

Erie County Court of Common Pleas Domestic Relations Division



Local Rules of Court

Judge Roger E. Binette
Judge Robert C. DeLamatre
Judge Tygh M. Tone

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Rule 1: JURISDICTION OF THE COURT

Pursuant to O.R.C. Section 2301.03, the Judges of the Court are designated as the Judges of the Erie County Court of Common Pleas, Domestic Relations Division. The Judges of the Court have all of the powers relating all domestic relations cases, except those which are assigned to some other Judge of the Court of Common Pleas for some special reason. It is necessary to clarify the court clerks where actions are to be filed. The following types of actions shall be filed in the Domestic Relations Division of this Court, and all pleadings concerning said actions shall be delivered to the Clerk of Court at 323 Columbus Avenue, 1st Floor, Sandusky, Ohio, except as otherwise provided in this rule:

1. All domestic relations actions (including civil domestic violence protection actions);
2. Relief from Judgment actions pursuant to O.R.C. Section 3119.96 et. Seq.; and
3. Administrative appeals from orders entered by the Erie County Child Support Enforcement Agency (CSEA).

Rule 2: COURT COSTS AND DEPOSITS

- A. **COST DEPOSIT:** Any party filing an action or claim in this court, except civil protection order cases, shall deposit court costs at the time the pleadings are filed, unless the filing party is not required by law or Court Order to make such deposit. The Erie County Clerk of Courts shall publish a schedule of court costs as and all deposits shall be made in the amount specified in that Schedule. A copy of this schedule effective as of the date of these rules is attached hereto and incorporated herein as Cost Schedule A. Said Schedule may be adjusted from time to time and incorporated into these rules by amendment. The Clerk of Courts may refuse to file a party's pleadings if a cost deposit in the proper amount is not tendered with the pleadings.
- B. **ADDITIONAL DEPOSITS:** The court, in its discretion, may require additional deposits toward court costs.
- C. **AFFIDAVIT OF INDIGENCY FOR COURT COSTS:** The Erie County Clerk of Courts shall accept any pleadings filed without a court cost deposit, if an Affidavit of Indigency for Court Costs (D.R. Form 1.00 in the Appendix) is submitted with the pleadings. **The filing of an Affidavit of Indigency for Court Costs does not relieve a party from liability for court costs.** Nothing herein shall be construed to prevent the Court from requiring any other party to the action to make a sufficient deposit for costs, or from assessing costs to any party.

Rule 3: COMPLIANCE WITH THE RULES OF CIVIL PROCEDURE AND OHIO LAW

Unless otherwise provided under these Rules of Court, all documents filed with the Court shall comply, in form and content, with these Rules of Court, the Ohio Rules of Civil Procedure and Ohio Law. If there is a conflict between these Rules and the Ohio Rules of Civil Procedure, the Ohio Rules of Civil Procedure shall control. Regardless of any reference to a statute of the State of Ohio in these Rules, all documents filed with the Court shall comply with the existing Ohio law.

Rule 4: REQUIREMENTS FOR COUNSEL OF RECORD AND *PRO SE* LITIGANTS

- A. REGISTRATION:** All Ohio attorneys practicing before this Court shall be registered with the Ohio Supreme Court and licensed in good standing.
- B. OUT-OF-STATE ATTORNEYS:** Any attorney who is admitted to the practice of law in another state, but not in Ohio, is not permitted to enter an appearance in any case before the Court unless first granted leave to do so by the Court.
- C. WRITTEN APPEARANCE OF COUNSEL:** Any qualified attorney retained in any case in this Court shall promptly enter a written appearance in the case, as counsel of record. No attorney shall appear at a hearing, on behalf of a party, unless that attorney has first entered his or her written appearance as counsel of record for that party, unless otherwise authorized by the Court.
- D. WITHDRAWAL OF COUNSEL OF RECORD:** Any attorney seeking to withdraw as counsel of record from a case shall file a written motion and submit a proposed Judgment Entry to the Court. The Motion and proposed Judgment Entry shall state with particularity the reason(s) for the requested withdrawal of counsel. No attorney will be permitted to withdraw as counsel of record in the case unless any one of the following four three (4/3) requirements are met:
- 1. By Motion:** The motion contains an acknowledgment signed by the client that states as follows:
 - a. The client understands the case will proceed according to the time schedule previously established by the Court, whether or not the client retains a new attorney;
 - b. The client consents to the withdrawal of the attorney; and
 - c. The address and telephone number where the client may be personally contacted by the Court.
 - 2. Substitution of New Counsel of Record:** There is concurrent substitution of new counsel for the client.
 - 3. At Hearing:** The Court conducts a hearing at which the client and the attorney seeking to withdraw are present, and the Court finds that there is good cause for the withdrawal.
 - 4. Abandonment and Lack of Cooperation:** The Motion contains an acknowledgement by the Attorney specifically stating the facts and circumstances forming the basis of the inability to remain as counsel for the party. Said permission shall be granted by the Court only upon good cause shown.
- E. PRO SE LITIGANTS:** Nothing in these Rules shall be construed to prevent any party from representing himself or herself in any action before the Court. As used in these rules, “counsel” means the attorney of record for a particular party. Any reference to “counsel” shall fully apply to a party appearing *pro se* before the Court, unless clearly inapplicable. Any pleading, motion or other filing which is filed by a party appearing *pro se* shall be signed by that party pursuant to Ohio Civil Rule 11.

Rule 5: APPOINTMENT OF COUNSEL

Although limited, in certain cases, a party may be entitled to appointed counsel. Any person seeking court appointed counsel must complete the Erie County Public Defender Application, (Form 2.00 in the Appendix), and return it within three (3) days of receipt of the pleadings. The Erie County Public Defender's Office shall then determine if the applicant is eligible for court appointed counsel. The Court reserves jurisdiction to order the party to pay legal fees of court appointed counsel if it is later discovered that the party was not eligible for appointed counsel.

Rule 6: PLEADINGS – GENERAL REQUIREMENTS

- A. PAPER SIZE:** All documents filed with the Court (including the Financial Affidavit) shall be typewritten or computer-generated on letter-size paper (approximately 8 ½” x 11”), and shall be securely stapled at the top left-hand corner and unfolded. All pages shall be numbered in the following format: “Page ____ of ____.” The Court may grant exceptions to this rule for good cause shown.
- B. MARGINS:** All pleadings shall have a minimum 1 ½” margin at the top, a minimum ½” margin on the right edge, and a minimum 1” margin at all other edges, except as specifically permitted by these Rules.
- C. CAPTIONS OF PLEADINGS:**
- 1. Initial Pleadings and Judgment Entries:** The caption at the top of the Complaint, any initial pleading in a post-decree action, and all Judgment Entries, in addition to stating the name of the Court and the County and State, shall have the following regarding each party:
 - a. Name;
 - b. Residence address of each party (unless otherwise permitted by the Court);
 - c. Social security number; and
 - d. Date of birth.
 - 2. Subsequent Pleadings:** Pleadings filed subsequent to any initial pleading, except Judgment Entries, shall state the case number, the names, and party status (i.e. Plaintiff, etc.) of each party.
 - 3. Retention of Caption:** Once a case is filed with the Clerk of Courts, the case shall retain that caption. Any subsequent pleadings shall continue to be captioned as in the original complaint. If a party's name changes from that contained in the original complaint, that party's original name and new name (listed as “aka”) shall be listed in the caption.
 - 4. Judge's and Magistrate's Names:** All pleadings shall contain the Judge's name in the caption. Once a magistrate has heard any aspect of a pending case, or issued an order or decision in the case, all subsequent pleadings in that case shall also contain that Magistrate's name.
- D. SPACE FOR TIME-STAMP:** Every pleading filed with the Court shall contain sufficient space to the right hand of the caption for the time-stamp. Said Space shall be a minimum of 2 1/2 x 2 ½ inches.

- E. ATTORNEY/PARTY INFORMATION:** All pleadings shall contain the name, address, telephone number and registration number of the attorney filing the pleading. If the party is appearing *pro se* in the action, the pleading shall contain the party's name, address and telephone number.
- F. PLEADING REQUIREMENTS:** When these Rules specify that certain pleadings or forms are to be simultaneously filed, all of those pleadings or forms must be filed together, or the Court may refuse to permit the documents to be filed. All documents must be accurately and fully completed, in typewritten or computer-generated form, or the Court may refuse to permit the documents to be filed. Financial affidavits must be accurate and fully complete, have all required documentation attached, and be checked for mathematical accuracy prior to filing. All pleadings which require a notarized signature shall be notarized prior to filing. Documents which do not comply with this Rule will be held by the Court, in which case the Court will notify counsel that the papers can be retrieved for correction.
- G. DELIVERY OF PLEADINGS FOR FILING:** Pursuant to Civil Rule 5(E), all pleadings shall be delivered to the Judge of this Court for filing, and the date of delivery (receipt) shall promptly be noted on the documents. Thereafter, the Court shall transmit the documents to the Clerk of Courts for filing. All pleadings shall be considered filed as of the delivery date noted thereon by the Court, or in the absence of a delivery date, the time-stamped date placed thereon by the Clerk of Courts.
- H. COPIES OF PLEADINGS:**
- 1. Number of Copies:** The party responsible for providing pleadings or documents to the Court make sufficient copies of all pleadings, which shall (at a minimum) include, the original, and sufficient copies for service of process, a copy for the Court, and a copy for CSEA in any support-related proceeding.
 - 2. Grouping Copies:** When multiple pleadings or documents are transmitted to the Court at the same time, the original and all copies of each pleading shall be grouped together. For example, when transmitting a Motion and Judgment Entry together, the original and all copies of the Motion shall be grouped together, and the original and all copies of the Judgment Entry shall be grouped together.

Rule 7: POSTING OF NOTICES FOR SERVICE BY PUBLICATION

Whenever a Plaintiff proceeding *in forma pauperis* in a divorce, annulment or legal separation action requests service by publication, via posting and mailing as provided in Ohio Civil Rule 4.4(A)(2), the Plaintiff shall file an affidavit regarding lack of knowledge of the Defendant's current address as provided in that rule. Pursuant to Ohio Civil Rule 4.4(A)(2), the Court designates the Clerk of Courts as the person responsible for accomplishing posting of notices for service by publication. Notices shall be posted in a conspicuous location near the main entrance to the following buildings:

- 1.** Erie County Courthouse;
- 2.** Erie County Building; and
- 3.** Erie County Department of Job and Family Services, 221 West Parish Street, Sandusky, Ohio.

The notice that is posted shall contain the same information required in a newspaper publication pursuant to Division (A)(1) of Ohio Civil Rule 4.4. The Notice shall be posted in the required locations for six (6) consecutive weeks. The Clerk of Court shall comply with all other requirements of Civil Rule 4.4 (A)(2) with regard to mailing the complaint and summons to the Defendant's last known address, and shall properly note service of process upon the docket of this Court.

Rule 8: MAGISTRATES

- A. MAGISTRATE'S AUTHORITY:** All Magistrates appointed by this Court shall have full authority pursuant to the provisions of Rules 53 and 75 of the Ohio Rules of Civil Procedure in any action pending before this Court, subject to the Court's General Order of Reference.
- B. MAGISTRATE'S HEARINGS AND DECISIONS:** The Magistrate shall hear all issues of fact and law in any assigned case, issue an Order of Decision, and file the same pursuant to Rule 53 of the Ohio Rules of Civil Procedure. The Magistrate shall exercise the power to regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the Magistrate's duties under this Rule.
- C. FINAL DECREE FOLLOWING MAGISTRATE'S DECISION:** Any Judgment Entry, following a Magistrate's Decision, shall be prepared and delivered to the Court by the party designated by the Magistrate, within fourteen (14) days of the expiration of the objection period or within fourteen (14) days after the Court has ruled upon any objections. The Judgment Entry shall contain complete findings and orders of the Court, without reference to the Magistrate's Decision. It is not acceptable to incorporate the Magistrate's Decision into the final decree of divorce.
- D. APPROVAL SIGNATURE LINE FOR MAGISTRATE:** Any Judgment Entry submitted by counsel, following issuance of a Magistrate's Decision, shall contain an approval signature line for a magistrate, in addition to a signature line for the Judge. The signature line for the magistrate shall be placed in the approval column on the left side of the page.
- E. OBJECTION TO MAGISTRATE'S DECISION AND MOTION TO SET ASIDE MAGISTRATE'S ORDER:**
- 1. Filing:** A party filing an Objection to a Magistrate's Decision, or a Motion to Set Aside a Magistrate's Order, shall file a written pleading in compliance with Civil Rule 53. The motion or objection shall be specific and shall state with particularity the grounds for the motion or objection, including copies of any supporting caselaw. A copy of the motion or objection shall be served on opposing counsel or the opposing party, if unrepresented, in accordance with the Ohio Rules of Civil Procedure.
 - 2. Transcripts:** Any party requesting preparation of a transcript of any hearing before a magistrate, or any relevant portion(s) thereof, must file a statement (D.R. Form 10.00 in the Appendix) containing the name and address of the transcriptionist, date the transcript was ordered and the anticipated completion date of the transcript, within fourteen (14) days of the filing of the Objection to the Magistrate's Decision or the Motion to Set Aside a Magistrate's Decision. Failure to timely file Court Form 10.00 constitutes a waiver by that party of any request for a transcript, in which case, the Court may proceed immediately to rule on the motion or objection as though no request for transcript had been made.

3. **Alternate to Transcript:** In lieu of a transcript and for purposes of objections only, a party may request a copy of the recording of the proceedings by filing a Motion (D.R. Form 10.10 in the Appendix) and a Judgment Entry for Recordings of Proceedings (D.R. Form 10.20 in the Appendix) with the Court and upon filing the appropriate deposit. Said recording will be provided in compact disc format and any reference to testimony shall be made by the time stamp provided in the recording itself. Only a party paying said deposit shall be provided a copy of said recording.

F. **WAIVER OF OBJECTIONS TO MAGISTRATE'S DECISION:** Parties may voluntarily waive their rights to file Objections to the Magistrate's Decision to expedite the finalization of agreed matters. Said waiver shall be made in writing using Waiver of Objections to Magistrate's Decision (D.R. Form 10.30 in the Appendix) and be completed by both parties prior to finalization of the matter.

G. **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. **Filing:** With regard to a Magistrate's Decision (as defined by Civil Rule 53), any party may request Findings of Fact and Conclusions of Law pursuant to Civil Rules 52 and 53. The Court will not order or require preparation of Findings of Fact and Conclusions of Law with regard to any Magistrate's Order (as defined by Civil Rule 53).
2. **Timeliness:** The request for Findings of Fact and Conclusions of Law must be timely filed pursuant to Civil Rules 52 and 53 (i.e., within seven (7) days of journalization of the Magistrate's Decision).
3. **By Magistrate's Order:** A Magistrate may, in his or her sole decision, require the parties to file proposed Findings of Fact and Conclusions of Law at the close of the presentation of evidence in any case.

Rule 9: GENERAL HEARING REQUIREMENTS

- A. **EXHIBITS:** All exhibits shall be marked in advance of any hearing. The Plaintiff/First Petitioner shall use numbers and the Defendant/Second Petitioner shall use letters. No later than seven (7) days prior to any hearing or trial, the parties shall exchange copies of all exhibits, and shall inform the Court, as to which exhibits will be admitted by stipulation and which exhibits will be contested.
- B. **TRIAL BRIEFS:** If counsel anticipates any novel or complex issue which will be presented at hearing, counsel may file trial briefs prior to the hearing. The Court may, on a case-by-case basis, require the parties to file trial briefs or memoranda of law prior to a hearing.
- C. **DRESS CODE:** All attorneys, parties and witnesses, when attending Court, shall dress in a manner which reflects respect for the Court and for the decorum of formal legal proceedings. No individual shall appear in the Courtroom dressed inappropriately, as determined by the Court. It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in Court.
- D. **CELLPHONES, CAMERAPHONES, PAGERS AND SIMILAR DEVICES:** All attorneys, parties and witnesses, when attending Court, shall turn off or disable any cell phone, cameraphone, pagers or similar electronic devices that emit or record audible sounds or pictures which could disrupt Court proceedings. For good cause shown the Court may permit use of said

devices. Any such device which disrupts Court proceedings or causes any inconvenience to others shall be subject to immediate seizure and potential contempt proceedings.

Rule 10: CASE PROCEDURES FOR INITIAL ACTIONS

A. DIVORCE, ANNULMENT, AND LEGAL SEPARATION ACTIONS:

- 1. Initial Pleadings:** A divorce, annulment or legal separation case shall be commenced by filing the following mandatory documents with the Court:
 - a. Complaint
 - b. Instructions for service of the Complaint and other pleadings;
 - c. Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix), with proof of income (pay stubs and complete federal tax returns including all applicable schedules for the last 2 tax years);
 - d. Child Custody Affidavit (D.R. Form 6.00 in the Appendix), if the parties have children;
 - e. Child Support Computation Worksheet (if the parties have children);
 - f. Judgment Entry of Injunctions (D.R. Form 3.00 in the Appendix), unless a signed Separation Agreement with an injunctive clause is filed with the Complaint;
 - g. Request for Temporary Orders (D.R. Form 4.00 in the Appendix) with an accompanying Affidavit, if the Plaintiff desires Temporary Orders and;
 - h. Information Form (D.R. Form 1.10 in the Appendix).

- 2. Defendant's Proposal for Temporary Orders:** Unless a time extension for responding is granted by the Court, the Defendant shall have fourteen (14) days after the date of service of the Plaintiff's Request for Temporary Orders, to file Defendant's Proposal for Temporary Orders. Any response by Defendant shall include the following:
 - a. Defendant's Proposal for Temporary Orders (D.R. Form 4.00 in the Appendix) with an accompanying Affidavit;
 - b. Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix) with proof of income (pay stubs and complete federal tax returns including all applicable schedules for the last 2 tax years);
 - c. Child Custody Affidavit (D.R. Form 6.00 in the Appendix) if the parties have children; and
 - d. Child Support Computation Worksheet (failure to submit a Worksheet will be deemed an agreement with Plaintiff's submitted Worksheet).

3. **Defendant's Answer and/or Counterclaim:** Within twenty-eight (28) days after the date of service of the Complaint upon the Defendant, the Defendant may file an Answer and/or Counterclaim.
4. **Temporary Orders:** After fourteen (14) days from the date of service of the Plaintiff's Request for Temporary Orders upon the Defendant, the Court will review all documents filed and issue a Temporary Order. The Court will not enter any Shared Parenting Order on a temporary basis unless the parties have filed a Shared Parenting Plan with the Court.
5. **Oral Hearing on Temporary Orders:** If a party contests a Temporary Order, or desires the Court to take evidence with regard to Temporary Orders, that party may file a written "Request for Temporary Order Hearing." The Request must be filed within fourteen (14) days after the date the Temporary Order is journalized. The Request must specify what issue(s) the party desires the Court to hear. It is not necessary for a party to file an objection, exception or any similarly titled pleading in order to obtain a temporary order hearing pursuant to Civil Rule 75. Any untimely request for a temporary order hearing shall be treated as a motion to modify temporary orders, absent good cause shown.
6. **Motions to Modify Temporary Orders:** The Court shall not grant any Motion to Modify Temporary Orders, except upon a showing of a change of circumstances or for other good cause.
7. **Case Management/Pretrial Conferences:** The Court and parties shall follow the Case Management/Pretrial Conference procedures set forth in Local Rule 17, except as set forth herein.
8. **Uncontested Final Hearings:**
 - a. ***By Agreement:*** Counsel for the Plaintiff shall notify the Court if a divorce, annulment or legal separation is proceeding as an uncontested case by agreement of the parties. Counsel for the Plaintiff shall secure a final uncontested hearing date from the Assignment Clerk, and shall prepare an appropriate hearing notice and provide the same to the Assignment Clerk more than fourteen (14) days prior to the final hearing date. The Assignment Clerk shall thereafter mail the notice to the Parties and Counsel at least seven (7) days prior to the commencement of the final hearing date.
 - b. ***By Default:*** Counsel for the Plaintiff shall notify the Court if a divorce, annulment or legal separation is proceeding as an uncontested case because the defendant has failed to appear after proper notice. Counsel for the Plaintiff shall secure a final uncontested hearing date from the Assignment Clerk, and shall prepare an appropriate hearing notice and provide the same to the Assignment Clerk more than thirty (30) days prior to the final hearing date. The Assignment Clerk shall thereafter mail the notice to the Parties and Counsel at least fourteen (14) days prior to the commencement of the final hearing date. Counsel shall instruct the Assignment Clerk in the hearing notice of the method and place of service to assure proper notice to Defendant.
9. **Contested Final Hearings:** Contested cases shall be set for final hearing by the Court, and notice of the hearing shall be served by the Assignment Clerk.
10. **Divorce Following Decree of Legal Separation:** A divorce action following a Decree of Legal Separation shall be initiated by filing a new divorce action.

B. DISSOLUTION OF MARRIAGE ACTIONS

- 1. Required Documents:** Dissolution of marriage action shall be commenced by the filing of a Petition for Dissolution of Marriage, with a Separation Agreement attached thereto, and the following documents:
 - a. Financial Disclosure Affidavit for both parties (D.R. Form 5.00 in the Appendix);
 - b. Waiver of Service of Summons/Process by both parties;
 - c. Child Custody Affidavit (D.R. Form 6.00 in the Appendix) executed by both parties, if applicable;
 - d. Waiver of Attorney by the unrepresented party (if only one attorney);
 - e. Child Support Computation Worksheet executed by both parties, if applicable;
 - f. Pretrial Statement and Settlement Proposal (D.R. Form 7.00 in the Appendix) and;
 - g. Information Form (D.R. Form 1.10 in the Appendix).
- 2. Final Dissolution Hearing:** Upon the filing of the dissolution of marriage action, the attorney filing the case shall obtain a date for final hearing from the Assignment Clerk. The final hearing will be scheduled on a date following the 30-day waiting period required by statute.
- 3. Conversion to Divorce:** Any motion to convert a dissolution action to a divorce action must be filed prior to the final hearing unless leave of Court is granted. Any motion filed after the ninety (90) day time period has expired will be summarily dismissed.

C. CIVIL DOMESTIC VIOLENCE PROCEEDINGS:

- 1. Required Pleadings:** A civil domestic violence action shall be commenced by filing a Civil Domestic Violence Petition on the form mandated by the Ohio Supreme Court, or by filing a pleading in substantial compliance with that form. Forms for civil domestic violence actions are available upon request from the Court. The Petition shall be accompanied by Instructions for Service. If the petitioner requests parenting orders, the Petition shall also be accompanied by a Child Custody Affidavit. Further, if support issues exist, a Financial Disclosure Affidavit, (D.R. Form 5.00 in the Appendix), shall be filed by both parties prior to the 7 day hearing.
- 2. No Filing Fee:** The Clerk of Courts shall not charge a filing fee deposit to file a Civil Domestic Violence Petition.
- 3. Modification of Civil Protection Order:** The Court reserves the jurisdiction to modify a final Civil Protection Order, upon written motion of either party. A form motion to modify a final Civil Protection Order is available upon request from the Court.

D. SUPPORT ACTIONS BEFORE ACKNOWLEDGMENT IS FINAL PURSUANT TO

O.R.C. SECTION 2151.232: Either parent who signed an acknowledgment of paternity may bring an action for support of the child, before the acknowledgment becomes final. Any Complaint for child support pursuant to this statute shall be accompanied by the following documents:

1. A copy of the executed acknowledgment form;
2. Documentation that the acknowledgment was entered in the birth registry pursuant to O.R.C. Section 3111.24, and that the acknowledgment has not been rescinded or otherwise vacated;
3. A completed Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix);
4. Child Support Computation Worksheet;
5. Instructions for Service of Process; and
6. Notice of Hearing.

E. SUPPORT-ONLY ACTIONS PURSUANT TO O.R.C. SECTION 2151.231: A parent, guardian, custodian of a child, the person with whom a child resides, or CSEA may file an action for support of a child, without regard to the marital status of the child's parents. Any party objecting to an administrative support order entered by CSEA must also make that objection by commencing an action pursuant to O.R.C. Section 2151.231. Any complaint for support filed pursuant to this statute shall be accompanied by the following documents:

1. Any Court or administrative order, acknowledgment (including birth registry entry) or other document establishing parentage;
2. A completed Financial Affidavit (D.R. Form 5.00 in the Appendix);
3. Child Support Computation Worksheet;
4. Instructions for Service of Process; and
5. Notice of Hearing.

F. COMPLAINT FOR ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES OR FOR PARENTING TIME/VISITATION PURSUANT TO O.R.C. 3111.13(C), 3109.04, AND/OR 3109.12: Any Complaint for Allocation of Parental Rights and Responsibilities or Parenting Time/Visitation shall contain or be accompanied by:

1. Any Court or administrative order, acknowledgment (including birth registry entry) or other document establishing parentage;
2. Child Custody Affidavit (D.R. Form 6.00 in the Appendix);
3. A Mediation Order pursuant to Rule 27, unless good cause is alleged in the Complaint as to why a mediation referral should not be made;
4. A completed Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix) and Child Support Computation Worksheet, if applicable;
5. Instructions for Service of Process; and
6. Notice of a Case Management/Pretrial Conference.

G. COMPLAINT TO ESTABLISH PARENT AND CHILD RELATIONSHIP PURSUANT TO O.R.C. 3111.01 TO 3111.18: Any person filing a Complaint to Establish the Parent-Child Relationship shall:

1. Allege in the Complaint that he or she has requested an administrative determination of the parent-child relationship from the Child Support Enforcement Agency, and that the administrative process is exhausted;
2. Attach to the Complaint a copy of any administrative parentage order issued by the Child Support Enforcement Agency or acknowledgment of paternity;
3. Set forth specific allegations to support a finding of fraud, duress or material mistake of fact, if the Complaint is filed to affect a rescission of an acknowledgment of paternity on those grounds;
4. Child Custody Affidavit (D.R. Form 6.00 in the Appendix), a completed Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix); and
5. Child Support Computation Worksheet, if applicable.

Rule 11: CONTEMPT AND POST-DECREE MOTIONS

A. CONTEMPT MOTIONS:

1. **Required Pleadings:** A Motion for Contempt shall be commenced by the moving party filing the following documents:
 - a. Motion containing specific reference to the Court Orders claimed to be violated. (Failure to include specific reference may result in summary dismissal of the motion);
 - b. Supporting affidavit of movant and other affidavits in support, if applicable; and
 - c. A Motion and Affidavit to Show Cause (D.R. Form 8.00 in the Appendix), requiring the alleged contemnor to appear for a hearing on a specified date and time which includes instructions to the Clerk for service of process upon the alleged contemnor (service of the motion upon opposing counsel is insufficient in a contempt action).
2. **Order to Appear:** The moving party shall also provide a notice to the assignment clerks with blank areas to fill in the hearing date and time. The moving party shall secure a hearing date from the Assignment Clerk before filing the contempt documents with the Clerk, and such hearing date shall be contained in the Order to Show Cause. Said Notice will be filed with the Motion.
3. **Appearance of Counsel:** Any attorney retained to defend a contempt motion shall promptly enter an appearance in the case, whether or not his or her client is filing a responsive pleading. Upon filing of the entry of appearance, both attorneys shall be in communication with the other to resolve and identify all issues prior to any Court hearing.
4. **Opposing Response/Brief:** Any party may file a written response/brief opposing the motion, together with supporting affidavits. Any such response/brief shall be filed with

the Court at least seven (7) days prior to the first scheduled Case Management/Pretrial Conference or hearing on the motion, except for good cause shown.

B. POST-DECREE MOTIONS:

1. **Required Pleadings:** Any post-decree proceeding shall be commenced by the filing of the following pleadings:
 - a. Motion and Affidavit to Modify (D.R. Form 8.10 in the Appendix) containing specific reference to the Court Orders claimed to be violated or requested for modification. (Failure to include specific reference may result in summary dismissal of the motion);
 - b. Supporting affidavit (D.R. Form 8.10 in the Appendix) of movant and other affidavits in support, if applicable;
 - c. Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix), if financial issues are in question;
 - d. Child Custody Affidavit (D.R. Form 6.00 in the Appendix), required in all parenting proceedings (i.e. cases involving parental rights and responsibilities; parenting time; companionship or visitation);
 - e. Notice of Hearing or Order to Appear; and
 - f. Instructions for Service.
2. **Contents of Notice of Hearing:** Before filing any pleadings, the moving party shall also provide a notice to the assignment clerks with blank areas to fill in the hearing date and time. Said Notice will be filed with the Motion. Any Notice of Hearing on a motion concerning parenting or support issues shall also contain the following advisement:

TO THE PERSON SERVED WITH THIS DOCUMENT: You are required to file a Financial Disclosure Affidavit, D.R. Form 5.00, and Child Custody Affidavit, D.R. Form 6.00, with the Court at least seven (7) days prior to the hearing/conference scheduled herein.
3. **Service of Process:** The moving party shall serve the opposing party with process as provided in the Ohio Rules of Civil Procedure. Civil Rule 75 requires that all post-decree motions be served in accordance with Civil Rules 4 to 4.6. This means that all post-decree motions must be served on the opposing party, unless that party waives service. Additionally, when accomplishing service of process by publication, the movant must comply with the provisions of Civil Rule 4.4 and the notice must be published or posted for six (6) consecutive weeks prior to a scheduled hearing on the motion.
4. **Appearance of Counsel:** Any attorney retained in a post-decree proceeding shall promptly enter his or her appearance as counsel of record in the case, whether or not his or her client is filing a responsive pleading. Upon filing of the entry of appearance, both attorneys shall be in communication with the other to resolve and identify all issues prior to any Court hearing.
5. **Opposing Response/Brief:** Any party may file a written response/brief opposing the motion, together with supporting affidavits. Any such response/brief shall be filed with

the Court at least seven (7) days prior to the first scheduled Case Management/Pretrial Conference or hearing on the motion, except for good cause shown.

Rule 12: FOREIGN DECREES

A. FOREIGN SUPPORT ORDERS

- 1. Registration for Enforcement Only:** A party may effect the registration of a foreign support order by filing all of the following documents with the Clerk of Courts:
 - a. “Petition for Registration of Foreign Support Order” (referred to as a “Letter of Transmittal” by statute) which complies with the provisions of O.R.C. Section 3115.39;
 - b. “Notice of Registration of Order” which complies with O.R.C. Section 3115.42; and
 - c. Instructions for Service of Process.

In the event the non-registering party does not contest the validity or enforcement of the foreign support order within 20 days after service, the party seeking registration shall prepare and submit a “Confirmation of Registration Judgment Entry” to the Court. If the non-registering party files a written pleading with the Court contesting the validity or enforcement of the foreign support order, the Court shall schedule the matter for hearing and give notice to all parties.

- 2. Registration for Modification, or Modification and Enforcement:** A party seeking to register an order for modification, or for modification and enforcement, shall file all of the following documents with the Clerk of Courts.
 - a. “Petition for Registration of Foreign Support Order” (referred to as a “Letter of Transmittal” by statute) which complies with the provisions of O.R.C. Section 3115.39;
 - b. “Notice of Registration of Order” which complies with O.R.C. Section 3115.42;
 - c. Instructions for Service of Process;
 - d. “Motion to Modify Foreign Support Order,” specifying the grounds for modification;
 - e. Affidavit alleging facts which support this Court’s jurisdiction to modify the foreign support order;
 - f. Financial Disclosure Affidavit (D.R. Form 5.00 in the Appendix); and
 - g. Notice of Jurisdictional Hearing.

In the event the non-registering party does not contest the validity or enforcement of the foreign support order within 20 days after service, the party seeking registration shall prepare and submit a “Confirmation of Registration Judgment Entry” to the Court. If the non-registering party files a written pleading with the Court contesting the validity or enforcement of the foreign support order, the Court shall conduct a hearing regarding those issues at the

Jurisdictional Hearing. Following issuance of any modified support order by this Court, the party obtaining the modification shall comply with O.R.C. Section 3115.51.

3. **Modification of a Foreign Support Order after Registration:** A party seeking to modify a foreign support order which has already been properly registered with this Court shall file all of the following documents with the Clerk of Courts:
 - a. "Motion to Modify Foreign Support Order," specifying the grounds for modification;
 - b. Affidavit alleging facts which support this Court's jurisdiction to modify the foreign support order;
 - c. Financial Disclosure Affidavit, (D.R. Form 5.00; in the Appendix);
 - d. Instructions for Service of Process; and
 - e. Notice of Jurisdictional Hearing.

Following issuance of any modified support order by this Court, the party obtaining the modification shall comply with O.R.C. Section 3115.51

B. FOREIGN PARENTING DECREES:

1. **Registration:** Any party may register a foreign parenting decree with the Clerk of Courts, pursuant to O.R.C. Section 3109.32(A). Registration is a ministerial act by the Clerk of Courts and does not require a motion or approval of the Court. The Clerk shall enter the parenting decree in the "Parenting and Custody Registry," pursuant to O.R.C. Section 3109.33. No case number shall be assigned to any parenting decree filed in the "Parenting and Custody Registry." The mere filing of a parenting decree from another state with the Clerk of Courts pursuant to O.R.C. 3109.32(A) does not, in and of itself, automatically confer jurisdiction on the Court to enforce or modify a foreign parenting decree.
2. **Procedure for Enforcement or Modification:** The Court will enforce or modify a foreign parenting decree only after conducting a hearing on the issue of jurisdiction, and only after accepting jurisdictions in a duly journalized Judgment Entry. The following procedures govern any request for enforcement or modification of a foreign parenting decree:
 - a. Registration: The Petitioner shall register the foreign parenting decree pursuant to Section (B)(1) above, prior to or simultaneously with filing any petition to enforce or modify a foreign parenting decree.
 - b. Petition to Enforce or Modify: If any party to a properly filed foreign parenting decree desires the Court to enforce or modify that decree, the party shall file a "Petition to Enforce/Modify a Foreign Parenting Decree." A certified copy of the foreign decree shall be attached to the Petition. The Petition shall be filed with the Clerk of Courts, together with any other Court forms required by Rule 11(B) with regard to post-decree motions. Any petition to modify or enforce a foreign parenting decree shall be assigned a case number by the Clerk of Courts.
 - c. Supporting Affidavit: The Petition to Enforce or Modify a foreign parenting decree shall be accompanied by a Supporting Affidavit setting forth:

- (1) Sufficient facts to establish the Court's jurisdiction under O.R.C. Section 3109.22(A);
 - (2) Any details concerning any other pending custody or parenting proceedings in another state which may affect the jurisdiction of this Court or its ruling in a custody proceeding;
 - (3) Whether or not any other state has made a finding that it does not have jurisdiction to enter a parenting decision, or that it is an inconvenient forum;
 - (4) A statement that the parenting decree attached to the Petition is the most recent parenting order issued by any Court with regard to the child(ren); and
 - (5) A statement that a certified copy of the parenting decree was registered with the Clerk of Courts pursuant to O.R.C. Section 3109.32(A).
- d. Notice of Hearing: The Petitioner shall obtain a date and time for a Jurisdictional Hearing from the Assignment Clerk, and shall file a Notice of Hearing with the Petition.
 - e. Service of Pleadings: The Petitioner shall file Instructions for Service with the Petition requesting the Clerk of Courts to serve a copy of the Petition, the Notice of Hearing and any other accompanying documents on the Respondent. The pleadings shall be served on the Respondent at least twenty (20) days prior to Jurisdictional Hearing.
 - f. Jurisdictional Hearing: At the Jurisdictional Hearing, the Court shall take evidence on the issue of whether or not this Court may modify the foreign support order pursuant to O.R.C. Section 3109.21 through 3109.37.
 - g. Full Hearing: If the Court determines, by Judgment Entry, that it has jurisdiction, the Court shall schedule the Petition for a full hearing. The Court may order mediation, a home study investigation, appointment of a Guardian Ad Litem, an *in camera* interview of the minor child(ren) or any other appropriate action in connection with the Petition.
 - h. Waiver of Hearing. If the parties are in agreement as to the relief requested and desire to waive a hearing of the request, a waiver shall be completed, signed by both parties and filed with the Court prior to any scheduled Court Hearing.

Rule 13: SOLE OR SPLIT ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES BY AGREEMENT

- A. **MANDATORY PLEADINGS:** In order to obtain an Agreed Court Order reallocating sole or split parental rights and responsibilities for a child in a domestic relation or parentage case, the parties shall file the following documents:
 1. Written motion (joint or by one party) for modification of allocation of parental rights;
 2. A Waiver and Consent signed by both parties. At a minimum, the Waiver and Consent shall contain a waiver of notice of hearing; waiver of hearing on the motion; waiver

service of process; waiver and/or acknowledgment of representation and a statement that each party is consenting to a reallocation of parental rights and responsibilities and personally submitting to the jurisdiction of the Court;

3. Financial Disclosure Affidavits for both parents (D.R. Form 5.00 in the Appendix);
4. Child Custody Affidavit(s) signed by each parent (D.R. Form 6.00 in the Appendix);
5. Child Support Worksheet signed by both parties; and
6. A proposed Judgment Entry (signed/approved by all parties/counsel).

(NOTE: To the extent any of these documents were previously filed by the parties in the pending action, they do not need to be re-filed with the motion.)

- B. MANDATORY LANGUAGE IN JUDGMENT ENTRY:** The proposed Agreed Judgment Entry reallocating parental rights and responsibilities must include appropriate O.R.C. 3109.04(E)(1)(a) language as to the legal conclusions made by the Court, as follows:

Based upon representation of the parties, the Court finds that a change has occurred in the circumstances of (the child), (his residential parent), or (either of the parents subject to a shared parenting decree), that the residential parent agrees to a change in the residential parent..., (and/or the child with the consent of the residential parent...integrated...), and that a modification of parental rights and responsibilities is in the best interest of the child.

- C. HEARING ON MOTION TO REALLOCATE PARENTAL RIGHTS AND RESPONSIBILITIES:** Generally, the Court will not require a hearing upon any Motion to Reallocate Parental Rights and Responsibilities, when both parties have agreed to the reallocation. However, in its discretion, the Court may schedule a hearing prior to approving any proposed Judgment Entry submitted with the Motion. In the event the Court schedules a hearing, both parties shall appear at the hearing. The failure of either party to appear at the scheduled hearing may result in dismissal of the Motion.

Rule 14: SHARED PARENTING PLANS AND DECREES

- A. MODIFICATION OF PRIOR SOLE/SPLIT PARENTAL RIGHTS ORDER TO SHARED PARENTING:** When seeking a Court Order which modifies a prior sole or split parental rights order to shared parenting, the parties shall file the following documents with the Court:

1. A joint written motion requesting shared parenting (if there is no prior order allocating parental rights and responsibilities), or joint motion requesting termination of a prior sole/split custody order and adopting of a shared parenting plan;
2. A Waiver and Consent signed by both parties (At a minimum, the Waiver and Consent shall contain a waiver of notice of hearing; waiver of hearing on the motion; waiver service of process; and a statement that each party is consenting to shared parenting and personally submitting to the jurisdiction of the Court).
3. Financial Disclosure Affidavits for both parents (D.R. Form 5.00 in the Appendix);

4. Child Custody Affidavit signed by both parents (D.R. Form 6.00 in the Appendix);
5. Child Support Worksheet signed by both parents;
6. Shared Parenting Plan signed by both parents; and
7. A proposed Shared Parenting Decree, approving and adopting the Shared Parenting Plan, and signed/approved by both parents/counsel.

(NOTE: To the extent any of these documents were previously filed by the parties in the pending action, they do not need to be re-filed.)

B. MODIFICATION OF PRIOR SHARED PARENTING PLAN AND DECREE: In order to obtain a modification of an existing Shared Parenting Plan and Decree, the parties shall file the following documents with the Court:

1. “Amended Shared Parenting Plan”, signed by both parents;
2. Child Custody Affidavit, signed by both parents (D.R. Form 6.00 in the Appendix);
3. If financial issues are modified, then the following documents, as applicable:
 - a. Financial Disclosure Affidavits for both parents (D.R. Form 5.00 in the Appendix); and
 - b. Child Support Worksheet signed by both parents.
4. A proposed Shared Parenting Decree, approving and adopting the “Amended Shared Parenting Plan”, signed/approved by both parents/counsel;
5. If the parties are in agreement concerning the changes requested a waiver of Hearing, shall be submitted with the proposed Decree and supporting documentation.

C. MANDATORY REQUIREMENTS FOR SHARED PARENTING PLANS: All shared Parenting Plans (including Amended Shared Parenting Plans) shall contain all of the following provisions:

1. A statement indicating the names of the parents and the children and the child(ren)’s date(s) of birth;
2. A statement that: (1) each parent believes the other parent to be a fit parent, and that each recognizes the unique contributions that each has to offer the child(ren); (2) the parents wish to share legal responsibility for the child(ren), as set forth in the Shared Parenting Plan; (3) the parents’ primary concern is the best interests of the minor child(ren); and (4) shared parenting is in the best interest of the minor child(ren);
3. Provisions covering all required statutory factors relevant to the care of the child(ren), including physical living arrangements, child support obligations, child (ren)’s health care, income tax exemptions for the child(ren), and school placement. The plan may also include optional provisions concerning the child(ren)’s education, religious upbringing, child care, removal of the child from the state the child’s name, the specific authority of each parent, dispute resolution procedure and any other matter to the best interests of the child(ren);

4. A designation that both parents are “residential parents and legal custodians” of the child(ren); and
5. A statement immediately preceding each party’s signature on the Shared Parenting Plan, which provides that each party has thoroughly reviewed and understands the Plan; that he or she has voluntarily signed the Plan, and that each party requests that the Court adopt the Plan as the Judgment and Order of conduct.

D. MANDATORY LANGUAGE IN SHARED PARENTING DECREE: A Shared Parenting Decree shall contain all mandatory child support language required by Local Rule 30, and deviation language regarding child support if a deviated amount of child support is agreed upon. See Local Rule 30 below for more requirements). Additionally, the Judgment Entry shall contain one of the following findings, as appropriate:

1. Any Shared Parenting Decree modifying an existing Shared Parenting Order must include appropriate O.R.C. Section 3109.04(E)(2) language as to the legal conclusions made by the Court, as follows:

Based upon the representations of the parties, the Court finds that a modification of the existing Shared Parenting Plan is in the best interests of the child(ren).

2. Any Shared Parenting Decree modifying a prior allocation of sole or split parental rights and responsibilities, to shared parenting, shall include appropriate O.R.C. Section 3109.04 (E)(1)(a) language as to the legal conclusions made by the Court, as follows:

Based upon the representation of the parties, the Court finds that a change has occurred in the circumstances of (the child), (his residential parent), or (either of the parents subject to a shared parenting decree), that the residential parent agrees to a change in the residential parent...(and/or the child with the consent of the residential parent... integrated...), and that a modification of parental rights and responsibilities is in the best interest of the child.

3. Any initial Shared Parenting Decree, in a case which does not contain any prior allocation of parent rights and responsibilities, shall include appropriate O.R.C. Section 3109.04(D) language as to the legal conclusions made by the Court, as follows:

Based upon the representation of the parties, the Court finds that adoption of the attached Shared Parenting Plan is in the best interests of the minor child(ren).

E. HEARING REGARDING SHARED PARENTING: Generally, the Court will not require a hearing prior to approving a Shared Parenting Plan and Decree. However, in its discretion, the Court may schedule a hearing prior to approving any proposed Shared Parenting Plan. In the event that the Court schedules a hearing, both parties shall appear at the hearing. The failure of either party to appear at the scheduled hearing may result in denial of the Shared Parenting Plan.

Rule 15: AGREED POST-DECREE MODIFICATIONS OF PROPERTY DIVISION AWARDS

In the event the parties agree to a modification of a property division award previously entered by the Court, the parties shall file a joint motion requesting the modification. The motion shall be filed pursuant to Civil Rule 60(B), and shall state the specific provision of the rule applicable to the motion and the specific reason why the modification is sought. The motion shall be signed by both parties, and the parties shall waive notice of hearing and any findings of fact and conclusion of law with regard to the modification. The parties shall also state the modification is equitable pursuant to O.R.C. Section 3105.171. An Agreed Judgment Entry shall be submitted with the motion, and the Judgment Entry shall be approved by both parties and their legal counsel. The Agreed Judgment Entry modifying the property division pursuant to Civil Rule 60(B) shall contain the following language:

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Ohio Civil Rule 60(B) _____, the divorce/dissolution decree of _____ is hereby vacated or otherwise reopened for the limited purpose, and to the limited extent, of including the above agreement in the final decree. Accordingly, the Court hereby approves and adopts the above agreement of the parties as the judgment and order of the Court. In doing so, the Court incorporates the same into the final decree dissolving the marriage of the parties, originally filed on _____, and hereby reaffirms and re-adopts all aspects of said final decree as the judgment and order of the Court, as modified above.

The specific subsection of Civil Rule 60 must be cited in the Judgment Entry. The above clause should be placed at the end of the Agreed Judgment Entry.

Rule 16: TRANSFERS OF PROPERTY BY JUDGMENT ENTRY

Situations arise in domestic relations cases where, for whatever reason, a party fails to execute the proper instruments to effectuate a transfer of title to property allocated under a decree of divorce, dissolution, or legal separation. The following language is acceptable to the Court to effectuate transfers of such property under Civil Rule 70:

WHEREFORE, PURSUANT TO OHIO CIVIL RULE 70, IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. _____ is hereby divested of all right, title, and interest in the following described motor vehicles, and the same are hereby vested in _____, free and clear of any/all claims of _____: (state year, make, model, and VIN number of each vehicle). The Erie County Clerk of Courts is hereby authorized and directed to accept a certified copy of the within Judgment Entry as effectuating conveyance of said property in due form of law.

2. _____ is hereby divested of all right, title, and interest in the following described real estate, and the same is hereby vested in _____, free and clear of any/all claims of _____: (state full and accurate legal description of property; including permanent parcel number, property street address, and prior instrument recording reference). The Erie County Recorder is hereby authorized and directed, for recording purposes, to accept a certified copy of the within Judgment Entry as effectuating conveyance of said property in due form of law.

3. Any and all costs associated with the foregoing transfers of property and/or recording of the same shall be paid by _____.

4. The Clerk of Courts is hereby directed to forward by regular U.S. mail a copy of this Judgment Entry to _____ at _____. A copy of the same shall also be provided to _____ (last attorney of record, if any).

The purpose of the within Judgment Entry is to effectuate transfer of title to the above property, in accordance with the decree of (divorce, dissolution of marriage, legal separation) entered by this Court on _____.

The proposed Judgment Entry should include historical prefatory language explaining why the Order is needed. The Judgment Entry shall be submitted to any opposing counsel for approval, prior to submission to the Court, absent good cause shown.

Rule 17: CASE MANAGEMENT AND PRETRIAL CONFERENCES

- A. WHEN HELD:** Case Management and Pretrial Conference(s) shall be held in all contested divorce, annulment, and legal separation cases, prior to any final hearing. Case Management or Pretrial Conference(s) may also be held in any other type of action, at the discretion of the Court.
- B. PURPOSE:** The purpose of Case Management and Pretrial Conferences is to achieve an amicable settlement of the case and, in the event settlement is not achieved, to expedite trial of the action.
- C. CASE MANAGEMENT CONFERENCE:** A Case Management Conference shall be held approximately ninety (90) days after the action is filed. At the time of the Case Management Conference, counsel shall:
1. Explore the possibility of spousal conciliation or the need for any family counseling;
 2. Identify disputed and undisputed issues;
 3. Discuss mediation, home investigation, in-camera interview of children, psychological examinations or appointment of a Guardian Ad Litem, if there are disputed parenting issues in the case;
 4. Verify that a complete disclosure of all assets and debts has been made by the parties;
 5. Discuss discovery issues and the need for appraisals or expert evaluations;
 6. Discuss the time required for a final hearing in the case; and
 7. Establish a schedule for mandatory discovery, which shall include, but not be limited to, the exchange of the following:
 - a. Appraisals of any real estate and personal property;
 - b. An accounting for monies expended by the parties during the pendency of the case, if it is relevant to the case issues;

- c. Copies of the last three (3) years of federal income tax returns, unless already in the possession of the other party;
- d. Balances due on all liabilities of either or both of the parties, as of “the ending date of the marriage”;
- e. Documentary proof of income from all sources, including a breakdown of overtime earnings during each of the preceding three (3) years;
- f. Copies of the most recent statements on all bank accounts, IRA’s, CD’s, stocks mortgages or other assets for which the parties receive a statement;
- g. Pension and profit-sharing plan information from each party’s employer, sufficient to determine present value, including the most recent plan summary;
- h. Health insurance information, including the cost of COBRA coverage;
- i. Copies of all deeds, vehicle registrations or titles, unless already in the possession of the other party; and
- j. **ALL MANDATORY DISCOVERIES MUST BE COMPLETED PRIOR TO THE FINAL PRETRIAL CONFERENCE IN THE CASE.**

The parties are not required to file any additional pleadings prior to the Case Management Conference. However, if a party discovers that his or her original Financial Disclosure Affidavit is not accurate for any reason, that party shall file an Amended Financial Disclosure Affidavit prior to the next scheduled Case Management or Pretrial Conference in the case.

D. FINAL PRETRIAL CONFERENCE: Both parties shall prepare, file and exchange a Pretrial Statement and Settlement Proposal no later than the day of the Pretrial Conference in the case. That document shall be supplemented as necessary prior to trial. The document shall substantially comport with the Pretrial Statement and Settlement Proposal Form (D.R. Form 7.00 in the Appendix). At the Pretrial Conference, counsel shall:

1. Discuss and narrow the issues in controversy;
2. Attempt to stipulate as to the authenticity of documents to be introduced at trial, so as to eliminate the need for testimony from a records custodian;
3. Exchange any medical reports, psychological reports, hospital records or other health related documents;
4. Exchange any reports of expert witnesses expected to be called at trial, and discuss the potential stipulation of any such reports, without the need for expert testimony;
5. Address issues of asset valuation and liability amounts, and attempt to stipulate valuation and liability amounts;
6. Identify any issues relating to the division of household goods and furnishings, and attempt to limit the trial to only the items which are disputed; and
7. Discuss and narrow any parenting issues.

- E. **COUNSEL:** Counsel of record shall attend Case Management and Pretrial Conferences. Parties shall be present to assist counsel with information and/or settlement negotiations. If counsel or a party cannot be present for some reason, counsel or the party (if unrepresented) may seek approval from the Court to participate by telephone.
- F. **STIPULATIONS:** During any Case Management or Pretrial Conferences, the Judge or Magistrate may decide any preliminary matter and record any stipulations or settlements of the parties. Any stipulations or agreements entered into at a Case Management or Pretrial Conference shall be immediately reduced to writing, signed by both parties and their counsel, and attached to any Case Management/Pretrial Conference Order.
- G. **DISCOVERY ISSUES:** No motion to compel discovery, motion for protective order, or similar discovery motion shall be filed with the Court until the problem has been thoroughly discussed with opposing counsel, and a diligent effort has been made to solve the problem informally. Any motion to compel discovery, filed with the Court, shall be accompanied by a statement of counsel describing in detail the efforts which have been made to resolve the discovery problem.
- H. **SANCTIONS:** Failure to comply with the mandatory discovery provision set forth above, failure of counsel to be prepared for a Case Management or Pretrial Conference, or failure of a party or counsel to appear or cooperate in good faith in the conduct of any Case Management or Pretrial Conference, may subject the attorney or party to an award of reasonable expenses, including attorney fees or costs to any party prejudiced by such conduct.
- I. **PRETRIAL MOTIONS:** All pretrial motions, including but not limited to motion for in camera interview, shall be filed not later than 30 days prior to the date of final or evidentiary hearing except where leave of Court for good cause is granted.

Rule 18: CONTINUANCES

Rule 41 of the Ohio Rules of Superintendence for the Courts of Ohio established strict guidelines pertaining to continuances of court proceedings. Pursuant to that Rule, no continuances shall be granted by this Court, except for good cause shown. Further, no continuances will be granted unless filed within seven (7) days prior to the scheduled hearing, except in cases of immediate personal emergency. Any motion or request for continuance shall be made in writing and filed prior to the scheduled hearing, unless otherwise authorized by the Court.

- A. **MOTION FOR CONTINUANCE:** The Motion shall contain all of the following:
 1. The reason for the requested continuance;
 2. A statement that the *non*-moving parties is aware that the motion for continuance is being made, and either consents or objects to the continuance;
 3. A copy of the notice of hearing from the conflicting Court, if the request for continuance is based upon a conflict in court appearances; and
 4. The endorsement of the moving party (i.e., client's approval signature), as well as the signature of counsel for that party, pursuant to Sup. R. 41.

B. PROPOSED JUDGMENT ENTRY: Any request for continuance shall be accompanied by a proposed Judgment Entry which contains all of the following:

1. Approval signature of opposing counsel or party (if unrepresented), or a statement of objection to or why the moving party did not obtain such approval of the continuance;
2. A statement of:
 - a. The type of hearing continued;
 - b. The date of the original scheduled hearing; and
 - c. The moving party shall also provide a notice to the assignment clerks with blank areas to fill in the hearing date and time. Said Notice will be filed with the Motion.

Rule 19: JOURNALIZATION OF ENTRIES

A. CASES SETTLED PRIOR TO HEARING: If a matter that is set for hearing or trial is settled by the parties before the hearing, counsel shall reduce the agreement to a Judgment Entry. The Judgment Entry shall reflect that the terms set forth in said Entry are by agreement of the parties and approval of the Court. Except for good cause shown, the parties and counsel shall be required to appear for the scheduled hearing or trial, unless the Judgment Entry is filed prior to the hearing or trial.

B. CASES SETTLED AT HEARING: If a case is settled during the course of a hearing, counsel shall reduce the settlement agreement to writing on an Agreement Form approved by the Court. The parties' in court agreement may be handwritten, but any handwritten agreement shall be detailed and legible. The agreement shall be submitted to, and filed with, the Court. Counsel shall prepare a Judgment Entry which fully comports with the parties' handwritten agreement, and shall file the same with the Court pursuant to Divisions (E) and (F) of this Rule (except when the agreement has been attached to and incorporated into a pretrial order entered by the Court).

C. SIGNATURES REQUIRED: Signed approval of any Judgment Entry, except one entered by agreement of the parties, constitutes approval of the form only of the Judgment Entry. All Judgment Entries shall be signed by both parties and counsel of record, or shall indicate any person's refusal to sign the Judgment Entry. A party does not need to sign a Judgment Entry if:

1. The party waived signature in writing or on the record;
2. The party previously signed an agreement reflecting the terms contained in the Judgment Entry;
3. The Judgment Entry affects only procedural aspects (except continuances) of the case;
4. The Judgment Entry adopts or approves a Magistrate's Decision; or
5. The party has filed no responsive pleading or otherwise appeared in the case.

D. COUNSEL RESPONSIBLE FOR PREPARING A JUDGMENT ENTRY: Counsel for the movant or Plaintiff shall prepare the final Judgment Entry, unless otherwise specified by agreement of the parties or order of the Court.

E. TIME FOR PREPARATION/TRANSMITTAL OF JUDGMENT ENTRY: Counsel responsible for preparation of the Judgment Entry shall submit it to opposing counsel within fourteen (14) days of:

1. The hearing relevant to the Judgment Entry;
2. Expiration of the objection period to a Magistrate's Decision; or
3. Any ruling upon objections to a Magistrate's Decision.

F. TIME FOR APPROVAL BY OPPOSING COUNSEL: Within fourteen (14) days of receipt of the proposed Judgment Entry, opposing counsel or party, if unrepresented, shall approve or reject the proposed Judgment Entry. If approved, opposing counsel or preparing counsel, if a party is unrepresented, shall file the Judgment Entry with the Court immediately. If rejected by the opposing party, counsel shall attempt to resolve any disputes regarding to the proposed Judgment Entry. If a dispute cannot be resolved, either counsel shall transmit the original proposed Judgment Entry to the Court, with a written statement of the opposing party's objections to the proposed Judgment Entry. The Court shall thereafter resolve any disputes regarding to the proposed Judgment Entry.

G. FAILURE TO COMPLY WITH THIS RULE:

1. **Preparing Counsel:** If counsel fails to prepare a Judgment Entry in a timely manner, the Assignment Clerk shall send the attorney a "Notice of Overdue Filing." If the Judgment Entry is still not prepared within the time frame stated in the Notice of Overdue Filing, that attorney will receive a "Notice of Noncompliance," signed by the Judge, noting that sanctions will be imposed if the Judgment Entry is not filed as instructed. If the Judgment Entry is still not timely filed, counsel may be sanctioned.
2. **Opposing Counsel:** If opposing counsel fails to present the proposed Judgment Entry to the Court in a timely fashion, the attorney who prepared the Judgment Entry may unilaterally present the Judgment Entry for signature by the Judge and journalization, with the following certification:
 - a. That submission to the opposing party was made according to the rule;
 - b. The date on which the Judgment Entry was submitted to the opposing party;
 - c. That the opposing party has failed to approve or reject the entry in a timely fashion; and
 - d. Any other information which would assist the Court.

Any Judgment Entry unilaterally submitted to the Court, for approval and journalization, by reason of the failure of a party or opposing counsel to approve the Entry, shall be accompanied by a copy of the prior handwritten agreement of the parties (including the agreement signatures).

In the event the parties encounter unforeseen difficulties with the timely preparation and submission of the Judgment Entry, the parties shall promptly notify the Court of that fact, and shall seek an extension of time in which to timely file the Judgment Entry. The parties may request the Court's assistance in resolving any disputes.

H. MAGISTRATE'S ORDERS: All of the above provisions fully apply to preparation and submission of a Magistrate's Order.

Rule 20: PARENTAGE AND SUPPORT TIME LIMITS

Pursuant to O.R.C. Section 3125.58, all actions for parentage or establishment/modification of support must be completed as follows: 75% of all actions shall be completed within six (6) months of filing and 90% of all actions shall be completed within twelve (12) months of filing. The Court may make temporary support orders in such actions upon its own motion or the motion of any party, if the issues are as complex as to require full judicial review or in other appropriate circumstances. Where necessary to comply with this rule and the statutory mandate, the Court may give priority to parentage and support actions. Counsel of record, as officers of the Court, shall expeditiously fulfill all professional responsibilities, so as to assist the Court with complying with the aforementioned time limits.

Rule 21: PATERNITY TESTING and ACKNOWLEDGMENT

- A. WHEN TESTING IS REQUIRED:** In the event Wife is pregnant during the pendency of a divorce, dissolution, legal separation or annulment case, and one or both parties allege that Husband is not the biological father of the child, paternity testing shall be completed for that child, before any final decree will be entered by the Court. Since testing cannot be completed until the child is born, the case shall be placed on inactive status until the birth of the child. In all other cases, paternity testing may be requested on a case-by-case basis.
- B. ACKNOWLEDGMENT OF PATERNITY:** In all divorce, dissolution, legal separation, or annulment cases involving any child born prior to the date of the marriage, when paternity is **not disputed**, both parties shall expressly acknowledge paternity and waive all rights to paternity testing in writing (D.R. Form 15.00 in the Appendix). **Such waiver shall be filed with each party's Request for Temporary Orders.** In the absence of waivers from both parties, the Court may order paternity testing for any child born prior to the marriage.
- C. ORDER FOR TESTING:** Any order for paternity testing shall substantially comport with Order for Paternity Testing (D.R. Form 14.00 in the Appendix).
- D. REQUIRED FORMS TO OBTAIN TESTING:** Any time paternity testing will be completed by CSEA, the residential parent shall:
1. Complete a Paternity Testing Information form (D.R. Form 16.00 in the Appendix) and attach that form to the Judgment Entry/Order for Paternity Testing; and
 2. Complete an "IV-D Application" (available from the Court or CSEA), and provide that applications to CSEA on or before the date upon which testing is scheduled.

Rule 22: APPRAISERS and VALUATION OF PROPERTY

A. APPRAISERS:

1. **Real Estate Appraisers:** Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, or such other persons who by experience and training are qualified to make real estate appraisals.
2. **Personal Property Appraisers:** Personal property appraisals shall be made by an auctioneer or by persons who by experience and training are qualified to make personal property appraisals.

B. VALUATION OF ASSETS AND DETERMINATION OF LIABILITIES

1. **Required Evidence:** Under Ohio Law, the Court is required to make findings of fact concerning the value of assets and the balance due on liabilities when making a decision dividing property in a domestic relations action. Accordingly, whenever property issues are contested in a divorce, annulment or legal separation action, the parties shall present sufficient evidence to enable the Court to make the required findings in its decision. In the event the parties fail to present sufficient evidence, the Court may order the presentation of additional evidence in the case.
2. **Readily Ascertainable Values:** Either party may present the following types of evidence concerning valuation in any domestic relations case. The Court will not consider the evidence to be conclusive or presumptive evidence or valuation and the other party may present any other relevant evidence concerning valuation to the Court.
 - a. **Real Estate:** In lieu of an appraisal of real estate, either party may submit a certified copy of the County Auditor's appraisal card showing the market value of the real estate. Such evidence is generally admissible as an exception to the hearsay rule under Ev.R. 803(8) and as a self-authenticating document under Ev.R. 902(4).
 - b. **Motor Vehicles:** In lieu of an appraisal of a motor vehicle, either party may submit a current accurate copy of a reliable internet service appraisal or a current copy of the page of the N.A.D.A. Official Used Car Guide showing the "Avg. Retail" value of a certain model of a motor vehicle. Such evidence is generally admissible under Ev.R. 803(17) as an exception to the hearsay rule.

Rule 23: EX PARTE ORDERS

- ### **A. JUDGMENT ENTRY OF INJUNCTIONS:** The Court grants an *ex parte* restraining order entitled "JUDGMENT ENTRY OF INJUNCTIONS" in every divorce, annulment or legal separation case.
1. It is not necessary for a party to file a separate motion for issuance of the Judgment Entry of Injunctions.
 2. The standard *ex parte* order granted shall be on Judgment Entry of Injunctions (D.R. Form 3.00 in the Appendix).

3. The Judgment Entry of Injunctions shall be presented to the Court at the time the Complaint is filed.
4. The Judge or Magistrate shall thereafter sign such standard *ex parte* order, and the standard order shall be served on the opposing party with the Summons and Complaint.

B. EX PARTE ORDER FOR PARENTAL RIGHTS AND RESPONSIBILITIES: An *ex parte* order allocating or reallocating parental rights and responsibilities, will be granted only upon affidavit(s) which comply with Division (C)(4) below and which establish that exigent circumstances exist for such an order. The affidavit(s) shall also establish that an *ex parte* order is in the best interests of the child(ren). In the event the Court overrules the motion on an *ex parte* basis (i.e., without notice), the Court may consider granting or reallocating parental rights and responsibilities on a temporary basis, after the opposing party has been given notice and an opportunity to respond to the motion. In addition to any other requirements of this rule, the requirements of Rule 13 shall be fully complied with to the extent any of those documents have not been filed in any pending action.

C. GENERAL REQUIREMENTS FOR ALL EX PARTE MOTIONS:

1. **Statement Regarding Counsel:** All *ex parte* motions shall include a statement as to whether the nonmoving party is presently represented by counsel, whether or not that attorney has entered an appearance in the case. If the nonmoving party is represented, the motion shall state the name of the nonmoving party's attorney.
2. **Disclosure of Other Orders:** All *ex parte* motions shall disclose any other orders issued by this Court, or by any other Court, which are currently in effect and relevant to the relief requested in the motion. A time-stamped copy of any relevant and current order shall be attached to the *ex parte* motion.
3. **Efforts to Give Notice:** All *ex parte* motions/affidavits shall disclose the efforts, if any, which have been made by the Movant or counsel to give notice of the issue(s) raised in the motion, and the reasons supporting any claim that notice should not be given. The motion/affidavit(s) shall state whether or not the Movant knows the present residence of the nonmoving party and, if not, what efforts the Movant has made to discover the present address of the nonmoving party.
4. **Affidavits:** All *ex parte* motions shall be supported by affidavit(s). Supporting affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible as evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. Affidavits must contain specific facts and information to support the claim for relief and establish that exigent circumstances exist.
5. **Notice of Right to Hearing:** Any proposed Order granting *ex parte* relief shall contain the following language notifying the nonmoving party of his or her right to request a hearing on the motion:

NOTICE: Any party to this action may request that the Court set a hearing on the *ex parte* motion and order. All requests for hearing shall be made in writing by filing a judgment entry for a notice of hearing and a preceipe with instructions to the clerk requesting service. The foregoing shall be filed with the Court within ten (10) days after service of this Order.

6. **Hearings on Ex Parte Motions:** In the event a party requests a hearing on an *ex parte* motion, the Court shall set a hearing on an expedited basis, as soon as the Court's docket

may permit. The moving party shall bear the burden of proof that an *ex parte* hearing, and shall present sufficient, competent evidence to establish that continuation of the *ex parte* order is warranted. Evidence at the hearing shall be confined and limited to the issues raised in the *ex parte* motion, except as otherwise permitted by the Court.

Rule 24: STANDARD PARENTING TIME ORDER

- A. GENERAL GUIDELINES:** When parents separate because of family problems, there is often a period of several months to years during which families are under great stress because of loss, conflict and changes. Most studies show, and psychologists uniformly agree, that the children who “do best” following divorce are from families which maintain a low level of conflict. The absence of conflict can be even more critical than the amount of time either parent spends with the children. For these reasons, the Court encourages parents to discuss all matters pertaining to their child, and attempt to resolve those matters amicably. Parents experiencing difficulty resolving issues relating to the child should seek the assistance of the Court Mediation Office or other professional to attempt to reach an agreement on matters relating to the child.

Children need the continuing and regular involvement of both parents in order to feel loved. In order to enhance and foster each parent’s relationship with the child, neither parent should suggest, encourage or require a child to refer to any person other than the child’s parents as “mom” or “dad”, nor permit any other person to do so.

No specific schedule will satisfy the changing needs of both children and parents over the years. Critical to the success of any schedule is that each parent be flexible, based upon the changing needs of a child as the child grows older and becomes involved in different activities. It is the Court’s view that a specific parenting time order is in the best interests of children, in most cases. The Court has adopted a “Standard Schedule for Parenting Time” which provides for the minimum amount of parenting time which the Court considers reasonable, in most cases. However, this schedule may or may not be appropriate in any given case. It is recognized that each situation and each child is different, and it is preferred that parents attempt to tailor the parenting schedule to meet the specific needs of their children. Parties may agree to, and the Court may approve, more or less parenting time than that provided for in this standard schedule. However, any agreement regarding parenting time must contain specific times and dates for parenting time.

When exercising parenting time, a child may exhibit a strong emotional reaction when saying good-bye to either parent. Child mental health professionals concur that this emotional response is generally quite normal, especially with young children, and does not mean that the child does not love the other parent or does not want to spend time with the other parent. Both parents need to calmly reassure the child that the child will see the other parent soon. The length of the adjustment will vary. If a child indicates strong opposition to being with the other parent, it is the responsibility of each parent to appropriately deal with the situation. Parents should comfort and calmly talk with the child, and provide reassurance. Confrontation and unpleasant scenes are to be avoided. If the matter is not settled, either parent should seek the immediate assistance of a mental health professional or Court, mediator or file a motion with the Court. As uncomfortable as this issue may be for a parent, this issue should not remain unresolved. **IT IS THE DUTY OF THE RESIDENTIAL PARENT TO TAKE ALL REASONABLE MEASURES TO MAKE SURE THAT THE CHILD GOES FOR THE PARENTING TIME PERIOD.**

B. SCHEDULE FOR PARENTING TIME: Parenting time SHALL TAKE PLACE AT SUCH TIMES AND PLACES AS THE PARTIES AGREE. Unless modified in advance, by mutual agreement of both parties, parenting time normally shall not be less than the following:

1. **Weekend Parenting Time:** Beginning on a specific date, every other weekend from Thursday night at 6:00 p.m. to Sunday night at 6:00 p.m. Specific parenting time for a holiday, day of special meaning or a vacation overrides weekend parenting time, but the alternating weekend schedule shall not change, even if interrupted and overridden by a holiday, day of special meaning, or vacation parenting time. Weekend time that is lost due to a holiday does not have to be made up.
2. **Mid-week Parenting Time:** In addition, an overnight parenting time period from 6:00 p.m. on Thursday to 6:00 p.m. on Friday (or on such other day or time that the parties agree) during each week that the nonresidential parent does not have the parenting time. The Non-residential parent shall be responsible for transporting the child(ren) to school, daycare, etc., when applicable on Friday morning.

The above weekend and mid-week schedule is summarized on the table below, which shows which **nights** the child will spend with the residential parent (RP) and nonresidential parent (NRP).

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
RP	RP	RP	NRP	NRP	NRP	RP
RP	RP	RP	NRP	RP	RP	RP
RP	RP	RP	NRP	NRP	NRP	RP
RP	RP	RP	NRP	RP	RP	RP

3. **Parenting Time on Days of Special Meaning:**
 - a. **Mother’s and Father’s Day:** Mother’s Day shall always be spent with the mother and the Father’s Day shall always be spent with the father, regardless of which parent is entitled to the weekend. If the parties cannot agree on times, the times are 9:00 a.m. to 7:30 p.m. The child shall spend the remainder of the Mother’s or Father’s Day weekend with the parent who has regularly scheduled parenting time for that weekend.
 - b. **Child’s Birthday:** A child’s birthday shall always be spent with the mother in the even-numbered years, and shall always be spent with the father in the odd-numbered years. If the parties cannot agree, the time is 9:00 a.m. to 8:00 p.m., if the child does not have school on the birthday, and 5:00 p.m. to 8:00 p.m. if the child’s birthday falls on a school day. Birthday parenting time takes priority over weekend, mid-week, or vacation parenting time. In the event of a conflict between the child’s birthday and holiday parenting time, the parent having holiday time with the child shall also have parenting time on the child’s birthday.
4. **Holiday Parenting Time:** Parents may wish to change, by agreement, a holiday to observe family or religious traditions. Unless changed by agreement, holiday parenting times are as follows:

Holiday	Even Years	Odd Years	Time unless otherwise agreed:
Martin Luther King Day	Mother	Father	Sun. 6:00 p.m. – Mon. 6:00 p.m.
Spring Break	Father	Mother	9:00 a.m. on the day after school is Released for Spring Break until 6:00 p.m. of the day before school resumes
Easter	Father	Mother	Sun. 9:00 a.m. – Sun 6:00 p.m.
Memorial Day Weekend	Mother	Father	Fri. 6:00 p.m.- Mon. 6:00 p.m.
July 4 th	Father	Mother	7/3 at 6:00 p.m. – 7/5 at 6:00 p.m.
Labor Day Weekend	Mother	Father	Fri. 6:00 p.m. – Mon. 6:00 p.m.
Halloween – If in the year Preceding the order, the child Participated in Trick-or-Treat	Father	Mother	5:00 p.m. – 8:00 p.m. of the night Trick-or-Treat is scheduled in that parent’s neighborhood
Thanksgiving	Mother	Father	Wed. 6:00 p.m. – Sun. 6:00 p.m.
1 st Half of Winter Vacation, including Christmas Eve	Mother	Father	6:00 p.m. on the day that school is out for Christmas vacation to <u>9:00 a.m. on Christmas Day</u>
2 nd Half of Winter Vacation, including Christmas Day & New Years’ Eve/Day	Father	Mother	<u>9:00 a.m. on Christmas Day</u> until 6:00 p.m. on the day before school is scheduled to restart after the school break

All references to “school” in the holiday section above, refer to the schedule of the school where the child attends. If the child is not yet attending school, the public school schedule for the district where the child resides shall apply.

5. Vacation Parenting Time:

- a. **Length:** The nonresidential parent shall have twenty-eight days of vacation parenting time each year. Vacation parenting time shall be exercised in a block of not less than one (1) week (seven days), and the nonresidential parent has the right to determine the duration of the block of vacation parenting time. In no event shall the nonresidential parent utilize more than two (2) of the residential parent’s weekends when scheduling vacation parenting time.
- b. **When Exercised:** With regard to any child of school age, the nonresidential parent’s vacation parenting time shall be exercised between June 1st and the seventh day before commencement of the child’s new school year, unless otherwise agreed by the parties or ordered by the Court. With regard to a child who is not of school age, vacation parenting time may be exercised any time of the year, except during holiday time allocated to the residential parent.
- c. **Residential Parent Notification:** So as to facilitate scheduling and minimize conflicts, the residential parent shall deliver to the nonresidential parent, in writing, and no later than March 1st of each year, all information (including schedules, if available) concerning potential summer activities for the parties’ minor child. Scheduling of summer activities shall be discussed by the parties, which discussions shall consider the desires of the child, family traditions, work schedules of the parents and the child, etc.
- d. **Nonresidential Parent Notification:** The nonresidential parent shall, no later than April 1st of each year (or 60 days prior to the start of the vacation parenting time if the child is not in school), deliver to the residential parent, in writing, the dates he/she wishes to exercise vacation parenting time. This notice, and the notice of potential

summer activities, shall be delivered by one party directly to the other, and shall not be sent through the child.

- e. **Priority of Parent's Schedules:** The nonresidential parent's choice of vacation parenting time has priority over the residential parent's choice, unless the residential parent's vacation is an annual mandatory shut-down of the place of employment, or unless the residential parent is required by an employer to give more than sixty day's notice of intent to take a vacation and the nonresidential parent has no similar requirement.
- f. **Summer School:** Required summer school of a child does not bar or otherwise alter the parenting time schedule set forth herein. If the child must attend summer school during the nonresidential parent's parenting time, the nonresidential parent shall make sure that the child meets all attendance requirements for summer school.
- g. **Contact Information:** If either parent takes the child outside the county in which that parent resides, for a period of 24-hours or more, that parent must provide the other parent with the destination, times of arrival and departure, method of travel, and a telephone number where the child can be reached in case of emergency.
- h. **Residential Parent's Interim Parenting Time:** In the event that the vacation parenting time of the nonresidential parent lasts 28 consecutive days or more, the residential parent shall be entitled to spend two (2) consecutive days (forty-eight hours), with the child at the approximate midpoint of the vacation parenting time. The nonresidential parent's vacation parenting time shall be extended accordingly, to constitute the full twenty-eight days of vacation parenting time. The interruption of the nonresidential parent's vacation parenting time shall not apply if it interferes with his or her vacation travel plans, or if the parents reside more than 150 miles from each other.
- i. **Residential Parent's Out-of-Town Vacation:** The residential parent shall be entitled to take two (2) weeks out-of-town vacation per year which is uninterrupted by midweek or weekend parenting time. This vacation may be exercised in minimum increments of one (1) week. The residential parent shall not be required to make-up any missed weekend or midweek parenting time associated with his or her out-of-town vacation. The residential parent shall give thirty (30) days advance notice of any out-of-town vacation time exercised under this provision.
- j. **Resumption of Weekend Schedule:** The alternating of weekends shall not be affected by intervening vacation parenting time periods of either parent, and the rotation shall continue as initially established, unless the parties agree otherwise.
- k. **Priority of Other Parenting Time Periods:** Neither party shall schedule vacation with the child during the other parent's designated time for a holiday or day of special meaning.

C. MISCELLANEOUS PARENTING TIME ISSUES:

- 1. **Priority of Parenting Time Periods:** In the event of any conflict between parenting time allocated to each parent under this Rule, the following order of priority shall govern, with (a) being the highest priority and (d) being the lowest priority:
 - a. Holidays and Days of Special Meaning;

- b. Vacation Time;
 - c. Weekends; and
 - d. Midweek Parenting Time.
2. **Cancellation of Parenting Time by Nonresidential Parent:** Except in case of emergency, the nonresidential parent shall give the residential parent 24-hours advance notice of any cancellation of parenting time. A parent who does not give timely notice of cancellation of parenting time forfeits that period of parenting time. Nothing in this provision prevents a nonresidential parent from scheduling make-up parenting time, when parenting time must be canceled by the nonresidential parent because of an emergency or other unforeseen circumstance.
 3. **Keeping the Children Together:** All brothers and sisters subject to the same parenting time order shall participate in parenting time together, unless otherwise agreed by the parties, or unless one child is too ill to leave home for parenting time.
 4. **Ending Parenting Time Early:** The nonresidential parent shall not return the child, prior to the end of the parenting time period, unless the parties agree in advance. The residential parent shall not attempt to terminate parenting time prematurely, without agreement, by arriving early to pick up the child.
 5. **Transportation:** The nonresidential parent shall transport the child at the start of the parenting time period, and as provided in B (2) above. The residential parent shall transport the child at the end of the parenting time period. This means that the parents, unless otherwise agreed to by both parents or unless ordered by the Court, shall share the transportation of the child equally. A parent, if unavailable for the pick-up of the child, shall have a responsible adult, well known to the child, provide substitute transportation for the child. All child restraint laws must be complied with by any person driving the child. No person transporting the child may be under the influence of drugs or alcohol. Only licensed drivers shall drop off/pick up at the parents' homes. If the child is to be picked up from a daycare or school facility which requires written consent for the pick up, the residential parent shall sign such written consent prior to the commencement of any parenting time period.
 6. **Promptness:** Each parent shall be prompt for pick-up of the child. Neither parent shall be more than thirty (30) minutes late to pick up the child. A nonresidential parent who is more than thirty (30) minutes late loses that particular parenting time period, unless the tardiness is for good cause, and unless the nonresidential parent gives notice of the tardiness and a reasonable estimated time of arrival. In order to avoid forfeiture of that parenting time period, the notice of tardiness must be given no later than 30 minutes after the scheduled start of parenting time.
 7. **Make-up Parenting Time:** The nonresidential parent shall be entitled to make-up parenting time if, due to an emergency or other unforeseen circumstance, the nonresidential parent is not available at the scheduled time for parenting time and has given required notice of that fact to the residential parent. The nonresidential parent shall also be entitled to make-up parenting time if the residential parent denies parenting time without just cause. All make-up parenting time shall be rescheduled by the nonresidential parent and exercised within sixty (60) days of the missed parenting time, or it is forfeited. The residential parent shall make the child available for all make-up parenting time.

8. **Clothing and the Child's Appearance:** The residential parent is responsible for providing sufficient appropriate clean clothing for every parenting time period. If the planned parenting time activities require special or unusual clothing needs, the nonresidential parent must notify the residential parent in advance. If the child does not own the type of clothing requested, the residential parent is under no obligation to comply with the request. All clothing sent by the residential parent **MUST** be returned immediately after the parenting time period, in good condition, reasonable wear and tear excepted.

Absent an agreement by both parents, the child's physical appearance shall not be altered during parenting time periods. Examples of this include, but are not limited to, cutting/coloring of hair, tattoos and body piercing.

9. **Schoolwork:** A parent must provide time for any child to study and complete homework assignments, papers or other school assigned projects, even if the completion of this work interferes with a parent's plans with the child. If schoolwork is assigned by the school prior to the parenting time, the residential parent must inform the nonresidential parent of the school work to be done, so that it may be timely completed.
10. **Address and Telephone Numbers:** Unless the Court orders otherwise, each parents shall keep the other parent informed of his/her current address and telephone/cell phone/pager number, and an alternate telephone number in the event of an emergency. Absent an order of the Court, no parent shall put a block on his/her phone prohibiting the other parent from calling. Answering machines for both parents are encouraged, in order to facilitate communication. If either parent takes the child outside the county in which that parent resides, for a period of 24-hours or more, that parent must provide the other parent with the destination, times of arrival and departure, method of travel and a telephone number where the child can be reached in an emergency.
11. **Illness or Injury of a Child:** If a child is too ill to leave home for parenting time, the residential parent shall give the nonresidential parent notice of that fact at the earliest available time. The nonresidential parent shall be entitled to make-up parenting time with the child under the provisions in Paragraph 7 above.

The residential parent shall keep the nonresidential parent informed of any health condition of the child which necessitates medication or treatment. The residential parent shall provide the nonresidential parent with any necessary prescription medication or treatment instructions prior to the start of the parenting time period.

12. **Communication between Parents:** Parents, whenever possible, shall communicate directly with one another concerning parenting time issues. In the event parents cannot communicate effectively with one another, the parents shall utilize alternative methods for communication such as: (1) communicating in writing only; (2) engaging a third party to assist in their communications; or (3) seeking professional assistance, including but not limited to the Court's mediation services.
13. **Children's Activities:** Regardless of where the child is living, the child's participation in extracurricular activities, whether school-related or otherwise, shall not be interrupted because of parenting time. The parent with whom the child is residing at the time of an activity shall transport the child to the activity, unless otherwise agreed by the parties, in advance of the parenting time period. Each parent shall fully inform the other parent of

any organized activities of the child, in advance, complete with a schedule and the name and contact information for any activity leader, if available.

14. Child's Records and Activities:

- a. **Name:** The residential parent shall use the child's birth or adopted name only, on the child's records.
- b. **Records:** The residential parent must list the nonresidential parent as the mother or the father of the child on all formal records of the child. The residential parent must also authorize the school to release to the nonresidential parent any and all information concerning the child, if such release is required for the nonresidential parent to obtain information concerning the child.
- c. **Access:** The nonresidential parent shall have the same access to the same records, same school activities and any daycare center attended by the child, on the same basis as said records or access is legally to the residential parent, unless a restrictive order has been journalized by the Court.

15. Telephone Calls: Unless otherwise ordered by the Court, each parent shall be permitted regular telephone contact with the child. At a minimum, each parent has the right to talk with the child no less than twice a week for no more than one-half (1/2) hour during each contact. Phone calls should be made during the child's normal waking hours. If the child is unavailable for conversation, each parent shall require the child to timely return the call.

In addition to any telephone calls received from a parent, a child is permitted and shall be encouraged to call a parent no less than twice a week. However, the decision to call shall ultimately be left to the child. The child's telephone privileges are not to be used by either parent to convey messages to the other parent. Parents shall not discipline a child by restricting telephone contact with the other parent.

16. Noncompliance with Court Order: The duties and rights of parents outlined in this schedule may be enforced by the Court upon the filing of the appropriate motion by either party. Under Ohio Law, a parent may not withhold parenting time because the other parent does not obey another Court order (for instance, to pay support, medical bills, etc.). A parent may seek enforcement of a periodic child support by contacting the Erie County Child Support Enforcement Agency. The failure of any party to obey a Court Order may subject the violating parent to Court-imposed sanctions or penalties, including fines, jail, payment of attorney fees and costs and other appropriate relief.

17. Relocation:

- a. **Permanent Relocation of a Child:** The residential parent may not permanently relocate a minor child outside of the state of Ohio, over the objection of the nonresidential parent, without prior approval of the Court. Whether the residential parent will be permitted to permanently relocate a child outside of the state of Ohio, over the objection of the nonresidential parent, will be determined by the Court on the basis of the best interests of the child.
- b. **Notice of Intent to Relocate:** The residential parent must notify the nonresidential parent, in writing, any time he or she changes his or her residence from that of the county in which he or she resided at the time of the last parenting order. Said notice

must be given in writing, at least forty-five (45) days in advance of the relocation. This Court has designed forms to be used by the residential parent to make the relocation notification (D.R. Forms 6.00 and 13.00 through 13.30 in the Appendix). The procedure for making the notification and the forms are available from the Court upon request.

- c. **Modification of Parenting Time Schedule:** If the proposed relocation makes the existing parenting time order impracticable, the parents shall attempt, in good faith, to reach an agreement on any revision of the existing schedule. Any agreed revision shall be reduced to a Judgment Entry, and shall be submitted to the Court for approval and filing. If the parties cannot reach an agreement, either party may file a motion to modify parenting time with the Court.
18. **Implementation of New Schedule:** Rule 24, as set forth above, constitutes the standard schedule of parenting time of the Court. The Court reserves the right to modify the parenting time schedule upon the filing of a motion by either party. The current version is intended to be prospective in application only. However, the Court, in addressing any motion for modification of parenting time, would generally adopt this schedule of parenting time, upon the request of either party, unless any party proves by a preponderance of the evidence that another schedule would serve the best interests of a child. If adoption of this schedule of parenting time expands the nonresidential parent's parenting time rights, a modification of parenting time standing alone shall not constitute sufficient evidence for a deviation of the nonresidential parent's child support obligation. Evidence of a specific monetary amount associated with the expanded parenting time is required for a deviation from child support computed pursuant to O.R.C. Section 3119.
 19. **Attachment of Rule to Judgment Entries:** Anytime a Judgment Entry orders parenting time in accordance with this Rule, a copy of this Rule shall be attached to and incorporated into the Judgment Entry.

Rule 25: MEDIATION

- A. **POLICY OF THE COURT:** The Court encourages the parties to resolve their differences amicable and to keep the family unit intact whenever possible, or if it is not possible to keep the family unit intact, to foster an environment for the child(ren) which best provides for the child(ren)'s welfare and minimizes the child(ren)'s exposure to parental conflict. To that end, the Court encourages the use of mediation. As officers of the Court, it is the duty of the attorneys of the parties to encourage their clients to participate in the mediation process in good faith. Whenever possible, parents are encouraged to meet their mutual responsibilities to their child(ren) through agreements, rather than by relying upon judicial intervention. The objectives of any mediation ordered by the Court shall be to:
 1. Avoid needless conflict between the parties;
 2. Encourage productive, cooperative problem-solving between the parties;
 3. Enhance effective communication between the parties;
 4. Require the parties to act responsibly; and
 5. Minimize lasting emotional damage to the parties and especially their child(ren).

- B. SCOPE OF MEDIATION:** Issues involving visitation/parenting time and the allocation of parental rights and responsibilities of minor children shall be mediated. Other issues in domestic relations or parentage cases may be mediated, if agreed by the parties and approved by the mediation coordinator, or if ordered by the Court.
- C. HEARINGS DURING MEDIATION:** The Court will not schedule or conduct any hearing on any parenting issue (including the allocation of parental rights and responsibilities, visitation/parenting time, contempt, child support or other related matters), or order any investigations or examinations during the pendency of mediation proceedings, except for good cause shown.
- D. MEDIATION PROCEDURE:**
- 1. Referral to Mediation:** Pursuant to Ohio Revised Code §3109.052 and the inherent authority of the Court, the Court may refer the parties to mediation:
 - a. At any time after service of summons in any action for divorce, legal separation, annulment or parentage, in which the allocation of parental rights and responsibilities of minor children or parenting time is an issue;
 - b. At any time after the filing of a post-decree motion to modify or allocate parental rights and responsibilities, to terminate a shared parenting plan, or to modify parenting time; or
 - c. At any time after service of process in any other action in which the Court has jurisdiction over children under Ohio Revised Code §2151.23.

Additionally, parties may participate in the Erie County Common Pleas Court Mediation Program when the Court has ordered the parties to mediate their differences prior to the filing of any motion with the Court.

- 2. Assessment:** An initial mediation assessment shall be conducted upon referral of the Court. If it is determined that the parties qualify for mediation, the Court may order any or all of the parties to participate in mediation. Upon issuance of the mediation order, the mediation coordinator shall assign a mediator to mediate the dispute between the parties, and the parties shall fully cooperate with the mediator during the mediation process.
- 3. Time Limit for Mediation:** The mediation shall be completed by the mediator within ninety (90) days from the date of the mediation assessment, unless extended by the Court for good cause shown.
- 4. Mediation Agreements:** In the event the parties reach a verbal agreement during the course of mediation, the Mediation Office shall reduce that agreement to writing and forward the written agreement to the parties and their attorneys, within seven (7) days of the mediation session where the agreement was reached. At the same time that the Mediation Office sends the written agreement to the parties and counsel, the Mediation Office shall file a Mediation Report with the Court, informing the Court that the parties had reached an agreement through mediation. Upon receipt of a Mediation Report which reflects that an agreement has been reached, the Court shall schedule a Mediation Status Conference. The parties and counsel shall attend the Mediation Status Conference, unless an agreed Judgment Entry containing the parties' mediated agreement is filed with the

Court, prior to the date of the Mediation Status Conference. At the Mediation Status Conference, the Court shall inquire concerning the status of the agreement. In the event the Mediation Status Conference does not result in a signed agreed Judgment Entry, approved by the Court, the Court shall either refer the matter for further mediation or terminate mediation and return the case to the Court's active docket.

5. Mediation Report: Pursuant to Ohio Revised Code §3109.052(B), a Mediation Report, indicating whether or not an agreement had been reached on any of the issues that are the subject of the mediation, shall be filed in every mediation case. In the event that a case is referred for further mediation following the Mediation Status Conference, a Supplemental Mediation Report shall be filed at the conclusion of the additional mediation. The Mediation Report and Supplemental Mediation Report shall be in the form specified by the Court. The parties' agreement shall not be forwarded to the Court with any mediation report or docketed in the case by any party, unless the agreement has been signed by both parties. The mediation report shall be considered by the Court to the extent permitted by Ohio Revised Code §3109.052(B).

E. QUALIFICATION OF MEDIATORS: Mediators shall meet the qualifications of mediators set forth in Rule 16 of the Rules of Superintendence for the Courts of Ohio, effective November 24, 1997, or as thereafter amended.

F. CONFIDENTIALITY: Pursuant to Ohio Revised Code §2317.02(H) and §3109.052(C), and as thereafter amended, any communication made in the course of, and relating to the subject matter of the mediation is confidential, and the mediator cannot be required to give testimony before the Court. However, the mediator may be required to give testimony in a separate criminal, delinquency, child abuse, child neglect, or child dependency proceeding.

Rule 26: HOME INVESTIGATIONS

A. POLICY OF THE COURT: After Rule 25 has been complied with, either party may request or the Court may order a home investigation concerning the best interest of any child(ren) in contested parenting proceedings. The home investigation shall be completed by a person appointed by the Court.

B. REQUEST FOR HOME INVESTIGATION: A home investigation shall be initiated by the filing of a Request for Home Investigation (D.R. Form 9.00 in the Appendix).

C. COST OF ANY PAYMENT FOR HOME INVESTIGATION: Each party shall deposit his or her portion of the cost of the home investigation, including travel expenses, with his or her attorney, or such other person designated by the Court, within fourteen (14) days of the Home Investigation Judgment Entry. Unless otherwise ordered by the Court, the deposit for the home investigation and travel expenses shall be divided as follows:

1. In a contested divorce, annulment or legal separation action, each party shall deposit one-half of the cost of the home investigation.
2. In a post-decree case, the party filing the motion shall deposit the full amount of the cost of the home investigation.
3. Any travel expenses of the home investigator shall be deposited by the party living outside Erie County.

Travel expenses may be billed by the home investigator in advance of the investigation, and if so billed, the party's attorney shall immediately disburse requested travel expenses. Upon completion of the home investigation report, the home investigator shall bill the appropriate party's attorney for the home investigation cost and any unpaid travel expenses. The party's attorney shall pay that sum directly to the home investigator immediately upon receipt of the billing, but no later than thirty (30) days of receipt of the billing. A current schedule of costs for home investigations and travel expenses shall be approved by the Judge and kept on file with the Court.

- D. REPORT OF HOME INVESTIGATOR:** No later than seven (7) days prior to the Final Pretrial Conference scheduled with regard to any disputed parenting time issue, the Home Investigator shall submit a written report to the Court which contains his or her recommendations regarding any disputed parenting time issue. Upon receipt of the report, the Home Investigator Coordinator shall contact the attorneys for both parties and advise them that the report is available for their review. Confidential copies of the report shall be available, upon request, to the attorneys for the parties. However, upon receipt of the same, the attorneys are expressly prohibited from making or disseminating any copies of the confidential home investigation to any other person, including the client. It is within the discretion of the Court to assess copy costs to the requesting party, prior to release of any report copy.
- E. TESTIMONY OF HOME INVESTIGATOR:** In the event either party desires the home investigator to testify at any hearing in the case, that party shall contact, in writing, the Court's Home Investigator Coordinator no later than ten (10) days prior to trial. Failure to timely secure the appearance of the home investigator by contacting the Court may result in the unavailability of the home investigator at trial, except through issuance of a subpoena.

Rule 27: GUARDIANS AD LITEM

- A. POLICY OF THE COURT:** In order to determine the best interest of minor children in any domestic relations or parentage actions, the Court may appoint a Guardian Ad Litem upon its own motion or upon the motion of either party. The Court will appoint a qualified individual to serve as Guardian Ad Litem.
- B. NOTICES TO GUARDIAN AD LITEM:** Upon appointment, counsel for both parties and the Assignment Clerk shall notify the Guardian Ad Litem of all proceedings. It shall be the responsibility of counsel to serve the Guardian Ad Litem with copies of all pleadings filed after the appointment. Any additional expense incurred by the Guardian Ad Litem due to counsel's failure to notify, including the cost of transcripts, may be charged to the party responsible for the failure.
- C. DEPOSIT FOR AND PAYMENT OF FEES:** The Judgment Entry/Magistrate's Order appointing the Guardian Ad Litem shall specify any deposit which must be made in advance for fees and who shall pay said deposit. All payments for the services of the Guardian Ad Litem shall be payable through the IOLTA account of counsel as specified in the Judgment Entry/Magistrate's Order.
- D. STATEMENT OF FEES:** The Guardian Ad Litem shall provide statement(s) to the Court and counsel for both parties showing the number of hours spent performing duties, a general description of the duties performed, the cost of services billed to date, any payments for services received and any balance due for services. Upon the filing of such statement(s), the Court will authorize disbursement of the deposit(s) for the payment of Guardian Ad Litem fees. The Court may require additional deposits for Guardian Ad Litem fees from time to time, and

the final order on the matter shall contain a provision regarding payment of any outstanding Guardian Ad Litem fees. Guardian Ad Litem fees are in the nature of child support and are not to be considered dischargeable in any bankruptcy proceeding.

E. REPORTS OF GUARDIAN AD LITEM: No later than seven (7) days before a final hearing on the matter regarding which the Guardian Ad Litem has been appointed, the Guardian Ad Litem shall submit a written report to the Court which contains his or her recommendations regarding any disputed custody or parenting time matter. The Court may grant exceptions to this requirement upon written request and for good cause shown. In the event the child's wishes or concerns are in opposition to the Guardian Ad Litem's recommendation, the Guardian Ad Litem shall specifically notify the Court of that fact in the report. Upon receipt of the report, the Court will contact the attorneys for both parties and advise them that the report is available for their review. Confidential copies of the report shall be available, upon request, to the attorney for the parties. However, upon receipt of the same, the attorneys are expressly prohibited from making or disseminating any copies of the confidential report to any other person, including the client. It is within the discretion of the Court to assess copy costs to the requesting party, prior to release of any report copy.

F. DUTIES OF THE GUARDIAN AD LITEM: Upon appointment, the Guardian Ad Litem in every case shall perform certain basic duties, identified below. The Guardian Ad Litem shall not act as counsel for the child unless specifically appointed in that capacity by the Court. The feasibility of some of the duties will depend upon the age(s) of the child(ren) and the specific circumstances of the case. Therefore, it is within the discretion of the Guardian Ad Litem to tailor the duties to the facts of the individual case. The basic duties include:

1. Interviewing the child(ren) and observing each parent with the child(ren);
2. Reviewing pleadings and consulting with each attorney as to position and issues;
3. Investigating all significant persons and interviewing those persons independently;
4. Obtaining and reviewing records (i.e., home investigation, school, criminal, medical, psychological, and child protective service agency);
5. Performing home visits in each parent's home, if any allegation is made regarding the children's living environment (this may be done in conjunction with the interview process);
6. Evaluating the necessity of any psychological evaluations or counseling, and making a recommendation regarding those matters;
7. Communicating with any child protective services personnel;
8. Attending or reviewing relevant portions of any depositions, Court hearings or conferences regarding the best interests of the minor child(ren); and
9. Filing a written report with the Court containing a recommendation regarding the disputed custody or parenting time issues, unless a verbal report is permitted by the Court.

The Guardian Ad Litem shall maintain all information received from any confidential source as confidential, and shall not disclose the same except as the law permits.

Rule 28: PARENTING AND CHILDRENS SEMINARS

A. PARENTING SEMINAR:

1. **When Required:** Both parents shall complete the Court-sponsored Parenting Seminar within the time limits set forth below:
 - a. **Divorce, Dissolution, Legal Separation or Annulment with Children:** Within forty-five (45) days after completion of service of process in any divorce, legal separation or annulment with children, or within forty-five (45) days after the filing of a dissolution of marriage action, but no later than the date of the first scheduled mediation session or the final hearing, whichever occurs first.
 - b. **Parentage and Post-Decree Actions:** Within the discretion of the Court, the Court may order the parties to attend the Parenting Seminar.
2. **Exemption from Attendance:** Any parent who has attended the Court-sponsored Parenting Seminar within one (1) year prior to the filing of any action specified above shall be exempt from the attendance requirements set forth above. A parent may also be excused from attendance by the Court, upon a showing of good cause.
3. **Procedure for Seminar Registration:**
 - a. **Divorce, Legal Separation and Annulment Cases:** Following the issuance of temporary orders, the Court's Assignment Clerk shall schedule each parent's parenting seminar and notify counsel for each party or the parties (if unrepresented by counsel) of the date and time of the Parenting Seminar.
 - b. **Dissolutions:** Upon the filing of the action, counsel filing the action shall secure dates for each parent's parenting seminar from the Assignment Clerk, and counsel shall thereafter notify each party of the date and time of the parenting seminar. In the event neither party is represented by counsel, the Court's Assignment Clerk shall schedule and notify each parent of the date and time of his or her parenting seminar.
 - c. **Parentage and Post-Decree Actions:** In the event the Court orders the parties to attend the Parenting Seminar, the Court's Assignment Clerk shall schedule each parent's parenting seminar and shall notify counsel for each party or the parties (if unrepresented by counsel) of the date and time of the parenting seminar.
4. **Failure to Attend:** A party failing to attend, without exemption, may be subject to contempt proceedings. Further, a final Order or Judgment shall not be entered in the case, until both parties have attended the Court-sponsored Parenting Seminar, or the Court has excused the attendance of one or both parties, for good cause shown.
5. **Proof of Attendance:** Upon completion of the seminar, each parent shall receive a certificate evidencing attendance at the seminar a copy of which shall be submitted to the Court.

B. CHILDRENS SEMINAR:

1. **When Required:** Children ages 5-8 or 9-12 shall complete the Court-sponsored Children's Seminar when issues of allocation of parental rights and responsibilities are in dispute.
2. **Exemption from Attendance:** Any child who has attended the Court-sponsored Children's Seminar within one (1) year prior to the filing of any action specified above shall be exempt from the attendance requirements set forth above. A child may also be excused from attendance by the Court, upon a showing of good cause.
3. **Procedure for Seminar Registration:** At the Case Management Conference, Pre-trial, or upon order of the Court, the entry will contain the date and time for the Children's Seminar for the particular child's age group.
4. **Failure to Attend:** A party failing to procure the attendance of their child(ren), without exemption, may be subject to contempt proceedings. Further, a final Order or Judgment shall not be entered in the case, until the children have attended the Court-sponsored Children's Seminar, or the Court has excused the attendance of the child(ren), for good cause shown.
5. **Proof of Attendance:** Upon completion of the seminar, each child shall receive a certificate evidencing attendance at the seminar.

Rule 29: HEALTH EXPENSE

- A. **COMPUTATION OF HEALTH CARE BILLS:** A Health Care Expense Worksheet (D.R. Form 12.00 in the Appendix) for computation of each parent's portion of a bill shall not be filed with the Court, but it may be used by the parents when transmitting bills to each other for payment.

Rule 30: SUPPORT ORDERS

- A. **MANDATORY SUPPORT LANGUAGE IN JUDGMENT ENTRIES:** Any Judgment Entry which contains a child support or spousal support order shall contain language which comports with O.R.C. Chapters 3119, 3121, 3123 and 3125 (or as subsequently amended). The Court suggests use of the language contained on Suggested Language for Child Support Orders (D.R. Form 17.00 in the Appendix), which shall be modified as appropriate, depending upon whether the Judgment Entry includes a child support and/or spousal support order.
- B. **CHILD SUPPORT COMPUTATION WORKSHEET:** Any child support order shall have a copy of the Child Support Computation Worksheet which was used to calculate the child support obligation, attached to the Judgment Entry as an Exhibit. The attached Computation Worksheet shall be fully completed, accurately calculated, and signed and properly notarized when appropriate.
- C. **DEVIATIONS FROM GUIDELINES COMPUTATION WORKSHEETS:** Any proposed Judgment Entry containing a deviation from the attached Computation Worksheet shall contain the deviation language (or substantially similar language) contained on Required Language for Deviations for Child Support Purposes (D.R. Form 18.00 in the Appendix).

- D. SUPPORT OBLIGATIONS FOR SHARED PARENTING PLANS AND DECREES:** Any proposed Shared Parenting Plan and Decree in which the parents agree to deviation from the Child Support Computation Worksheet amount shall contain a provision which addresses how the expenses of the minor child(ren), beyond food and shelter, will be paid.

Rule 31: IN CAMERA INTERVIEWS OF MINOR CHILDREN

- A. REQUEST FOR INTERVIEW:** Any party may request that the Court conduct an *in camera* interview of a minor child in any action concerning allocation of parental rights and responsibilities or parenting time, by filing a written request at least 30 days prior to final pretrial unless leave of court is granted for good cause. **UNDER NO CIRCUMSTANCES SHALL THE PARTIES BRING A MINOR CHILD TO THE COURT FOR AN *IN CAMERA* INTERVIEW, OTHER THAN AT THE TIME SCHEDULED BY THE COURT FOR AN *IN CAMERA* INTERVIEW.**
- B. PERSONS PRESENT DURING INTERVIEW:** No person, other than the Judge or Magistrate conducting the interview, the child, and any other person specified by the Judge or Magistrate, shall be present during the *in camera* interview of a minor child, pursuant to O.R.C. Section 3109.04.
- C. RECORD OF THE INTERVIEW:** A record of all *in camera* interviews shall be made by stenographic means or by tape recording. Upon completion, the record of the interview shall be deemed sealed and shall not be disclosed, except upon specific Court order. This Rule is in furtherance of the legislative purpose and intent of O.R.C. Section 3109.04.

Rule 32: ATTORNEY FEES

A. CHILD SUPPORT AND PARENTING TIME CONTEMPT ACTIONS:

1. **Ordinary Fees:** An award of attorney fees is mandatory in child support, spousal support, and parenting time contempt actions pursuant to O.R.C. Section 3109.05, 3109.051 and 3105.18. Counsel need not make a written motion requesting an award of attorney fees in those types of actions. Generally, the Court considers attorney fees not in excess of \$250 to be a reasonable attorney fee award in these types of contempt actions. The Court generally will not require evidence to support an award of attorney fees not in excess of \$250.00 in those cases. The Court may require evidence, however, if it deems evidence necessary in the case.
2. **Extraordinary Fees:** The Court shall retain discretion to consider and award attorney fees in excess of \$250.00 in these types of contempt actions. In order to obtain an award of fees in excess of \$250.00, counsel must present evidence and testimony as described in the Division (B)(2) of this rule.

B. AWARD OF ATTORNEY FEES PURSUANT TO O.R.C. SECTION 3105.18(H):

1. **How made:** Requests for attorney fees pursuant to O.R.C. Section 3105.18(H) shall be made in the following manner:
 - a. **Upon Final Hearing:** In the event either party seeks an award of attorney fees upon final hearing in a divorce, annulment or legal separation case, counsel shall provide

an attorney fee statement to the other party prior to the final hearing. The statement shall be itemized and shall describe the services rendered, the time expended for such services, and the hourly rate charged by the attorney (unless a flat fee has been charged, in which case the amount of the flat fee shall be disclosed).

- b. **Interim Fee Awards and Fee Awards in Post-Decree Actions:** A request for attorney fees to prosecute or defend an action shall be made by specific motion. The motion shall state with specificity the legal authority for an award of attorney fees, the reason why fees are being requested, and the amount of attorney fees being sought. The party from whom attorney fees are being sought may file a memorandum in opposition to the motion for attorney fees, no later than seven (7) days before the motion is scheduled for hearing.
2. **Evidence Supporting the Motion:** The following evidence shall be presented at any hearing regarding attorney fees:
 - a. An affidavit signed by counsel verifying the method by which the fees requested were calculated, including the services rendered, the time expended for such services and the hourly rates for in-Court and out-of-court time (unless a flat fee has been charged, in which case the amount of the flat fee shall be disclosed);
 - b. Testimony from the client as to whether the services billed were actually rendered;
 - c. If the fees are sought because of any complex legal or factual issues, testimony concerning the existence of those issues; and
 - d. Evidence of the parties' respective incomes and expenses, if such evidence is not otherwise disclosed during the course of the hearing.
 3. **Expert Testimony:** Unless specifically required by the Court, expert testimony shall not be required to prove the reasonableness of the fees, although it may be required to prove other aspects of the motion for fees. Either party may elect to present expert evidence in support of or in opposition to a motion for attorney fees.
 4. **Failure to Comply:** Failure to comply with the provisions of this rule may result in a denial of the motion for attorney fees.

RULE 33: CIVIL PROTECTION ORDER MODIFICATION AND DISMISSAL

A. POLICY OF THE COURT: Either party to a Civil Protection Order may file to modify a protection order as provided herein. The requirements of Section C apply to requests to dismiss filed by Petitioner only.

B. MOTION TO MODIFY CIVIL PROTECTION ORDER

1. Required Pleadings:

- a. Motion to Modify Civil Protection Order (D.R. Form 20.00 in the Appendix) containing specific reference to the court Orders to be modified with specific reasons

for said modification. Failure to include specific reference and reasons may result in summary dismissal of the motion;

- b. Notice of Hearing (D.R. Form 20.01 in the Appendix); and
- c. Judgment Entry to Modify Civil Protection Order (D.R. Form 20.02 in the Appendix).

C. MOTION TO DISMISS REQUESTED BY PETITIONER

- 1. Hearing Attendance:** The Petitioner must appear and give testimony to the Court explaining the reasons for the request.
- 2. Required pleadings:**
 - a. Motion to Dismiss CPO (D.R. Form 20.03 in the Appendix); and
 - b. Judgment Entry to Dismiss CPO (D.R. Form 20.04 in the Appendix).

APPENDIX A

Forms Available on the Court's Website: <http://www.erie-county-ohio.net/forms.htm>.

Affidavit of Indigency for Courts Costs	Form 1.00
Information Form	Form 1.10
Application, Instructions, Financial Disclosure	Form 2.00
Judgment Entry of Injunctions	Form 3.00
Request for Temporary Orders	Form 4.00
Financial Disclosure Affidavit	Form 5.00
Child Custody Affidavit	Form 6.00
Pretrial Statement and Settlement Proposal	Form 7.00
Case Management Conference Order	Form 7.10
Motion and Affidavit to Show Cause	Form 8.00
Motion and Affidavit to Modify	Form 8.10
Request for Home Investigation	Form 9.00
Notice of Filing ECCP	Form 10.00
Request for Copy of Recording of Proceedings	Form 10.10
Judgment Entry for Recordings of Proceedings	Form 10.20
Waiver of Objections to Magistrate's Decision	Form 10.30
Health Care Expense Worksheet	Form 12.00
Notice of Intent to Relocate	Form 13.00
Waiver of Receipt and Hearing on Notice of Intent to Relocate	Form 13.10
Judgment Entry Permitting Service of Notice of Intent to Relocate	Form 13.20
Judgment Entry Prohibiting Service	Form 13.30
Order for Paternity Testing	Form 14.00
Waiver of Paternity Testing and Legal Rights	Form 15.00
Paternity Testing Information	Form 16.00
Suggested Language for Child Support Orders	Form 17.00
Required Language for Deviations for Child Support Purposes	Form 18.00
Motion to Modify Civil Protection Order	Form 20.00
Notice of Hearing	Form 20.01
Judgment Entry to Modify Civil Protection Order	Form 20.02
Motion to Dismiss CPO	Form 20.03
Judgment Entry to Dismiss CPO	Form 20.04