

Judge Beth A. Smith
Mahoning County Court of Common Pleas
Domestic Relations Division

EXPLANATION OF PROPOSED AMENDMENTS TO LOCAL RULES

(To be Effective July 1, 2017)

INTRODUCTION: Over the past 24 months, the Court has undertaken a comprehensive review of its Local Rules which were last amended on February 1, 2012. A complete copy of the proposed amendments reflecting the provisions being deleted with ~~strikethroughs~~ and those being added with underlines are available for review at the Court and on the Court's Website. Copies will also be emailed upon request.

A substantial number of the proposed amendments are grammatical and stylistic and do not involve substantive changes to local procedures. The more substantive changes are summarized below.

Due to the elimination of current Rules 20, 39, 40, 41 and 42, the Rule numbers and subsections referenced in several sections below will not correspond to the final format.

The Court will accept comments on these proposed amendments for a period of fourteen (14) days which will end on Friday, June 16, 2017.

The Court will consider the comments and make any needed changes with the goal of having the new rules effective July 1, 2017.

Please address your comments to the Court either in writing or by email.

8.02-8.04 (Confidential Documents) The proposed amendments to these sections reflect changes in the way that the Court handles financial and other personal documents filed with actions for divorce, legal separation or dissolution which documents are now treated as confidential documents pursuant to Superintendence Rule 44. Such documents are still filed with the Clerk but are kept in a Confidential Document File retained by the Court.

8.03 (Mandatory Discovery Order) The proposed amendment deletes the requirement to file this form since enforcement of the same has rarely been sought.

8.04 (Dissolutions) The proposed amendment allows parties to file separate or joint mandatory required supportive forms such as Affidavits of Income and Expenses.

8.05 (Poverty Affidavit and Order) This new section clarifies the process of seeking a waiver of the requirement of a deposit/filing fee.

8.08 (Leave to Plead) The proposed amendment eliminates a rarely applied requirement to set forth the number and length of prior leaves previously obtained.

9.05 (Service by Publication and Posting) The proposed amendment makes clear that service by posting on the website of the Clerk of Courts is not available for Domestic Violence cases since such internet posting is prohibited by Federal Law. In such cases, Posting must be made in the traditional manner by the posting of notice in two locations in the County. Posting by indigent parties in all other cases shall continue to be on the Website of the Clerk.

11.01 (Ex-Parte Orders) The proposed amendment affords the Court more flexibility in issuing an ex parte order concerning parental rights even without independent corroboration of the danger to a child.

12.01 (Contents of Motion) The proposed amendment is intended as a reminder to parties that when there is a failure of service of a contempt motion, the movant shall attach a new Summons and Order to Appear to the motion, and if necessary, include the new hearing date.

12.04-12.06 (Appointment of Attorneys in Contempt Actions) This proposed amendments represent a significant expansion of this section to comply with the requirements of Superintendence Rule 8 which requires the Court to adopt a local rule in this regard.

14.01 (Discovery Procedures) The proposed amendment adds a new section that make clear that, absent special circumstances, all discovery shall be completed at least seven days prior to the initial Settlement Conference.

16.05 (Pretrial Motions) The proposed amendment adds a new section that provides that, absent special circumstances, all pretrial motions shall be filed no later than 30 days prior to trial.

Rule 20 (Qualified Medical Child Support Order) The proposed amendment deletes this entire rule since it rarely been utilized by litigants.

23.02 (Signatures on Judgment Entries) The proposed amendment makes clear that orders dividing pensions and retirement accounts must also be signed by both parties when submitting the same to the Court for approval.

23.04 (Court Costs) The proposed amendment adds a new section to make clear that all judgment entries shall provide for the payment of court costs.

24.01 and 24.02 (QDRO's and DOPO's) The proposed amendment adds additional language to both sections to make clear that the dividing document shall provide for the payment of court costs and that only the Administrator's Copy shall contain full Social Security Numbers. Instructions for Service shall also be included.

26.01 (Dismissal of Cases—Failure of Service) The proposed amendment expands from 90 days to 6 months the period in which the Court may dismiss the complaint or motion for failure of service.

30.01 (Appointment of Guardian ad Litem) The proposed amendment reminds Guardians ad Litem of their obligation to comply with the mandates of Superintendence Rule 48.

30.03 (Guardian ad Litem Report) The proposed amendment changes the requirement that the Report be filed seven days prior to the Settlement Conference and allows it to be simply filed by the date of the Settlement Conference.

34.01 (Parenting Coordinator) The proposed amendment shortens the current Rule to simply make clear that the appointment shall be in accordance with Superintendence Rule 90.

36.04 (Conciliation Report and Hearing) The proposed amendment eliminates an unused provision concerning a Conciliation Report and the scheduling of a hearing.

37.11 (Mediation—Domestic Violence) The proposed amendment clarifies the procedures for insuring safety by outside mediators who are appointed in domestic violence cases.

38.02 (Domestic Violence Procedures) The proposed amendments shortens the rule by deleting language that simply repeats statutory language contained in R.C. 3113.31.

39.01 and 39.02 (Registration of Foreign Support and Custody Orders) The proposed amendments delete the detailed provisions under each of these sections and simply draws the attention of parties and counsel to the applicable, and periodically changing, provision of R.C. 3115 and 3127 which set forth the requirements and procedures for registering, enforcing and modifying foreign support and custody orders and reference to forms that are available on the Court's Website to guide the process.

39.03: (Procedures for Filings under Full Faith and Credit) The proposed amendment deletes this entire section since it has never been utilized by litigants.

Rule 40 (Action on Foreign Decree) The proposed amendment deletes this entire Rule since it has never been utilized by litigants.

Rule 41 (Concurrent Jurisdiction) The proposed amendment deletes this short Rule since it has not been utilized by litigants.

Rule 42 (Certification to Juvenile Court) The proposed amendment deletes this entire Rule since it has rarely been utilized by litigants.

Rule 43 (Conflicts of Interest) The proposed amendment expands the categories of persons who shall not accept gifts or favors to include guardians ad litem, mediators and mental health and custody evaluators and parenting coordinators appointed by the Court.

46.02 (Electronic Devices) The proposed amendment addresses the use of radio, television and photography in the Court and limits the use of cell phones, pagers and similar devices.

45.01-45.02 (Language Access Plan) The proposed amendment references the Court's adoption of a comprehensive Language Access Plan which the Court adopted by a separate Journal Entry on April 28, 2017 as required by Superintendence Rule 88.