

# **RULES OF COURT**

**Mahoning County Common Pleas Court**

**Domestic Relations Division**

**Judge Beth A. Smith**

**Youngstown, Ohio**

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**Adopted March 1, 1998  
Amended April 20, 1999, August 8, 2000,  
March 22, 2001, October 1, 2006, February 17, 2009,  
June 1, 2010, February 2, 2012, August 1, 2018  
Amended October 17, 2018**

**LOCAL RULES OF PRACTICE AND PROCEDURE  
OF THE MAHONING COUNTY COMMON PLEAS COURT  
DOMESTIC RELATIONS DIVISION**

**Effective October 17, 2018**

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**MAHONING COUNTY COMMON PLEAS COURT  
DOMESTIC RELATIONS DIVISION**

**GENERAL RULES**

**RULE 1**

**ADOPTION, SCOPE AND CONSTRUCTION OF RULES**

**1.01 Adoption, scope, and construction of rules**

(A) **Adoption.** The Mahoning County Common Pleas Court Domestic Relations Division hereby adopts the following rules for the court's management of proceedings pursuant to Article IV, Section 5(B) of the Ohio Constitution and the Ohio Supreme Court Rules of Superintendence for Courts of Ohio.

(B) **Scope.** These rules are intended to supplement and complement the Ohio Rules of Civil Procedure and the Rules of Superintendence for the Courts of Ohio.

(C) **Construction.** These rules shall be applied, construed and enforced to avoid inconsistency with other rules of court and statutes governing proceedings of this court. In their application, they shall be construed to provide a fair and expeditious determination of all proceedings. These rules shall apply to proceedings pending at the time they take effect.

(D) **Citation.** As used in these rules, "Civ.R. \_\_\_\_" is a reference to the Ohio Rules of Civil Procedure and "Sup.R. \_\_\_\_" is a reference to the Rules of Superintendence for the Courts of Ohio. These rules shall be cited as "Local Rules" or "Loc.R. \_\_\_\_."

(E) **Court forms and website.** The court shall develop court forms for the efficient and equitable application of changes in Ohio law and these local rules. These shall include Uniform Domestic Relations Forms developed by the Ohio Supreme Court. All such forms and these local rules shall be posted on the court website which may be found at [www.mahoningdrcourt.org](http://www.mahoningdrcourt.org). It shall be the duty of parties and counsel to regularly monitor the website for changes.

(F) **Effective.** These rules as originally adopted on March 1, 1998, amended on February 1, 2012, shall be effective August 1, 2018 and supersede all previous rules promulgated by this court.

## **RULE 2**

### **FILING FEES/COURT COSTS/DEPOSITS**

2.01 **Filing fees, court costs/deposits.** The Mahoning County Clerk of Courts shall not accept any action or proceeding for filing without a deposit as security for costs in the amount set forth on the Mahoning County Domestic Relations Court's schedule of filing fees/deposits. The domestic violence filings and Mahoning County Child Support Enforcement Agency filings are exempted from this requirement.

2.02 **Indigence.** An affidavit of indigence may be filed in lieu of filing fees or security deposits. The affidavit shall be notarized and executed by the party on whose behalf it is filed. The affidavit shall state the specific reasons the party does not have sufficient funds to pay the filing fee or the security deposit. The filing of an affidavit may not relieve a party from liability for court costs. If the court finds that either party is, or has become, able to pay the applicable costs, the court may order either party to pay the costs within a reasonable time. The Mahoning County Clerk of Courts shall refuse to accept for filing an affidavit of indigence that does not comply with this rule.

2.03 **Responsibility for costs.** All judgment entries and orders dividing pensions and retirement accounts shall contain a provision for payment of court costs as ordered by the court. In the absence of a court order, after application of all deposits, the balance of costs shall be divided equally between the parties.

2.04 **Special assessments.** Pursuant to R.C. 2303.201(E)(1), the court has determined that additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges and magistrates, and other related services. Accordingly, the court may authorize and direct the clerk of courts to charge additional fees on the filing of each complaint for divorce, legal separation, counterclaim, petition for dissolution of marriage and other post decree/divorce motions.

## **RULE 3**

### **FILING AND REMOVAL OF PAPERS FROM CUSTODY OF THE CLERK**

3.01 **Filing of papers.** The Mahoning County Clerk of Courts shall file and preserve all papers delivered to the clerk for that purpose. The clerk shall not accept or journalize on its docket any entry, decision, or order until it is signed by the judge or a magistrate.

3.02 **Removal.** No person, except the judge, court employee, or authorized employee of the Mahoning County Child Support Enforcement Agency shall remove any document or case files

from the clerk of courts' office. Upon request and pursuant to local rule 45, the clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during the regular business hours of the Mahoning County Clerk of Courts.

## **RULE 4**

### **ASSIGNMENT OF DOMESTIC RELATIONS CASES**

4.01 **Assignment commissioner(s).** The court shall designate assignment commissioner(s) for divorce, legal separation, annulment, dissolution of marriage and motions filed in this court. Prior to filing a petition for dissolution of marriage, the parties or attorney shall secure a hearing date from the assignment commissioner(s). The assignment commissioner(s) shall assign for final hearing all uncontested and contested divorces, legal separations, annulments, and dissolutions of marriage. The assignment commissioner(s) shall also schedule hearings on motions and other actions heard by this court.

4.02 **Divorce hearing date.** Pursuant to Civ. R. 75(K), no action for divorce, legal separation, or annulment may be heard and decided until the expiration of 42 days after the service of process or 28 days after the service of a counterclaim, which under this rule may be designated a cross-complaint, unless the plaintiff files a written waiver of the 28 day period.

4.03 **Uncontested status.** A divorce or legal separation case shall be deemed uncontested unless an answer is filed within 28 days after service of the summons and complaint upon a defendant or having obtained leave of court to file an answer.

4.04 **Continuances of final hearing.** Once a case is assigned for final hearing or trial, it may be continued only by leave of court for good cause shown.

## **RULE 5**

### **POWERS OF THE MAGISTRATES**

**Authority.** All magistrates shall be awarded all of the powers set forth in Civ. R. 53 and Civ. R. 65.1. The magistrates are further awarded all other powers as set forth in the journal entries of this court and the statutes of this state.

## **RULE 6**

### **EX PARTE COMMUNICATIONS**

**Ex parte communications.** No attorney or party shall discuss the merits, either orally or in writing, of any litigation with the judge or magistrate presiding over the matter without the presence of opposing counsel, or the party if not represented by counsel.

## **RULE 7**

### **OUT OF STATE COUNSEL**

**Out of state counsel.** Attorneys shall comply with the requirements set forth in the Ohio Supreme Court Rules for the Government of the Bar, specifically rule XII.

## **PLEADINGS, MOTIONS AND ORDERS**

### **RULE 8**

#### **GENERAL RULES OF PLEADING**

8.01 **Form.** All pleadings, motions, briefs, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure, the Rules of Superintendence for the Courts of Ohio and the Mahoning County Domestic Relations Court's Local Rules.

(A) **Caption.** All complaints, petitions, answers, counterclaims, motions, orders and decrees shall state the name and address, of all parties. To protect privacy, each party's social security number and date of birth shall only be set forth on the family information sheet. The caption shall also describe the relief being requested.

(B) **Subsequent case captions.** Subsequent captions shall remain the caption of the original pleading.

(C) **Paper size.** All pleadings, motions and orders shall be typewritten or printed on 8½" x 11" paper on one side only.

(D) **Attorney identification.** All pleadings, motions and other documents shall include the name of the attorney, office address, office telephone number, facsimile number, if any, business e-mail address, if any, and the attorney's registration number.

(E) **Content of motions.** All motions shall state with particularity the grounds, the relief or order sought, and shall identify any prior order(s) at issue.

(F) **Separate documents.** All separation agreements, shared parenting plans and parenting plans filed with the court must be submitted as a separate document styled as a separation agreement, shared parenting plan or parenting plan and not included in the body of the pleadings.

8.02 **Family file/confidential documents file.** When a complaint or counterclaim for divorce, annulment, legal separation, answer, or a petition for dissolution is filed, the clerk/court shall keep a separate confidential documents file for the affidavits of income and expenses, health insurance affidavits, affidavits of property, family information sheets, IV-D applications and other documents permitted by Rules of Superintendence for the Courts of Ohio for each case.

8.03 **Initial filings.** All complaints, answers, and counterclaims shall be accompanied by the following court forms which shall be fully completed, filed with the clerk of courts, and served upon the opposing party or parties.

(A) **Mutual Restraining Order.** An attorney or party shall have the mutual restraining order signed by the judge or a magistrate prior to filing the complaint, answer, or counterclaim.

(B) **Affidavit of Income and Expenses.** No documentation of income shall be attached to the affidavit.

(C) **Affidavit of Property.**

(D) **Parenting Proceeding Affidavit.** This affidavit needs to be filed if there are minor or disabled child(ren) of the parties.

(E) **Health Insurance Affidavit.** This affidavit needs to be filed if there are minor or disabled child(ren) of the parties.

(F) **Motion and Affidavit or Counter Affidavit for Temporary Orders without Oral Hearing.** This motion needs to be filed if temporary orders are being sought. No documentation of income shall be attached to this motion.

(G) **Family Information Sheet.**

(H) **IV-D Application.** The application shall be fully completed, signed by the party, and separately filed with the clerk of courts in cases where child or spousal support is requested.

8.04 **Dissolutions.** When a dissolution is filed, the parties shall complete and provide the following forms:

(A) **Petition for dissolution.**

(B) **Separation agreement, shared parenting plan, or parenting plan, if applicable.**

(C) **Waiver of service.**

(D) **Waiver of counsel** (when one attorney).

(E) **Affidavit of Income and Expenses.** No documentation of income shall be attached to the affidavit.

(F) **Affidavit of Property.**

(G) **Parenting Proceeding Affidavit.** This affidavit needs to be filed if there are minor or disabled child(ren) of the parties.



(H) **Health Insurance Affidavit.** This affidavit needs to be filed if there are minor or disabled child(ren) of the parties.

(I) **Family Information Sheet**

(J) **IV-D Application.** The application shall be fully completed, signed by the party, and separately filed with the clerk of courts in cases where child or spousal support is requested.

(K) **Decree.** A decree of dissolution of marriage along with a copy of the separation agreement, shared parenting plan, or parenting plan (if applicable), and a child support computation worksheet (if minor or disabled children are at issue) shall be presented to the assignment commissioner(s) at the time of filing.

#### 8.05 **Special Filings**

(A) **Parenting Proceeding Affidavit.** In all post-divorce motions seeking a reallocation of parental rights and responsibilities or a modification of parenting time, the parties shall file a parenting proceeding affidavit.

(B) **Notice of Intent to Relocate.** A notice of intent to relocate must be filed in every case in which the residential parent intends to move to a new location either within or outside of the state of Ohio.

(C) **Summons and Order to Appear and Request for Court-Appointed Counsel.** All motions for contempt or to show cause shall be accompanied by a summons and order to appear and request for court-appointed counsel. The summons shall be stapled to the front of the motion as the cover page.

(D) **Affidavit of indigence.** An affidavit of indigence seeking a waiver of deposit shall first be submitted to the court for approval prior to filing with the clerk of courts. A completed affidavit of income and expenses shall also be submitted in support of the affidavit of indigence.

8.06 **Mutual restraining order.** In all cases after the initial complaint has been filed, both parties are restrained from the actions set forth in the court's mutual restraining order. Upon plaintiff filing a complaint or defendant filing a counterclaim, the filing party is deemed to have notice of the mutual restraining order.

8.07 **Clerk shall require conformity.** The clerk of courts may not accept for filing any pleadings which do not conform to this rule.

8.08 **Leave to plead.** Leave to plead may be obtained only by written motion to the court and for good cause shown.

8.09 **Scheduling.** All motions shall first be scheduled for hearing by the assignment commissioner(s), then filed with the clerk of courts and shall be subject to either affidavit or evidentiary hearing. The assignment commissioner(s) may refuse to accept for filing any motion which fails to comply with these rules.

#### 8.10 **Continuances**

(A) **Motions.** All motions for a continuance shall be in writing. A date-stamped copy of the motion and an order shall be provided to the court's assignment commissioner(s) immediately upon the filing of the motion. The movant shall first attempt to secure the consent of opposing counsel, if represented. The motion shall set forth the reason for the continuance and whether consent was obtained or denied. If the motion is granted, the party seeking the continuance must immediately notify the opposing party, counsel, and guardian ad litem, if any. All continuances must be approved by the judge or a magistrate.

(B) **Unavailability of witness.** When a continuance is requested because a witness is unavailable for a scheduled hearing or trial, the court may consider alternative methods for receiving testimony.

(C) **Conflict of trial assignment dates.** When a continuance is requested for the reason that counsel is scheduled to appear in another civil case assigned for trial on the same date in a different court, the case that was first set for trial shall have priority, pursuant to the Rules of Superintendence for the Courts of Ohio, specifically Rule 41.

(D) The court will not consider any motion for continuance unless disclosure of the conflicting assignment is set forth in the motion or is attached.

8.11 **Engaged counsel.** Pursuant to Rules of Superintendence for the Courts of Ohio, if a designated trial counsel has a number of cases assigned for trial in this or other courts that may cause undue delay in the disposition of cases, the court may impose sanctions against the attorney and limit the number of cases in which the attorney may serve as counsel in this court.

8.12 **Determination of motions without oral hearing.** Pursuant to Ohio Rules of Civil Procedure, the court may, to expedite its business, determine motions without oral hearing.

## **RULE 9**

### **SERVICE**

9.01 **Service of pleadings.** Any request for service of a complaint, counterclaim, motion, order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a date-stamped copy of the pleading to be served. A party requesting service by the clerk of courts must file instructions for service.

## 9.02 **Service of motions**

(1) **Pending cases.** In pending cases, all motions shall be filed with the clerk of courts and served on counsel for opposing party (or opposing party if self-represented); and on the guardian ad litem, where one has been appointed in accordance with Ohio Rules of Civil Procedure.

(2) **Post decree.** Any post-decree motion invoking the continuing jurisdiction of the court shall contain the full names and current addresses of both parties in the caption. Notice of the motion invoking continuing jurisdiction shall be served in the manner provided for service of process under Ohio Rules of Civil Procedure through the Mahoning County Clerk of Courts.

9.03 **Process server (one-time appointment).** If a party desires personal service to be made by a special process server pursuant to Ohio Rules of Civil Procedure, that party or counsel must file with the clerk of courts an entry appointing a special process server. The following must be stated in the entry of appointment:

- (A) The name and address of the person to be appointed as a process server;
- (B) The person to be appointed as process server is 18 years of age or older;
- (C) The person to be appointed as process server is not a party or counsel for a party in the action.

9.04 **Process server (continuing appointment).** A person may apply to be designated as a standing special process server for cases filed in this court by filing an application prescribed by the court. The process server must file an application every year.

## 9.05 **Service by publication**

(A) **When proper.** In accordance with Ohio Rules of Civil Procedure, before service by publication can be made, an affidavit of a party or counsel shall be filed with the court. The affidavit shall state that service of summons cannot be made because the residence of a party is unknown and detail all of the efforts made to determine that the residence cannot be ascertained with reasonable diligence. The court must give prior approval for service by publication.

(B) **Responsibility.** In all cases when service of process is to be accomplished by publication, it shall be the responsibility of the party to ensure that the publication is accomplished.

(C) **Confirmation.** Upon completion of the last publication of service, the party shall file with the court an affidavit showing the fact of publication, together with a copy of the notice of publication. The affidavit and its exhibits shall constitute the proof of service.

(D) **Posting locations in cases of indigence.** Pursuant to Ohio Rules of Civil Procedure, where a party is proceeding in forma pauperis and if the residence of an opposing party is unknown, service shall be made by posting and mail as set forth below:

(1) **Domestic violence cases.** The court hereby designates the following two additional posting locations in Mahoning County for the purpose of service by publication:

Struthers Municipal Building  
6 Elm St.  
Struthers, Ohio 44471

Mahoning County Court #3  
606 East Ohio Ave.  
Sebring, Ohio 44672

(2) **All other cases.** Posting shall be made on the website of the Mahoning County Clerk of Courts in the section designated for this purpose. The clerk shall see that the actual legal notice is a PDF hyperlink to the case name and case number. The notice shall remain posted on the website for six successive weeks. After the last week of posting, the clerk shall note on the docket that the posting has been completed.

(E) **Forms.** Forms for requesting service by publication or posting must be submitted to the court for approval prior to filing.

**9.06 Waiver of Service.** Waiver of service shall be filed in accordance with the Ohio Rules of Civil Procedure.

## **RULE 10**

### **TEMPORARY ORDERS BY AFFIDAVIT OR ORAL HEARING**

**10.01 Motion and affidavit or counter-affidavit for temporary orders without oral hearing.** If a party to a divorce or legal separation wants the court to issue temporary orders, the party requesting the orders shall file a motion and affidavit for temporary orders without oral hearing pursuant to Civ. R. 75(N). The motion may be filed with the initial complaint or subsequent pleading, or it may be filed after the complaint is filed. It is the responsibility of the attorney for the party requesting temporary orders by affidavit to provide a copy of the pleadings to the assignment commissioner(s) at the time of filing.

**10.02 Affidavit by opposing party.** The other party may file a motion and counter-affidavit for temporary orders without oral hearing or affidavit of income and expenses within 14 days of being served with the motion. Unless previously filed, any counter-motion shall be accompanied by the court's affidavit of income and expenses, parenting proceeding affidavit, and IV-D application. Any party filing a responsive document as described above shall take a copy of the

document(s) to the domestic relations assignment commissioner(s) so that it may be considered by the magistrate at the non-oral hearing on affidavit orders.

**10.03 Scheduling of hearing.** When the party requesting an affidavit order provides a copy of the motion and affidavit for temporary orders without oral hearing to the domestic relations assignment commissioner(s), the assignment commissioner(s) shall set the motion for a non-oral hearing on a magistrate's docket.

**10.04 Evidence and order.** The court shall consider the sworn affidavits of the parties and may, upon review of same, issue an order concerning the relief requested. The court also may, upon review of the affidavits submitted, refuse to issue a 75(N) order, may set the matter for an oral hearing, or refuse to grant relief if the information provided is insufficient.

**10.05 Motion for oral hearing.** Upon the issuance of a 75(N) order, either party may file a motion for an oral hearing to have the court consider modification of its prior order. A motion for an oral hearing must state with particularity the reason why an oral hearing is required. The motion must be filed with the clerk of courts after the moving party obtains a hearing date from the domestic relations assignment commissioner(s). Unless the judge or magistrate grants a stay, a motion for oral hearing shall not suspend the temporary order.

## **RULE 11**

### **ADDITIONAL EX PARTE ORDERS**

#### **11.01 Ex parte orders**

(A) **Civ. R. 75.** In addition to temporary orders by affidavit, pursuant to local rule 10 and mutual restraining orders, the court may issue ex parte orders, with or without bond, when it is demonstrated to the court by affidavit that:

- (1) The opposing party is about to dispose or encumber property, or any part of property, so as to defeat the other party in obtaining spousal support or an equitable division of the marital property.
- (2) A party to the action, or a child, is about to suffer physical abuse, annoyance, or bodily injury by the other party.

The restraining order may be issued without notice and shall remain in force during the pendency of the action unless the judge or magistrate otherwise orders. Prior to the issuance of an ex parte order, the party seeking the same shall make a good faith effort to provide opposing counsel, or the opposing party if not represented, with reasonable notice of the application to the court for such relief.

(B) **Parenting issues.** Ex parte orders concerning parenting shall not generally be issued except in emergency situations where third party independent corroboration of the danger is provided by credible evidence from sources, including, but not limited to, the

police or a children's services agency. When family violence is involved, domestic violence procedures should be followed. The party seeking the order shall be present for the ex parte hearing.

(C) **Notice of hearing.** When an ex parte order is granted, a hearing shall be scheduled and held promptly, and as soon as is practicable, to determine whether the order is required. The party granted the ex parte order shall make a good faith effort to provide opposing counsel and unrepresented adverse parties with immediate notice of the hearing date.

(D) **Bond.** The posting of bond is within the discretion of the court.

(E) **Dissolving of orders.** A party against whom an ex parte restraining order was issued may file a motion, supported by affidavit, requesting that the order be dissolved. In the absence of agreement of the parties as to the terms and conditions for dissolving the orders, the matter shall be set for hearing before the judge or a magistrate.

## **RULE 12**

### **CONTEMPT AND MOTIONS TO SHOW CAUSE**

12.01 **Contents of motion.** All motions shall contain the following:

(A) A reference to the date and language of the former order to which the motion relates.

(B) Specific facts or an affidavit setting forth specific facts forming the basis for the motion.

(C) The motion shall contain an appropriate summons and order to appear signed by the judge or a magistrate and stapled to the front of the motion as the cover page. In the event of a failure of service, the movant shall attach a new summons and order to appear to the motion, and if necessary, the new hearing date included.

(D) Motions for contempt shall be served in accordance with the Ohio Rules of Civil Procedure. Personal service or waiver of a motion for contempt or motion to show cause is preferred to ensure that the non-moving party has actual notice of the hearing.

(E) The court may dismiss any motion which fails to comply with this rule.

12.02 **Contempt for unpaid medical bills.** A motion alleging contempt for unpaid medical bills shall be accompanied by a fully executed "Explanation of Medical Bills" form located at the court's website. Copies of the medical bills in dispute shall not be attached to the motion but such bills and other supportive documentation shall be marked as exhibits and submitted as evidence at the hearing. All motions to compel payment of medical bills shall be filed within a reasonable time of the initial billing to the moving party.

12.03 **Attorney fees.** Attorney fees may be awarded in any contempt action involving child support, parenting time, or spousal support. Absent evidence to the contrary, a fee of \$750.00 shall be considered a presumptively reasonable fee without the necessity of formal proof.

12.04 **Appointment in contempt cases.** The court may appoint counsel in contempt cases to an indigent party in accordance with Sup. R. 8. Appointment of counsel for an indigent party alleged to be in contempt may be made upon request and is subject to the party's completion of the requisite financial disclosure/affidavit of indigence form and a finding of an inability to pay attorney fees.

12.05 **Procedures for appointment of counsel.** The court shall maintain a list of all available attorneys that are willing and qualified to act as court-appointed counsel in contempt cases. Selection of an attorney to act as court-appointed counsel shall be made on a rotating basis from the list of qualified attorneys on an equitable basis. The attorney list shall be reviewed by the court periodically to ensure there is an equitable distribution of appointments. In making appointments, the court shall take into account all of the following:

- (A) The anticipated complexity of the case in which appointment will be made;
- (B) Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;
- (C) The relevant experience of those persons available to accept the appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;
- (D) The avoidance of conflicts of interests or other situations that may potentially delay timely completion of the case; and
- (E) Intangible factors, including the court's view of a potential appointee's commitment to providing timely, cost-effective, quality representation to each prospective client.

12.06 **Payment of fees.** Court-appointed counsel fees shall be subject to the fee limit set by the Mahoning County Common Pleas Court. In accepting the appointment, the attorney shall accept no compensation beyond that awarded by the court. The appointed attorney shall submit the required form for payment of fees within 14 days after conclusion of the case.

## **RULE 13**

### **OBJECTIONS TO DECISION/MOTIONS TO SET ASIDE**

13.01 **Magistrate's decision.** Objections to a magistrate's decision and a response shall be filed in accordance with Ohio Rules of Civil Procedure. The filing of said objections shall stay the magistrate's decision until the judge rules on the objections.

13.02 **Magistrate's order.** To appeal a magistrate's order, a motion to set aside the order must be filed in accordance with Ohio Rules of Civil Procedure. The order is not stayed unless the judge or the magistrate grants a stay.

13.03 **Hearing date.** Prior to filing objections or a motion to set aside, a hearing date must be obtained from the court's assignment commissioner(s). The hearing date shall be stated in the objections or motion and served upon opposing counsel and party in accordance with the Ohio Rules of Civil Procedure.

13.04 **Transcripts.** Objections or motions to set aside shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. A transcript shall not be required if the objection is only to an issue of law. The transcript must be filed by the moving party within 30 days of the filing of the objection or motions to set aside unless the court, in writing, extends the time.

(A) **Written request.** The moving party shall present a Mahoning County Common Pleas Official Court Reporter with the court's praecipe within seven days of the filing of the motion to set aside or objection. At the time the transcript is ordered, the attorney or party shall arrange for payment of the court reporter.

(B) **Dismissal for non-compliance.** Failure to file a transcript when required shall result in dismissal of the motion to set aside or the objection.

## **PRETRIALS and TRIAL RULES**

### **RULE 14**

#### **DISCOVERY**

##### **14.01 Discovery Procedures**

(A) **In general.** The purpose of this rule is to encourage prompt and complete discovery to avoid the court's involvement in the discovery process.

(B) **Authorization.** All parties shall sign any authorization necessary for the opposing party to obtain full and detailed wage, benefit, and pension information.

(C) **Deadlines.** Absent special circumstances or discovery deadlines set by the judge or a magistrate, all discovery shall be completed at least seven days prior to the initial settlement conference.

(D) **Sanctions.** Failure to comply with this rule may result in sanctions pursuant to Civ. R. 37, including, but not limited to, contempt citations, award of attorney fees, litigation expenses, possible dismissal of claims, or restrictions on the submission of evidence.



## **RULE 15**

### **STATUS CONFERENCES**

**Status conferences.** The court may schedule a status conference in parenting cases or in any other action before the court. Notice shall be provided to all self-represented parties or counsel of record. The judge and magistrates shall have discretion to conduct a status conference by telephone with both counsel.

## **RULE 16**

### **PRETRIALS**

16.01 **Purpose.** A pretrial may be held in every contested case. The purpose of the pretrial is to encourage settlement, identify issues in dispute, and set discovery deadlines.

16.02 **Disclosure of assets.** Both parties shall disclose to the other party all of their assets and debts and, if necessary, shall amend their affidavit of property at the pretrial to comply with this requirement.

16.03 **Attendance by counsel.** The attorneys who will be present at trial shall attend all pretrials except with leave of court. Failure to attend or comply with the requirements of this rule may result in sanctions.

16.04 **Attendance by parties.** All parties shall be present at the pretrial except with leave of court.

16.05 **Pretrial motions.** Absent special circumstances, all pretrial motions, including, but not limited to, motions to compel and for contempt, shall be filed in accordance with Ohio Rules of Civil Procedure.

## **RULE 17**

### **TRIALS**

#### 17.01 **Exhibits**

(A) All exhibits shall be marked prior to trial and indicate whether submitted by plaintiff or defendant. Plaintiff shall use numbers and defendant shall use letters.

(B) The judge and magistrates may issue orders during the pendency of a case imposing time limits for the exchange and submission of all documents and a list of other exhibits to be introduced at the trial or evidentiary hearing.

(C) The judge and magistrates may issue orders during the pendency of a case imposing time limits for the submission of a list of witnesses, including experts, who will testify at trial or evidentiary hearing.

(D) The judge and magistrates may issue orders during the pendency of a case imposing time limits for submitting to the court and opposing counsel all expert witness reports.

17.02 **Trial briefs/findings of fact and conclusions of law.** The court may require the parties to file trial briefs and/or proposed findings of fact and conclusions of law.

17.03 **Attorney fees/litigation expenses.** An award of attorney fees/litigation expenses is discretionary with the court and shall be awarded in accordance with the provisions of R.C. 3105.73.

(A) Expert testimony other than the attorney requesting fees is required to prove both the necessity and reasonableness of attorney fees.

(B) Failure to comply with the provisions of this rule may result in the denial of a request for attorney fees.

(C) Any attorney fee award made by this court must be entered in favor of a party litigant and not in favor of a party's attorney.

## **RULE 18**

### **COURT APPOINTMENT OF VALUATION EXPERTS**

18.01 **Value of assets.** Whenever the value of an asset is in dispute, the court may, upon motion of either party, or upon the court's own motion, and for good cause shown, appoint an expert for the purpose of appraisal.

18.02 **Content of order.** The order of appointment shall state specifically the property to be valued, the name of the expert, the allocation of any costs or fees, and if a deposit is to be paid to the expert. The order shall state that the parties are to cooperate fully with the expert.

## **RULE 19**

### **MEDICAL EXPENSE SCHEDULE**

**Standard order.** The parties shall share the cost of medical, dental, optical, and prescribed drug expenses not covered by insurance in accordance with Ohio Revised Code, or as ordered by the court.

## RULE 20

### DISSOLUTION OF MARRIAGE HEARINGS

20.01 **Scheduling.** Prior to filing a petition for dissolution of marriage with the court, the parties and/or their counsel shall obtain a hearing date from the assignment commissioner(s).

20.02 **Decree.** The decree, together with all attachments, shall be supplied to the court prior to the hearing.

20.03 **Parent education.** Both parties may be ordered by the court to attend parent education. The decree may not be signed until proof of attendance is provided to the court. If no proof is received by the hearing date, the court may dismiss the petition.

20.04 **Valuation of Assets.** In separation agreements, all marital and separate assets shall be identified and the values set forth unless the parties waive the court's duty to place a value on each and every asset and agree to its division and equitable distribution. In the absence of a written appraisal of real estate, the county auditor's appraisal may be accepted as evidence of value. In the absence of a written appraisal of motor vehicles, the NADA or Kelly Blue Book values may be accepted as evidence of value.

20.05 **Attendance.** Absent special circumstances, if either party fails to appear at the dissolution hearing, the court may dismiss the petition.

20.06 **Disagreement.** Pursuant to R.C. 3105.65, if at the time of the hearing either spouse is not satisfied with the separation agreement, or does not wish a dissolution of the marriage, the court may dismiss the petition.

20.07 **Waiver of magistrate's decision.** A waiver of magistrate's decision may be signed by the parties and counsel and submitted with the judgment entry/decreed in all dissolution of marriage cases where the matter is heard by a magistrate.

20.08 **Conversion of dissolution action to divorce action.** Pursuant to R.C. 3105.65, an action for dissolution may be converted to an action for divorce upon the filing of a motion to convert, complaint for divorce, all required affidavits, and an entry converting dissolution to divorce. If the motion is approved, the divorce action shall proceed in accordance with the Ohio Rules of Civil Procedure in the same manner as if the motion had been the original complaint. The motion shall be filed no later than seven days after the date the dissolution hearing was scheduled.

## RULE 21

### DIVORCE HEARINGS

21.01 **Scheduling.** The court will not hear an uncontested divorce earlier than 42 days after the service of the complaint. Plaintiff or plaintiff's counsel may schedule the final hearing 28 days after the completion of service upon the defendant.

21.02 **Notice.** In divorces where there is no counsel of record, the court shall issue notice to the adverse party pursuant to Civ. R. 75(L).

21.03 **Education for parents and children.** Both parties may be ordered to attend parent education classes and provide proof of attendance to the court prior to the final hearing. The court may not grant parenting time rights to a party until that party attends parent education. The court may order minor child/ren to attend child/ren's education class(es). Parents must provide proof of the child/ren's attendance prior to the final hearing.

21.04 **Valuation of Assets.** In divorces, all marital and separate assets shall be identified and the values set forth unless the parties waive the court's duty to place a value on each and every asset and agree to its division and equitable distribution. In the absence of a written appraisal of real estate, the county auditor's appraisal may be accepted as evidence of value. In the absence of a written appraisal of motor vehicles, the NADA or Kelly Blue Book values may be accepted as evidence of value.

21.05 **Witnesses.** Only one corroborating witness who has personal knowledge of the facts is required to testify at the final divorce hearing.

21.06 **Attendance dismissal.** In uncontested divorce cases, if the plaintiff does not attend the final hearing, the court may dismiss the case for failure to proceed. If the defendant appears and wishes to contest any issue, the court may convert the hearing into a status conference.

21.07 **Conversion of divorce action to dissolution action.** Pursuant to R.C. 3105.08 and 3105.62, an action for divorce may be converted to an action for dissolution upon the filing of a motion, a petition for dissolution, separation agreement, all required affidavits, supporting documents, and an entry converting the divorce to dissolution. If the motion is approved, the dissolution action shall proceed in accordance with the Ohio Rules of Civil Procedure.

## RULE 22

### JUDGMENT ENTRIES, DECISIONS and ORDERS

22.01 **Preparation.** The court may order counsel for either party to prepare a judgment entry. A copy shall first be submitted to opposing counsel. The parties shall abide by the following protocol:

- (A) The opposing party shall have 14 days in which to approve or reject the judgment entry.
- (B) If the opposing party fails to take any action on the judgment entry within 14 days, the preparer may present the entry for journalization by certifying that the judgment entry was submitted to the opposing party and that no response was made.
- (C) If a judgment entry is not presented to the court within 30 days of the hearing, counsel and parties may be summoned to appear before the court.
- (D) If there is a dispute over the content of an entry, the court may order a transcript of the proceedings and assess the cost of same.

(E) Failure of an attorney to comply with the above may result in vacating any award of attorney fees, a finding of contempt, imposition of a fine, or other appropriate remedies.

22.02 **Signature by both parties.** Unless excused by the court, all agreed judgment entries, orders, and orders dividing pensions and retirement accounts shall be signed by both parties and counsel. Child support enforcement agency orders, restraining orders, orders appointing process servers, and orders permitting withdrawal as counsel are excepted from this rule.

22.03 **Court costs.** All judgment entries shall provide for the payment of court costs.

22.04 **General content of judgment entries, decisions, and orders related to child support, spousal support, and divisions of property.** All judgment entries, magistrates' decisions, and orders related to child support, spousal support, and the division of property shall contain the following information:

(A) Names and addresses of the parties, full names and dates of birth of any minor children (if applicable); and only the last four digits of account numbers;

(B) Name and address of the employer of the child support obligor or the obligor's payor. In the event that the responsibility for providing private health insurance changes to a third party or spouse, a copy of the health insurance card with the name and address of the health insurance company shall be provided to the child support enforcement agency; and

(C) All mandatory language regarding support set forth on the court's website.

22.05 **Required documents for support orders.** A child support computation worksheet shall accompany all judgment entries when calculating child support if required by law.

22.06 **Emancipation.** Any judgment entry terminating a child support obligation due to the emancipation of a minor child shall address the existence of any support arrearage, any waiver of arrearage, and any unpaid processing charges. If there are any unemancipated children of the parties, a new child support computation worksheet must be completed and the judgment entry shall include the modification.

22.07 **Required language for child support, spousal support, and health insurance.** In compliance with the applicable provisions of R.C. 3119.01, et seq., the court mandates the use of the specific language in findings of fact, orders, judgment entries, and decrees which address spousal support, child support, and health insurance. The required language is available on the court's website.

## **RULE 23**

### **DIVISION OF PENSIONS and RETIREMENT ACCOUNTS**

23.01 **Qualified domestic relations order (QDRO)**

(A) Unless otherwise ordered, the alternate payee entitled to a share of the pension or retirement account shall be responsible for preparing the qualified domestic relations order (QDRO) for submission to the court.

(B) Whenever it is ordered that a pension or retirement account be divided by a QDRO, the parties and counsel shall sign the original QDRO submitted to the court and shall sign any subsequent QDRO submitted to the court, unless waived by the court.

(C) If the court ordered a division of a pension or retirement account, the court may assign the responsibility to submit the QDRO.

(D) The QDRO shall be submitted to the court with the judgment entry for divorce or decree of dissolution of marriage or within 90 days thereafter. The party preparing the QDRO shall be responsible to submit the QDRO to the plan administrator for approval.

(E) The QDRO shall include the name and address of the plan administrator on the front page and shall provide for the payment of court costs. Only the plan administrator's copy shall contain full social security numbers. Instructions for service upon all parties and the plan administrator shall also be included.

### **23.02 Division of property order (DOPO)**

(A) The division of retirement benefits for members of the Ohio Public Employees Retirement System (OPERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police and Fire Pension Fund (OP&F), and Ohio Highway Patrol Retirement System (HPRS) shall conform with the requirements of each agency's respective administrative rules.

(B) Unless otherwise ordered, the participant of the plan shall be responsible for preparing the DOPO for submission to the court.

(C) Whenever it is ordered that a retirement benefit be divided by a DOPO, the parties and counsel shall sign the original DOPO submitted to the court, and shall sign any subsequent DOPO submitted to the court, unless waived by the court.

(D) If the court ordered a division of a retirement benefit, the court may assign the responsibility to submit the DOPO.

(E) The DOPO shall be submitted to the court with the judgment entry for divorce or decree of dissolution of marriage or within 90 days thereafter. The party preparing the DOPO shall be responsible to submit the DOPO to the plan administrator for approval.

(F) The DOPO shall include the name and address of the plan administrator on the front page and shall provide for the payment of court costs. Only the plan administrator's copy shall contain full social security numbers. Instructions for service upon all parties and the plan administrator, and the payment of court costs shall also be included on a separate page.

## **RULE 24**

### **WITHDRAWAL OR SUBSTITUTION OF COUNSEL**

24.01 **Withdrawal.** After entering an appearance as counsel, an attorney shall not be permitted to withdraw unless:

(A) Counsel timely files a written motion with the court stating the grounds for withdrawing from the case, together with a proper certification that counsel has notified the client of all subsequent hearing dates, and the necessity for attendance at same, and has notified both the client and opposing counsel of the withdrawal.

(B) The court grants the motion.

24.02 **Substitution of counsel of record.** Any attorney entering a case on behalf of a party who has had previous representation in the action, shall do so by written notice of substitution filed with the clerk of courts and hand-delivered to the court. The notice shall contain a certification that previous counsel has been notified of the substitution. A copy of the notice shall be promptly provided to the court.

## **RULE 25**

### **DISMISSAL OF CASES**

25.01 **Failure of service.** If the movant fails to obtain service upon his or her complaint or motion within six months of filing, the court may, absent a showing of good cause, dismiss the same for want of prosecution.

25.02 **Unexcused absence.** The unexcused failure of an attorney and/or party to appear for a hearing at the scheduled time may subject the offending person to sanctions, and/or dismissal of the action.

## **RULE 26**

### **MOTION FOR RELIEF FROM JUDGMENT**

26.01 **Motions.** All motions for relief from judgment, other than those based upon clerical mistakes, shall comply with Civ. R. 60(B).

26.02 **Supporting materials.** The motion shall be supported by materials which demonstrate:

(A) The timeliness of the motion;

(B) The reasons for seeking relief;

(C) A material defense or claim.

26.03 **Memorandum.** The moving party shall file a memorandum of fact and law and may include affidavits, transcripts, depositions, answers to interrogatories, exhibits, and other relevant materials and shall serve a copy upon the opposing party and deliver a copy to the court.

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

26.05 **Determination.** Except when the court otherwise orders, motions for relief from judgment may be determined without oral argument pursuant to Civ. R. 7(B).

## **PARENTING TIME**

### **RULE 27**

#### **PARENTING TIME**

27.01 **Model schedules.** The court encourages the parties to devise their own parenting time schedules. The court has adopted parenting time schedules as mandated by Ohio law. These schedules are available on the court's website, including:

- (A) local parenting time schedule;
- (B) long distance parenting time schedule; and
- (C) transitional parenting time schedule.

27.02 **Traveling outside the state of Ohio.** Parents shall be permitted to travel with their children to locations outside the state of Ohio without notice to the other parent or the court for periods not to exceed 48 hours. For travel periods that will exceed 48 hours, the traveling parent shall notify the other parent of the travel plans in writing at least 7 days prior to the trip. The notice shall, at a minimum, include the scheduled departure and return dates, travel arrangements, and a telephone number where the child/ren can be reached in case of an emergency.

27.03 **Moving within or outside the state of Ohio.** In the event the residential parent decides to relocate within or outside the state of Ohio, the parent shall, at least 60 days prior to the planned move, give written notice to the court of their intention to relocate by filing a notice of intent to relocate. A copy of the notice shall be furnished to the court's assignment commissioner(s) at the time of filing. Upon the filing of the notice, the clerk shall mail a copy of the notice to the non-residential parent unless the residential parent objects to the mailing for reasons of alleged domestic violence or abuse or neglect of a child.

27.04 **Shared parenting.** In accordance with Ohio Revised Code, plans for shared parenting shall include provisions covering all factors that are relevant to the care of children, including, but not limited to, physical living arrangements, child support obligations, income tax dependency/credit, provision for the child/ren's health care, school placement, and the parent with whom the child/ren will be physically located during legal holidays, school holidays and other days of special meaning.



## **RULE 28**

### **PARENT and CHILD EDUCATION**

28.01 **Education for parents.** If ordered by the court, both parents shall attend a court approved education program which must be attended by the parties prior to final hearings in actions for divorce and legal separation where minor children are involved. A parent may be denied parenting time rights until the parent has attended the required education.

28.02 **Education for children.** If ordered by the court, minor children of parents going through a divorce or dissolution of marriage must attend a court approved education program for children.

28.03 **Proof of attendance.** Upon the completion of the education, each party will be issued a proof of attendance that will be provided to the court.

28.04 **Motions to modify parental rights and parenting time.** After the filing of a motion to modify the allocation of parental rights and responsibilities or parenting time, the court may require the parties to attend parent education. The court may also order children to attend educational programs.

## **RULE 29**

### **GUARDIAN AD LITEM**

29.01 **Appointment.** Upon the motion of either party or at the discretion of the court, the court may appoint a guardian ad litem at any time when it is essential to protect the interest of a minor child(ren) or a party. The guardian shall make a recommendation to the court. Guardians ad litem are expected to comply with Sup.R. 48.

29.02 **Cooperation.** It is the responsibility of each party involved in the litigation to timely contact the guardian ad litem and provide the guardian with information relating to the child(ren).

29.03 **Report.** Unless otherwise directed by the court, the guardian ad litem shall prepare a report not less than seven (7) days in advance of the settlement conference date. The report shall be made available to either parent or counsel not less than seven (7) days prior to the hearing upon written request. The report shall be signed by the guardian who shall be subject to cross-examination concerning the contents of the report.

## **RULE 30**

### **PARENTING INVESTIGATION**

30.01 **Investigation involving minor children.** The court may order an investigation of parenting and family relations pursuant to the Ohio Revised Code. All parties shall submit to the investigatory process.

30.02 **Report.** The investigator shall prepare a report for the court not less than seven days before the hearing date. The report of the investigator shall be made available to either parent or counsel upon written request. The report shall be signed by the investigator who shall be subject to cross-examination by either party concerning the contents of the report.

30.03 **Fees.** The court may tax as costs the fees and expenses of the investigation.

## **RULE 31**

### **MEDICAL, MENTAL HEALTH AND PARENTING EVALUATIONS**

31.01 **Appointment.** The court may order medical, mental health and/or parenting evaluations of the parties, the children, or any third party. Upon motion of any party, the court shall determine the necessity for such evaluation. The order of appointment shall specify the evaluation to be had, the party or parties to be evaluated, and the name of the evaluator/expert. The order shall also state that the parties are to cooperate fully with the evaluator/expert, and how the costs shall be assessed.

31.02 **Report.** The evaluator/expert shall prepare a report for the court not less than seven days before the final hearing, or upon an order of the court. The report of the evaluator/expert shall be made available to any interested party or counsel upon written request. The report shall be accepted into evidence as the evaluator's/expert's direct testimony by agreement of the parties. Either party may subpoena the evaluator/expert for cross-examination.

31.03 **Fees.** The court may initially order either or both parties to deposit with the clerk of courts a set sum towards the anticipated fee for the evaluations. Should the deposited amount prove insufficient to cover the fee, the court shall order the parties to share the balance due in proportionate amounts as the court deems appropriate.

31.04 **Drug and alcohol assessments.** Upon proper motion, or upon the court's own motion, drug and alcohol assessments may be ordered with costs assessed at the court's discretion.

## **RULE 32**

### **INTERVIEWS WITH CHILDREN**

32.01 **In camera.** All interviews with children shall be conducted in camera pursuant to the requirements of R.C. 3109.04. The transcript or recording of the child's interview shall be sealed and neither party shall be permitted to obtain a copy without a court order and for good cause shown.

32.02 **Affidavits.** Affidavits signed by children shall not be accepted for filing nor admitted into evidence as exhibits. Pursuant to R.C. 3109.04, other exhibits relating to the children such as writings, video and tape recordings, or transcriptions of same, shall not be accepted for filing or admitted into evidence.

## **RULE 33**

### **PARENTING COORDINATOR**

33.01 The court may appoint a parenting coordinator in those cases where the parents are in such a state of conflict that they are unable to agree upon the implementation of the allocation of parental rights and responsibilities and/or parenting time. Such appointment shall be in accordance with Sup.R. 90.

33.02 A parenting coordinator shall comply with the requirements of Sup. R. 90 through 90.12.

## **RULE 34**

### **PARENTING CONSENT ENTRIES**

**Consent entries.** A consent judgment entry relating to the allocation of parental rights and responsibilities may be submitted to the court without the necessity of a hearing only if signed by both parties and both counsel. If the party relinquishing the status of residential parent is unrepresented, the case may be scheduled for hearing. A notice of hearing shall be issued by the court and filed with the clerk of courts. In the event that the responsibility for providing private health insurance changes to a third party or spouse, a copy of the health insurance card along with the name and address of the health insurance company shall be provided to the Mahoning County Child Support Enforcement Agency.

## **DISPUTE RESOLUTION**

### **RULE 35**

#### **FAMILY SERVICES, CONCILIATION and COUNSELING**

35.01 **Family services department.** The court's family services department shall coordinate all dispute resolution and family services within the court.

35.02 **Conciliation.** Pursuant to R.C. 3105.091, at any time after 30 days from service, a party by motion, or the court sua sponte, may initiate conciliation for any period of time not to exceed 90 days. The parties shall advise the court as to the outcome of the conciliation or the court may schedule a hearing or telephone conference.

35.03 **Family counseling.** If the parties have minor children, the court may order family counseling during the pendency of the proceedings and may designate the counselor, type of

counseling, length of time, costs, or any other specific requirements. The court may request the designated counselor to prepare an assessment report and recommendation for the court.

## **RULE 36**

### **MEDIATION**

**36.01 Uniform Mediation Act and Sup.R. 16.** By this rule, the court incorporates by reference R.C. 2710 “Uniform Mediation Act” (UMA) and R.C. 3109.052 which addresses mediation of differences as to allocation of parental rights and responsibilities and the Rules of Superintendence for the Courts of Ohio. The purpose of the rule is to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of disputes through the use of mediation.

**36.02 Referrals to mediation.** A domestic relations case may be referred to mediation by order of the court in accordance with the Rules of Superintendence for the Courts of Ohio. The court may issue the order on its own motion, upon the motion of a party, or upon agreement of the parties. The following actions shall be exempted from mediation upon request of any party:

- (A) Cases in which one of the parties is mentally ill;
- (B) In emergency circumstances requiring an immediate hearing by a jurist; or
- (C) Cases in which the parties have achieved an executed agreed judgment entry.

**36.03 Effect on orders.** While mediation is pending, all remaining court orders shall remain in effect, and no order is stayed or suspended during the mediation process unless otherwise ordered by the court.

**36.04 Confidentiality.** All communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, Ohio Revised Code, Ohio Rules of Evidence, and other pertinent judicial rules. Upon written agreement, all communications may be confidential. The mediator shall inform the court who attended and whether the case settled. If the case has not settled, then the mediator shall inform the court whether the case is scheduled for further mediation or is returned to the court for further proceedings. No other information shall be communicated by the mediator to the court unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

**36.05 Legal advice.** The efforts of the mediator shall not be construed as giving legal advice.

**36.06 Mediator conflicts of interest.** The mediator assigned by the court to conduct mediation shall disclose to the mediation parties, counsel, if applicable, and any non-party participants any known possible conflicts that may affect the mediator’s impartiality as soon as such conflict(s) become known to the mediator. If counsel or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator should withdraw and request that the assigned court appoint another mediator from the list of qualified mediators maintained by the court. The parties shall be free to retain the mediator by an informed, written waiver of the conflicts of interest.

**36.07 Attendance at mediation sessions.** All parties shall attend scheduled mediation sessions unless previously excused. The court may order parties to return to mediation at any time. All parties may have their attorney and/or other support person or persons attend the mediation session. If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigning court of such fact.

In the event a party wishes to have an additional person who is not a party attend mediation, the party shall provide the mediator with a request at least 48 hours prior to the mediation session. A copy of the request shall be provided to the other party.

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

**36.09 Termination.** If the assigned mediator determines that further mediation efforts would not benefit the parties, he or she shall inform all interested parties and the court that the mediation is terminated using the procedure required by this court.

**36.10 Mediation procedures.** In accordance with all applicable provisions of this rule, if a case is deemed appropriate for mediation, one will be scheduled. Any mediator providing services for the court shall utilize procedures that will:

- (A) Ensure that parties are allowed to participate in mediation, and if the parties wish that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation;
- (B) Screen for domestic violence both before and during mediation;
- (C) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence;
- (D) Mediation shall not be used for any of the following purposes:
  - (1) as an alternative to the prosecution or adjudication of domestic violence;
  - (2) in determining whether to grant, modify or terminate a protection order;
  - (3) in determining the terms and conditions of a protection order; and
  - (4) determining the penalty for violation of a protection order.
- (E) Nothing in Rule 36.11(D) shall prohibit the use of mediation in a divorce or custody case.

**36.11 Domestic violence.**

The court shall prohibit mediation when domestic abuse or domestic violence is alleged, suspected, or present unless all of the following conditions are satisfied:

- (A) Screening is conducted both before and during mediation, for domestic abuse and domestic violence, and for the capacity of the parties and mediator to mediate;
- (B) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the mediation process, right to decline participation in the mediation process, and of the option to have a support person present at the mediation sessions;
- (C) The parties have the capacity to mediate without fear of coercion or control;
- (D) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons involved in the mediation process;
- (E) Procedures are in place for the mediator to terminate a mediation session if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties;
- (F) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

**36.12 Mediation memorandum of understanding.** If an agreement is reached in mediation, the assigned mediator shall immediately prepare a written memorandum memorializing the agreement reached by the parties. The mediation memorandum of understanding may be signed by the parties and counsel (if the mediation memorandum of understanding is signed it will not be privileged pursuant to R.C. 2710.05(A)(1)). The written mediation memorandum of understanding may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel, or with parties, or an officer of the court will be enforceable unless made in open court.

**36.13 Mediation report.** At the conclusion of the mediation, and in compliance with R.C. 2710.06, the court shall be informed of the status of the mediation including all of the following:

- (A) Whether the mediation occurred or terminated;
- (B) Whether a settlement was reached on some, all or none of the issues;
- (C) Attendance of the parties; and
- (D) Future mediation session(s), including date(s) and time(s).

**36.14 Mediator qualifications and responsibilities.** Mediator qualifications, responsibilities, education, and training shall comply with Rule 16 of the Rules of Superintendence for the Courts of Ohio.

36.15 **Fees and costs.** Mediators providing services for the court shall comply with the court-approved sliding fee scale.

## **SPECIAL PROCEEDINGS**

### **RULE 37**

#### **DOMESTIC VIOLENCE**

37.01 **Pleading.** An ex parte civil protection order may be requested by filing a petition in accordance with the standard civil protection order forms as promulgated by the Supreme Court of Ohio. Such forms and instructions are available from the court. Any other case involving the petitioner, respondent, or the minor children of the parties pending in this or any other court shall be disclosed in the petition.

#### 37.02 **Procedure**

(A) The petition must first be filed with the clerk of courts. The clerk of courts shall not collect a cost deposit for the filing of a petition.

(B) A date-stamped copy of the petition shall be presented to the court for review at the ex parte hearing. Upon hearing, the court may grant any relief authorized by R.C. 3113.31.

(C) Following the ex parte hearing, the court shall schedule a full hearing in accordance with R.C. 3113.31.

(D) Service shall be ordered through the Mahoning County Sheriff's Office or any other law enforcement agency. The court may authorize the petitioner to attempt service upon the respondent by a special process server upon petitioner's request, or when service by the sheriff's office is unsuccessful.

(E) At the full hearing, the court shall address the issuance of the protection order, financial support, child support, parenting, counseling and other requested relief.

37.03 **Duration of protection orders.** Any protection order or other court order issued at the full hearing on the petition may be effective for 5 years from its date of filing unless an earlier termination is ordered. A civil protection order may be renewed by the filing of a motion with the court. The motion should be filed at least 14 days prior to the scheduled expiration of the civil protection order.

37.04 **Counseling.** The court may order respondent to attend batterer's intervention and if ordered, the court may set a review hearing to ensure compliance.

## **RULE 38**

### **FOREIGN ORDERS**

#### **38.01 Procedure for filings under Uniform Interstate Family Support Act (UIFSA)**

(A) The procedures for registration, enforcement and modification of foreign support orders shall be in accordance with R.C. 3115.602-616.

(B) Forms to assist in the process are available on the court's website.

#### **38.02 Procedure for filings under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)**

(A) The procedures for registration, enforcement and modification of foreign custody orders shall be in accordance with R.C. 3127.35-53.

(B) Forms to assist in the process are available on the court's website.

## **COURT ADMINISTRATION**

### **RULE 39**

#### **CONFLICTS OF INTEREST**

**Gifts/favors.** The court, including the judge, magistrates, employees, as well as guardians ad litem, mediators, mental health, and/or parenting evaluators and parenting coordinators appointed by the court, shall not accept any gift, favor, or item from any attorney or party.

### **RULE 40**

#### **COURT REPORTERS, RECORDINGS, and TRANSCRIPTS**

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

**40.02 Cases heard by the magistrate or a visiting judge.** All matters heard by a magistrate or a visiting judge will be recorded digitally, unless otherwise agreed by the parties, or ordered by the court.

**40.03 Transcripts.** The Official Court Reporters of the Mahoning County Common Pleas Court shall be designated as the Official Court Reporter for transcription purposes; unless otherwise ordered by the court upon motion and good cause shown.



A person requesting a transcript of a hearing before the judge, a visiting judge or a magistrate shall present a Mahoning County Common Pleas Official Court Reporter with the court's praecipe. The court reporter shall sign the praecipe, and file it with the clerk of courts.

The ordering party shall be responsible for contacting the Mahoning County Common Pleas Official Court Reporter and make arrangements for the payment of said transcript to be paid directly to the court reporter.

40.04 **Substitution.** In the event a party to a case requests the services of a court reporter to take the record before a visiting judge or a magistrate, the party must get the approval of the court. The requesting party shall be responsible for all the expenses associated with said court reporter including any transcription requested by the court.

40.05 **Official record.** The transcript, not the digital copy, shall constitute the official record of the proceeding.

## **RULE 41**

### **COURT SECURITY**

41.01 **Searches.** In order to maintain appropriate security for the public and court personnel, the court may require that all persons entering the courthouse and the Mahoning County Domestic Relations Court submit to a search of their persons and property.

41.02 **Weapons.** No weapons or other instruments which may cause bodily harm shall be permitted in the Mahoning County Domestic Relations Court.

41.03 **Supervision.** It shall be the duty of the Mahoning County Sheriff to supervise and maintain all security in the Mahoning County Domestic Relations Court.

41.04 **Court security plan.** The court has adopted a security plan as required by Sup.R. 9.

## **RULE 42**

### **PHOTOGRAPHING, RECORDING AND BROADCASTING OF COURT PROCEEDINGS**

42.01 **Procedures.** In compliance with Sup. R. 12, the court shall permit the broadcasting, televising, recording, or photographing of public court proceedings.

- (A) Request for permission to broadcast, televise, record, or photograph in a courtroom shall be made in writing to the Mahoning County Domestic Relations Court.
- (B) The court shall inform the attorneys for all parties in the case of a media request.
- (C) A journal entry shall be issued setting forth the conditions thereto.

#### 42.02 **Electronic devices**

(A) No radio, television transmission, audio recording device (other than a device used for purposes of the official record), or photography shall be permitted, except upon consent of the court and in accordance with Sup.R. 11.

(B) All mobile phones or other similar devices that are capable of emitting sound shall be turned off, turned to vibrate, or the silent mode position, prior to entering the courtroom.

### **RULE 43**

#### **CASE MANAGEMENT PLAN**

**General.** In accordance with the Rules of Superintendence for the Courts of Ohio, the court establishes a general framework for the management of cases filed in the Mahoning County Domestic Relations Court. The court promotes the timely and fair disposition of cases.

#### 43.01 **Temporary orders**

(A) Temporary orders in divorce actions are issued by the court pursuant to Civil Rule 75(N). A motion and affidavit for temporary orders without oral hearing may be filed with the complaint and/or counterclaim for divorce.

(B) Non-oral hearings on motions for temporary orders are scheduled approximately 28 days from date of service if requested with the original complaint. Once an answer and/or counterclaim is filed, the 75(N) may be advanced 14 days from the date of filing the answer, counterclaim, or subsequent requests.

(C) The court may schedule an oral hearing on the 75(N) order if insufficient information is available from which to issue an order or if the parenting or financial circumstances of the parties are not clear.

(D) Where no answer and/or counterclaim is filed, the 75(N) order shall contain a date for an uncontested divorce before the court.

(E) If an answer and/or counterclaim is filed, the 75(N) order shall contain dates for a pretrial, settlement conference, and trial before the judge. The trial will be set approximately 6 months from the date of filing the complaint. The settlement conference will be scheduled approximately one month before trial and the pretrial will be scheduled as soon as possible after the order is issued.

(F) Parties have the right to file a motion for an oral hearing on the 75(N) order.

(G) Ex parte orders are granted only under exigent circumstances in accordance with local rule 11. Movants must be present in order for such relief to be granted.

#### 43.02 **Motions to set aside temporary orders**

- (A) A motion to set aside temporary orders shall be scheduled before the judge.
- (B) A transcript of the oral hearing shall be required if the motion raises issues of fact and not law.

#### 43.03 **Other pre-divorce proceedings**

- (A) Pre-divorce motions may be set for hearing.
- (B) Where parenting is in dispute, the court may order a parenting assessment by the court's director of family services, refer parties to mediation, appoint a guardian ad litem, or utilize other alternative dispute process. The court shall address the costs by court order.

#### 43.04 **Uncontested divorces**

- (A) Uncontested divorces may be set for hearing before the magistrates. If an answer or counterclaim is filed on or before the date for the uncontested divorce, the court may convert the divorce hearing to a pretrial.
- (B) An uncontested divorce will not be heard earlier than 42 days after service of the complaint. The court may schedule the final hearing 28 days after the completion of service upon the defendant.
- (C) If an agreement is reached between the parties before a magistrate, counsel shall submit to the magistrate a separation agreement, shared parenting plan, and parenting plan, if applicable. The magistrate shall then issue a decision adopting same. If an agreement is reached in court before the judge, the parties may sign an agreed order submitting the judgment entry and related documents within 30 days, or the court may reschedule the hearing to enable the parties and counsel to reduce the agreement to writing and submit testimony.

#### 43.05 **Scheduling and notice of trial**

- (A) Scheduling: After service of the complaint, the judge may schedule the following hearings: pretrial, settlement conference, and trial. The court staff shall consult by phone with all counsel of record to schedule the hearings.
- (B) Pursuant to Civil Rule 75, a notice of trial shall be issued to all counsel of record and any self-represented parties. This notice shall ordinarily be issued at the time the trial is scheduled.

#### 43.06 **Pretrials**

- (A) A pretrial may be held at such time and place as the court may direct. If not set forth in temporary orders, the court shall give ordinary mail notice of the time and place to all counsel and self-represented parties.

(B) The presence of all parties and trial counsel is required at the pretrial unless specifically waived by the court.

(C) The parties may submit to the court any amended property affidavit.

(D) Statements of the parties made during the pretrial shall not be binding upon the parties unless expressly made so by written stipulation. The proceeding does not have to be recorded.

(E) If a party fails to appear at the pretrial, the court may impose appropriate sanctions.

(F) At the pretrial, the court may refer the parties' parenting disputes to mediation, order a parenting assessment, appoint a guardian ad litem, or utilize any alternative dispute process. The court shall address the costs by court order.

#### 43.07 **Settlement conference**

(A) A settlement conference may be set in every contested divorce case. The conference shall be governed by the pretrial conditions set forth above except that no additional formal affidavit of property need be submitted. The parties shall be prepared to discuss with the court their final offer of settlement.

(B) All discovery shall be completed by the settlement conference except otherwise permitted by court order.

#### 43.08 **Dissolutions of marriage**

(A) Dissolutions of marriage shall be set before the judge or a magistrate.

(B) Before filing a petition for dissolution of marriage, the original petition and all related documents shall be given to the assignment commissioner(s) for the scheduling of a hearing date which shall be no earlier than 30 days nor more than 90 days from the date of filing. The decree of dissolution of marriage and a copy of the attached separation agreement, shared parenting plan, and parenting plan, if applicable, shall also be provided to the assignment commissioner(s) and held by the court until the date of hearing.

(C) The court shall issue a notice of hearing to all counsel and self-represented parties.

(D) Both parties must appear for the dissolution hearing or the petition will be dismissed. For good cause shown, the hearing on the dissolution may be reset not more than 90 days from the date of filing the petition.

#### 43.09 **Contested divorce trials**

Contested divorce trials may be set before the judge or a magistrate.

#### 43.10 **Preparation of judgment entries**

(A) **Responsibility of counsel.** Counsel for plaintiff, or an unrepresented plaintiff, shall prepare a final judgment entry unless the case is heard by a magistrate. The judgment entry shall be submitted to the court at the final hearing in settled divorces. The judgment entry shall state who shall pay the court costs. The failure to file a judgment entry may result in dismissal of the action or sanctions.

(B) **In court settlements:** In the event that the parties reach an agreement on all issues on the date of the divorce, they may dictate the same into the record and proceed to present evidence in support of the complaint and/or counterclaim for divorce. The court will then permit the parties to sign an agreed judgment entry or order granting them 30 days to reduce the same to writing and submit the same in the form of a judgment entry (if being submitted to the court) or a separation agreement (if being submitted to a magistrate).

The judgment entry or separation agreement shall include all related paperwork including a shared parenting plan, parenting plan, child support computation worksheet and orders that divide pension/retirement accounts if applicable.

In the event the judgment entry, separation agreement and related paperwork are not received by the date stated in the judgment entry or order, the parties and counsel shall appear before the court at said date and time.

The parties and counsel are advised that in the event the judgment entry or separation agreement is not submitted, the court may nonetheless adopt the parties' agreement, dismiss the case and/or impose sanctions, including the cost of stenographic transcriptions.

The court may reschedule the hearing to enable the parties and counsel to reduce the agreement to writing and submit testimony.

(C) **Trial briefs and findings of fact and conclusions of law:** The court may order the parties to prepare findings of fact and conclusions of law following trial and/or trial briefs prior or subsequent to trial.

#### 43.11 **Motions for continuance**

All motions for continuance shall be made in writing and in accordance with local rule 8.10(A). Movant shall first attempt to secure consent of opposing counsel, if represented. All continuances must be approved by the court.

#### 43.12 **Notice of filing of discovery documents**

Originals or copies of any discovery request, or answers to discovery requests, shall not be filed with the clerk of courts, except as permitted by the Ohio Rules of Civil Procedure.

#### 43.13 **Filing of pleadings, motions and documents**

(A) All pleadings shall conform with the requirements of the local rules of this court and the Ohio Rules of Civil Procedure.

(B) Service shall be in accordance with the Ohio Rules of Civil Procedure and may be subject to the local rules of this court.

**43.14 Parenting education**

If there are minor children, the court may order the parties to attend parent education.

**43.15 Procedure for post-decree motions**

(A) Post-decree motions may be scheduled before the magistrates.

(B) All pleadings shall conform with the requirement of local rules of court.

(C) Service shall be in accordance with the Ohio Rules of Civil Procedure.

(D) All motions, unless otherwise allowed, must be in writing and shall detail the relief or order sought. Copies of prior judgment entries, decisions or orders shall not ordinarily be attached to the motions.

(E) All post-decree motions will first be submitted to the assignment commissioner(s) for a date and time of hearing before filing. It is the responsibility of the moving party to set the hearing for sufficient time based on the complexity of the issues.

(F) In post-decree motions involving parenting disputes, the assignment commissioner(s) shall schedule an initial status hearing. At the status hearing, the court may order a parenting assessment, refer the parties to mediation, appoint a guardian ad litem, or utilize any alternative dispute process.

**43.16 Agreed entries**

Agreed entries on motions may be submitted at any time. A hearing may be required on agreed entries pursuant to local rule 34. Any such entry relating to the allocation of parental rights and responsibilities may be submitted to the court without the necessity of a hearing only if signed by both parties and both counsel. If the party relinquishing the status of residential parent is unrepresented, the case may be scheduled for hearing. A notice of hearing shall be issued by the court and filed with the clerk of courts. In the event that the responsibility for providing private health insurance changes to a third party or spouse, a copy of the health insurance card with the name and address of the health insurance company shall be provided to the Mahoning County Child Support Enforcement Agency.

**43.17 Motions to set aside orders and objections to magistrates' decisions**

(A) Prior to filing motions to set aside orders and objections to magistrates' decisions, the appealing or objecting party shall bring the original motion or objections to the assignment commissioner(s) to obtain a hearing date which must be contained in the motion or objections.

(B) A hearing on motions or objections is normally scheduled before the judge within 3 to 6 weeks depending on the length of a transcript that may be required.

(C) The delay in obtaining a transcript will not enlarge the time period for the filing of the motion to set aside or objections.

**43.18 Domestic violence**

(A) Petitions for domestic violence civil protection orders are generally heard by the court on the day they are filed. Victim advocates are welcome to accompany petitioners throughout the process.

(B) If an ex parte order is denied, the matter shall still be set for full hearing within 14 days.

(C) When a civil protection order is granted on a full hearing basis, the court shall have discretion to set the duration of the order up to 5 years.

**RULE 44**

**LANGUAGE ACCESS PLAN**

44.01 By journal entry, the court has adopted a comprehensive language access plan to provide for interpretive services to litigants in accordance with Sup. R. 88.

44.02 The court has developed forms for implementation of the language access plan that are available on the court's website or in person at the court.

**RULE 45**

**COURT RECORDS**

In accordance with Rules 26 and 44 through 47 of the Rules of Superintendence for the Courts of Ohio, the clerk of courts/court shall create, maintain, and permit access to a family file/confidential documents file in addition to the case document file.