docket for the assigned Magistrate but no sooner than 18 days after the motion was filed.
  - (3) All post-decree motions shall be heard by the assigned Magistrate unless otherwise directed by the Judge. Post-decree motions shall be scheduled on the next available docket for the assigned Magistrate but no sooner than 18 days after the motion was filed. Motions for modification or enforcement of the allocation of parental rights and responsibilities or parenting time shall be concluded no later than nine months after service has been obtained. Motions for modification or enforcement of support shall be concluded no later than 12 months after the motion has been filed. All other post-decree motions shall be concluded no later than six months after the motion has been filed.
- (D) Domestic Violence Civil Protection Orders:  
Upon the filing of a Petition for a Domestic Violence Civil Protection Order, an ex parte hearing shall be scheduled on the same day the petition is filed. An action for a Domestic Violence Civil Protection Order shall be concluded no later than one month after the petition has been filed.

#### **DR 44. CASE MANAGEMENT**

- (A) The first pretrial conference shall be considered the case management conference. Attorneys and any self-represented parties shall be given written notice of the pretrial conference. The pretrial order will include a case management schedule.
- (B) The Judge/Magistrate, either on motion of a party or sua sponte, may modify any date in the case management schedule for good cause and on terms as are just. A modification may extend or reduce the time for any event. The amended case schedule shall be filed promptly and served on all parties or their attorneys of record.
- (C) When a case is stayed, the original case schedule shall be stayed. When the stay is lifted, counsel shall schedule a pretrial.
- (D) The parties may mutually schedule an uncontested hearing date at any time prior to the final hearing date. Additional pre-trials may be scheduled at the request of either party. It is within the Court's discretion, however, to grant additional pretrials.
- (E) At the discretion of the Judge/Magistrate, the parties may be ordered to attend settlement conferences.
- (F) Failure to comply with the case management schedule may result in a contempt action against counsel and/or a party, in addition to any other sanctions.

## APPENDIX A

### A. DIVORCE, LEGAL SEPARATION OR ANNULMENT:

#### **Complaint for Divorce, Legal Separation or Annulment with Minor Children**

Complaint	Your Own or 101
Classification Form	115
Notification Form	116
Praecipe for Service	110
Affidavit of Income and Expenses with income verification	501
Three most recent paystubs or other proof of income	
Affidavit of Property	502
Parenting Proceeding Affidavit	604
Child Support Worksheet Information <b>OR</b> Completed Child Support Worksheet	626
Health Insurance Affidavit	409
Title IV-D Application	7076

#### **Complaint for Divorce, Legal Separation or Annulment with Separation Agreement and Minor Children**

Complaint	Your Own or 101
Separation Agreement	Your Own or 105
Classification Form	115
Notification Form <b>(both parties if service waived)</b>	116
Praecipe for Service (unless waived)	110
Affidavit of Income and Expenses with income verification	501
Three most recent paystubs or other proof of income	
Affidavit of Property	502
Shared Parenting Plan (if applicable)	Your Own or 602
Guideline Parenting Schedule if following Standard Guideline	605
Parenting Proceeding Affidavit	604
Child Support Worksheet Information (Attorney must provide completed Child Support Worksheet)	626
Health Insurance Affidavit	409
Title IV-D Application	7076

#### **Complaint for Divorce, Legal Separation or Annulment – No Minor Children**

Complaint	Your Own or 102
Classification Form	115
Notification Form	116
Praecipe for Service	110
Affidavit of Income and Expenses with income verification	501
Three most recent paystubs or other proof of income	
Affidavit of Property	502

**Complaint for Divorce, Legal Separation or Annulment with Separation Agreement and No Minor Children**

Complaint	Your Own or 102
Separation Agreement	Your Own or 105
Classification Form	115
Notification Form <b>(both parties if service waived)</b>	116
Praeceptum for Service (unless waived)	110
Waiver of Financial Disclosure	703
Property Waiver	704

**Answer/Counterclaim with Minor Children**

Answer	Your Own or 106
Counterclaim	Your Own or 108
Notification Form	116
Affidavit of Income and Expenses with income verification Three most recent paystubs or other proof of income	501
Affidavit of Property	502
Parenting Proceeding Affidavit	604
Child Support Worksheet Information <b>OR</b> Completed Child Support Worksheet	626
Health Insurance Affidavit	409
Title IV-D Application	7076

**Answer/Counterclaim - No Minor Children**

Answer	Your Own or 107
Counterclaim	Your Own or 108
Notification Form	116
Affidavit of Income and Expenses with income verification Three most recent paystubs or other proof of income	501
Affidavit of Property	502

**75(N) Procedure – Motion for Temporary Order without Oral Hearing**

Motion and Affidavit (or Counter Affidavit) for Temporary Without Oral Hearing	202
Notice of Perfection of Service	201

**B. DISSOLUTION:**

**Dissolution with Minor Children**

Petition for Dissolution	Your Own or 103
Waiver of Service of Summons (signed by <b>each</b> petitioner)	701
Separation Agreement	Your Own or 105
Classification Form	115
Notification Form (one for <b>each</b> petitioner)	116
Waiver of Financial Disclosure Affidavit	703
Property Waiver	704

Shared Parenting Plan (if applicable)	Your Own or 602
Guideline Parenting Schedule if following Standard Guideline	605
Parenting Proceeding Affidavit	604
Child Support Worksheet Information (one for each petitioner) (Attorney must provide Completed Child Support Worksheet)	626
Health Insurance Affidavit	409
Title IV-D Application	7076
CSE Account Information Sheet	509-4
Decree of Dissolution ( <b>attorneys only</b> )	Your Own
Decree of Shared Parenting ( <b>attorneys only</b> )	601 or Your Own
Waiver of Magistrate's Decision and 14 Day Waiver	104-B
CSE Account Information Sheet	509-4

### **Dissolution - No Minor Children**

Petition for Dissolution	Your Own or 104
Waiver of Service of summons (signed by <b>each</b> petitioner)	701
Separation Agreement	Your Own or 105
Classification Form	115
Notification Form (one for <b>each</b> petitioner)	116
Waiver of Financial Disclosure Affidavit	703
Property Waiver	704
Decree of Dissolution ( <b>attorneys only</b> )	Your own
Waiver of Magistrate's Decision and 14 Day Waiver	104-B

## **C. POST DECREE**

### **Motion to Modify Child Support and/or Medical Insurance/Costs**

Motion and Supporting Memorandum	303
Notification Form	116
Health Insurance Affidavit	409

### **Motion to Modify Spousal Support**

Motion and Supporting Memorandum	305
Notification Form	116

### **Motion to Modify Parenting Time - Residential and Legal Custodian**

Motion and Supporting Memorandum	304
Notification Form	116

### **Motion to Modify Parenting Time – Shared Parenting**

Motion and Supporting Memorandum	304
Notification Form	116
Health Insurance Affidavit	409

### **Motion to Modify Parenting Rights and Responsibilities, Motion for Shared Parenting, or Motion to Terminate Shared Parenting**

Motion and Supporting Memorandum	302
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Proposed Shared Parenting Plan (if applicable)	602 or Your Own
Notification Form	116
Parenting Proceeding Affidavit	604
Health Insurance Affidavit	409

**Agreed Entry** (In addition to applicable motion documents listed above)

Agreed Entry	104-A
Waiver of Magistrate's Decision and 14 day Waiver	104-B
Guideline Parenting Schedule (if applicable)	605
Final Decree of Shared Parenting (if applicable)	601
Child Support Worksheet (If applicable)	
Title IV-D Application (If applicable & not previously filed)	7076
CSE Account Information Sheet (If applicable)	509-4

**Motion for Contempt**

Motion and Supporting Affidavit	301
Notification Form	116
Explanation of Medical Bills (if applicable)	301-M

**D. FOREIGN DECREES**

**Registration of Foreign Decree (UCCJEA)**

Petition	Your Own
Two Copies (1 must be certified) of Foreign Decree	
Classification Form	115
Notification Form	116
Notice of Registration	110A
Parenting Proceeding Affidavit	604

**Registration of Foreign Decree (UIFSA)**

Petition	Your Own
Two Copies (1 must be certified) of Foreign Decree	
Classification Form	115
Notification Form	116
Notice of Registration	110B
Parenting Proceeding Affidavit	604

**APPENDIX B  
DEPOSITS REQUIRED FOR COURT COSTS**

Divorce, Legal Separation & Annulment (no minor children)	\$325.00
Divorce, Legal Separation & Annulment (with minor children)	\$400.00
Petition for Dissolution of Marriage (no minor children)	\$275.00
Petition for Dissolution of Marriage (with minor children)	\$350.00
Post Decree Motion	\$165.00
Registration of Foreign Decree	\$ 50.00
Registration of Foreign Decree with Motion for Enforcement Or Modification	\$215.00
<b>The Clerk of Courts shall add as costs the following:</b>	
Parenting Investigation	\$250.00
Notice by Publication	\$200.00
Foreign County Service	\$ 40.00
Garnishment	\$ 50.00
Witness Fee (per day) plus mileage	\$12.00
Appeal to Court of Appeals	\$125.00

## APPENDIX C

### TEMPORARY RESTRAINING ORDER

**IT IS ORDERED, PURSUANT TO LOCAL RULE DR 19, EFFECTIVE ON THE DATE A COMPLAINT IS FILED THAT EACH SPOUSE IS ENJOINED FROM COMMITTING ANY OF THE FOLLOWING ACTS:**

1. Changing, or causing to be changed, the current residence of the child(ren) born or adopted by the parties, so as to change the domicile of the children; and
2. Causing physical abuse, annoying, inflicting bodily injury, attempting to cause or recklessly cause bodily injury, threatening the use of force or imminent physical harm, molesting, following, stalking, bothering, harassing, annoying, interfering with or imposing any restraint on the personal liberty of the other spouse, forcing sexual relations, committing any act with respect to a child in violation of the Revised Code of Ohio; and
3. Incurring debt in the name of the other spouse except for necessary food, housing, utilities, medical care, and necessary transportation; and
4. Selling, removing, transferring, encumbering, pledging, damaging, hiding, concealing, assigning or disposing of any and all property, real or personal, owned by both or either spouse or a child (including household goods, vehicles, financial accounts, and the personal property of each), without the prior written consent of the spouse or the Court. Excluded is any account now used for the payment of living costs; and
5. Voluntarily changing the term of, or beneficiary of, terminating coverage of, cashing in, borrowing against, encumbering, transferring, canceling or failing to renew any type of insurance, including health, automobile, life, home, liability, disability, or fire insurance that provides coverage for a spouse or child(ren) born or adopted by the parties; and
6. Voluntarily liquidating, cashing in, changing the beneficiary of, terms, or conditions of any retirement or pension plan or program that provides any benefit to a spouse or a child(ren) born or adopted by the parties and/or of either or both spouses; and
7. Voluntarily interrupting or terminating any utility service to the marital residence without prior written consent of the other spouse or the Court.

Nothing in the above restraining orders precludes a spouse from using their property to pay necessary and reasonable attorney fees, litigation costs, and court costs in this action.

## **APPENDIX D**

### **CLERMONT COUNTY DOMESTIC RELATIONS COURT GUIDELINE PARENTING SCHEDULE EFFECTIVE FEBRUARY 1, 2012**

#### **1. GENERAL PARENTING PRINCIPLES**

During and after a divorce, there is often a crisis period (from several months to years) during which families are under great stress because of loss, conflict, and change. Most studies show, and psychologists uniformly agree, that the children who do best following divorce are from those families that maintain a low level of conflict. The absence of conflict is more critical than the amount of time either parent spends with the child. Although spouses may terminate their marital relationship, parents should never terminate their relationship with their child.

Shared parenting is the preferred method of parenting children following the termination of a marriage. Shared parenting does not necessarily mean that the child/ren will spend equal time with each parent. Shared parenting means that both parents will continue to be legal custodians and residential parents of their child/ren and will continue to make decisions for their children. Shared parenting requires both parents to respect and trust one another and to act in their child/ren's best interest. If evidence is presented that the parents are not willing, or not able to, operate under a Shared Parenting Plan, then shared parenting may not be in the child/ren's best interest.

If shared parenting is not in the child/ren's best interest, one parent will be designated the sole residential parent and legal custodian. The other parent has the right to see the child/ren under the parenting schedule, but is not a legal custodian or residential parent.

No specific parenting schedule will satisfy the needs of all children and all parents over the years. Critical to the success of any schedule is that each parent remain flexible, based upon the changing needs of child/ren, as the child/ren grow older. This Guideline Parenting Schedule takes into account the changing developmental needs of children. It is recognized that each situation is different and that each child is different. It is preferred that parents tailor the parenting schedule to meet the specific needs of their child/ren. Consistency in the scheduled time is also helpful for both parents and for children of all ages.

Parents are the best judge of what meets the needs of their child. Although a child's wishes and concerns may be considered in determining parenting schedules, they are not the controlling factor. If a child indicates a strong opposition to being with the other parent, it is the responsibility of both parents to positively encourage parenting time. Both parents must deal appropriately with the situation by calmly discussing with the child his/her reasons. The parents must work together to alleviate these misgivings without confrontation or argument. If they cannot resolve the problem, the parents should seek the assistance of a counselor or other professional. Either parent may file a motion requesting court ordered counseling. It is the absolute duty of each parent to foster an environment which avoids such problems and to make certain that the child/ren have a healthy on-going relationship with both parents.

If parents are unable to agree on a parenting schedule, then the Court will decide what is best for the child/ren. A Court imposed parenting schedule is not a judgment by the Court that one parent is better than the other parent. A Court imposed parenting schedule is based solely on what is best for the child/ren in the current circumstances.

To maintain frequent contact with child/ren following a divorce, parents should strongly consider living in the same school district or within close proximity to one another. The further the distance between the parents' homes, the more difficult it is for both parents to maintain their involvement with their child/ren.

Moving out of the child/ren's area is something that should only be considered if there are no other alternatives.

Parents should create a schedule that works best for their family. In creating a schedule, parents should consider all of the following:

- A. The developmental needs and ages of their children;
- B. The activities in which their children are involved;
- C. Whether the children have any special needs;
- D. The preservation or development of a close relationship with each parent;
- E. Each child's temperament and ability to handle change; and
- F. The parents' career demands and work schedules

\_\_\_\_\_ (Mother or Father) ("**Parent 1**") shall have parenting time with the child/ren under the following schedule.

\_\_\_\_\_ (Mother or Father) ("**Parent 2**") shall have parenting time with the child/ren at all other times.

**2. WEEKLY SCHEDULE**

**A. Birth to Three Years**

Very young children benefit from having a "home base" with one parent, and frequent, but short (i.e. two or three hour periods), contact with the other parent. Although Parent 1 may feel that the schedule is imbalanced in favor of Parent 2, the purpose of this schedule is to ensure that the very young child has the home base which is vital to his/her developmental needs.

Parent 1 shall have alternating weekly parenting time as follows:

Week A: Tuesday and Thursday evening from 6 pm to 9 pm and from Saturday at noon to Sunday at noon.

Week B: Tuesday and Thursday evening from 6 pm to 9 pm and Saturday from 9 am to noon.

BIRTH TO THREE YEARS PARENTING SCHEDULE							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Week A		5 pm to 8 pm		6 pm to 9 pm		Overnight beginning at noon	End at noon
Week B		5 pm to 8 pm		6 pm to 9 pm		9 am to noon	

**B. Age Three Years through Twelve Years**

Children in this age group often have extracurricular activities several nights each week. Both parents should continue to support their child/ren in these activities to the same extent they would have done if they had not terminated their marriage. Each parent must put aside any animosity he/she feels toward the other parent when the parents are attending their child/ren's activities, for the child/ren's benefit and to avoid embarrassing the child/ren. Neither parent, however, may use his/her authority to schedule extracurricular activities in a manner that defeats or seriously infringes on the other parent's ability to spend time with the child/ren.

Parent 1 shall have parenting time alternating weekly as follows:

Week A: Thursday afternoon, at 6 pm until Monday morning. Parent 1 is responsible for transporting school age children to and from school on Friday and on Monday morning. If the child/ren does not have school on Friday morning, Parent 1 is responsible for making child care arrangements for the child/ren. If the child/ren does not have school on Monday morning, Parent 1 shall return the child/ren to Parent 2 or the child care provider by Monday at 10 am. Parent 2 is responsible for making child care arrangements for the

child/ren.

Week B: Thursday afternoon at 6 pm until Friday morning. If school is in session, Parent 1 shall be responsible for taking school age children to school on Friday morning. If school is not in session on Friday, Parent 1 shall return the child/ren to Parent 2 or the child care provider by Friday at 10 am.

AGE THREE YEARS THROUGH AGE TWELVE YEARS PARENTING SCHEDULE							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Week A				Beginning at 6 pm	O	O	O deliver to school, Parent 2 or child care by Monday at 10 am
Week B				Beginning at 6 pm	deliver to school, Parent 2 or child care by 10 am		

O means overnight

C. Age Thirteen Years and above

Children in this age group tend to view their peer group as more important than their family ties. This does not mean that parents are insignificant or have no role to play with children of this age. Each parent must continue to support the child/ren’s relationship with both parents. Both parents should continue to support their children in their activities to the same extent they would have done so if they had not terminated their marriage. Each parent must put aside any animosity he/she feels toward the other parent when the parents are attending their child/ren’s activities, to avoid embarrassing the child/ren.

Many children are driving by age 16; many children are also working part time jobs in addition to attending high school and participating in extracurricular activities. Both parents have to be reasonable with their demands for the children to spend time with the parents, especially during weekends and summer holidays. Quality of time is more important than a rigid schedule. Flexibility in scheduling is necessary. When possible, the parents should consider the older teenager’s wishes.

Parent 1 shall have parenting time every other weekend from Friday at 6 pm until Monday morning, returning the child/ren to school or to Parent 2’s home on Monday morning. Parents should respect a teenager’s need to spend time with peers and in organized activities, and less time with each parent.

D. Siblings in different age groups

If a family has children in Brackets 2A and 2B above, then Parent 1 shall have parenting time with the children in accordance with the Bracket 2A schedule, with one exception. The Week A weekend parenting time for the child younger than three shall remain as set forth on the schedule. The Week A weekend parenting time for the older child shall be from Friday evening at 6 pm until Monday morning. Parent 1 is responsible for transporting school age child/ren to school on Monday morning. If the child/ren do not have school on Monday morning, Parent 1 shall return the child/ren to Parent 2 or the child care provider by Monday at 10 am. Parent 2 is responsible for making child care arrangements for the child/ren.

If a family has children in Brackets 2A, 2B, and 2C, above, then Parent 1 shall have parenting time with the child/ren age birth to 12 years old in accordance with the Bracket 2A schedule, with one exception. The Week A weekend parenting time for the child younger than three shall remain as set forth on the schedule. The Week A weekend parenting time for the child/ren age three to 12 years old shall be from Friday evening at 6 pm until Monday morning. Parent 1 shall have parenting time with the children age 13 through 18 in accordance with Bracket 2C. Parent 1 is responsible for transporting school age child/ren to school on

Monday morning. If the child/ren do not have school on Monday morning, Parent 1 shall return the child/ren to Parent 2 or the child care provider by Monday at 10 am. Parent 2 is responsible for making child care arrangements for the child/ren.

If a family has children in Brackets 2A and 2C, above, then Parent 1 shall have parenting time with the child/ren according to each child's bracket. If a family has children in Brackets 2B and 2C, above, then Parent 1 shall have parenting time with the child/ren according to each child's bracket.

**3. ADDITIONAL PARENTING TIME**

A. <u>Holidays</u>	Even Numbered <u>Years</u>	Odd Numbered <u>Years</u>	<u>Schedule</u>
New Year's Day*	Mother	Father	12/31 6:00p.m. to 1/1 6:00p.m.
Martin Luther King Day	Father	Mother	Sunday 6:00p.m. to Monday 6:00p.m.
President's Day	Mother	Father	Sunday 6:00p.m. to Monday 6:00p.m.
Easter Father	Mother	Saturday	noon to Sunday 6:00p.m.
Memorial Day	Mother	Father	Sunday 6:00p.m. to Monday 6:00p.m.
Fourth of July	Father	Mother	9:00a.m. to 9:00p.m.
Labor Day	Mother	Father	Sunday 6:00p.m. to Monday 6:00p.m.
Halloween (Beggar's Night)**	Father	Mother	5:00p.m. to 9:00p.m.
Thanksgiving	Mother	Father	Wednesday 6:00p.m. to Friday 6:00p.m.
Christmas Eve	Mother	Father	12/23 noon to 12/24 9:00p.m.
Christmas Day	Father	Mother	12/24 9:00p.m. to 12/26 6:00p.m.
Rosh Hashanah Eve	Mother	Father	overnight 5:00p.m. to 9:00a.m. next day
Rosh Hashanah Day	Father	Mother	9:00a.m. to 6:00p.m.
Yom Kippur Eve	Mother	Father	overnight 5:00p.m. to 9:00a.m. next day
Yom Kippur Day	Father	Mother	9:00a.m. to 6:00p.m.
Passover (1st night)	Mother	Father	overnight 5:00p.m. to 9:00a.m. next day
Hanukkah (1st night)	Father	Mother	overnight 5:00p.m. to 9:00a.m. next day
Mother's Day	Mother	Mother	10:00a.m. to 9:00p.m.
Father's Day	Father	Father	10:00a.m. to 9:00p.m.
Child's Birthday (school)***	Mother	Father	5:00p.m. to 9:00p.m.
Child's Birthday (no school)***	Mother	Father	9:00a.m. to 9:00p.m.

\*The year in which New Year's Day falls determines whether the holiday is in an even or odd-numbered year.

\*\*If Beggar's Night occurs on different nights in each parent's neighborhood, then the child/ren may participate in Beggar's Night in each parent's neighborhood.

\*\*\*The parenting time for birthdays shall include all children of the marriage, not just the child/ren celebrating his/her birthday.

The holidays listed above are awarded as parenting time only if the parent celebrates that holiday. For example, if the parents are not Jewish, then neither parent receives Rosh Hashanah or other Jewish holidays as additional parenting time. If one parent is Jewish and the other is not, then the child/ren should be with the parent who is Jewish for all of the Jewish holidays. If a Jewish holiday conflicts with a holiday allocated to the other parent, then the alternating schedule shall apply.

Either or both parents may celebrate additional days of special meaning in which the child/ren should be permitted to participate. These days of special meaning include, but are not limited to, extended family members' birthday celebrations, anniversaries, religious holidays, and cultural holidays. If a specific day of special meaning is not incorporated into the above chart, then the parent wishing to exercise such day of special meaning may use extended parenting time, as set forth below, so that the child/ren may participate in the celebration.

B. Extended Time

Each parent shall be entitled to three weeks of additional parenting time each year, two of which may be consecutive. This time may be exercised during the child/ren's spring break from school (every other year) or at any other appropriate time during the year. This time may also be exercised during the child/ren's Christmas school break (every other year), but unless otherwise agreed to by the parties, the extended time shall not begin before December 26 nor continue past December 31.

Each parent will provide the other parent with his or her vacation destination, method of travel, times of arrival and departure, and the telephone number where the child/ren can be reached if extended time is going to occur out of town. The information shall be provided to the non-vacating parent at least 14 calendar days prior to the commencement of the vacation. A parent is not required to travel out of town or use vacation time from work in order to exercise extended parenting time.

Extended parenting time cannot be tacked on to the parent's regular parenting schedule. That is, if a parent has regular parenting time from Thursday through Monday morning, and requests extended parenting time, the vacationing parent's extended time begins on Thursday and may continue up to a total of 14 consecutive days, counting from that Thursday.

Each parent must notify the other parent in writing of the times desired for these extended periods, at least 30 days prior to the requested extended parenting time. Where there is a conflict between the parents, the parent who first gave written notice to the other parent shall prevail.

**4. ORDER OF PREFERENCE**

In the event of a conflict, the following is the order of preference: (1) holidays; (2) extended periods; (3) weekends and midweek days.

**5. MISCELLANEOUS**

A. Parent 1 shall provide transportation at the beginning of his/her parenting time and Parent 2 shall provide transportation at the end of Parent 1's parenting time. A responsible, licensed, insured adult known to both parents may provide transportation if the parent is unavailable. Any person transporting a child/ren shall use the proper child/ren restraint seat and/or seat belts as required by law. No person shall consume alcohol or use illegal drugs immediately prior to or during the transportation of a child/ren.

B. Each parent shall have reasonable telephone and email contact with the child/ren.

C. Parents are expected to be prompt for all parenting time exchanges. If a parent is going to be late, he/she must contact the other parent and give a reasonable estimated arrival time. Chronic lateness may be a reason to modify the schedule. Furthermore, the children should be ready to leave with the parent at the scheduled time.

D. Each parent must give notice of his/her intent not to have parenting time, at least 24 hours in advance, unless a last minute emergency occurs. A parent who does not exercise a specific parenting time forfeits that specific time.

E. A parenting time exchange is not the time for parents to air their grievances with the other parent. It is important for the child/ren that the exchanges take place without any conflict between their parents.

G. Either parent may request a modification of parenting time by filing a motion to modify with the court. The court will modify a parenting schedule based upon the best interest of the children. Whether a parent is exercising his/her parenting time, whether there are conflicts in the parenting time exchanges, and whether a parent is prompt in the pickup and return of the children are examples of factors to be considered in determining what is in the child/ren's best interest.

**6. STATUTORY NOTICES**

**RELOCATION NOTICE:** Pursuant to R.C. 3109.051(G), the parents are notified as follows: If either parent intends to move to a residence other than the last residence of Court record, he/she shall file a notice of intent to relocate with the Clerk of Courts. Except as provided in R.C. 3109.051(G)(2), (3) and (4), a copy of such notice shall be mailed by the Clerk of Courts to the other parent. On receipt of the notice, the Court, on its own motion or on the motion of the other parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child(ren) to revise the parenting schedule for the child(ren).

**RECORDS ACCESS NOTICE:** Pursuant to RC3109.051(H) and 3319.321(B)(5)(a), the parents are notified as follows: Except as specifically modified or otherwise limited by Court order or by law, both parents are entitled to equal access to any record that is related to the child(ren), including school and medical records. Any keeper of a record, public or private who knowingly fails to comply with this order is in contempt of court.

**DAY CARE CENTER ACCESS NOTICE:** Pursuant to RC3109.051(I), the parents are notified as follows: Except as specifically modified or otherwise limited by Court order or by law, both parents are entitled to equal access to any day care center that is or will be attended by the child(ren).

**SCHOOL ACTIVITIES NOTICE:** Pursuant to RC3109.051(J), the parents are notified as follows: Except as specifically modified or otherwise limited by Court order or by law, both parents are entitled to equal access to any student activity that is related to the child(ren). Any school official or employee who knowingly fails to comply with this order, is in contempt of court