

RULES OF COURT

Fairfield County Common Pleas Court Domestic Relations Division

Lancaster, Ohio

In Effect: January 1, 2009

Modified

March 1, 2009: Rule 13.0

May 1, 2009: Rule 12.0

Kathy S. Mowry, Judge

Jeffrey F. Bender, Magistrate

Sandra S. Miller, Magistrate

Laura B. Smith, Magistrate

TABLE OF CONTENTS

Rule	Subject	Page
1.0	GENERAL INFORMATION	1
2.0	PLEADINGS: FORMAT AND PROCEDURE	2
3.0	SPECIAL FILING REQUIREMENTS	5
4.0	COUNSEL OF RECORD	6
5.0	TIME REQUIREMENTS	7
6.0	SERVICE	8
7.0	CIVIL PROTECTION ORDERS	10
8.0	MOTIONS	11
9.0	TEMPORARY OR PENDENTE LITE ORDERS	14
10.0	PRETRIAL REVIEWS	18
11.0	MEDIATION	20
12.0	PARENT EDUCATION CLASS	27
13.0	GUARDIAN AD LITEM	29
14.0	HEARING/TRIAL ASSIGNMENTS	38
15.0	APPEARANCE/DISMISSALS	40
16.0	CONTINUANCES	41
17.0	STANDARD PARENTING TIME ORDER	43
18.0	HEARINGS/TRIALS	50
19.0	MAGISTRATE	52
20.0	OBJECTIONS TO PROPOSED DECISIONS	57
21.0	MEMORANDUM ENTRY	59
22.0	ENTRIES/ORDERS	60
23.0	FINDINGS OF FACT AND CONCLUSIONS OF LAW	63
24.0	STATEMENTS OF EVIDENCE	64
25.0	CHILD SUPPORT ENFORCEMENT AGENCY	65
26.0	DEPOSITS/COSTS	72
27.0	CUSTODY OF FILES AND EXHIBITS	76
28.0	COURT REPORTER	78
29.0	SUBPOENAS	80
30.0	PATERNITY ACKNOWLEDGMENTS	81
31.0	PRECEDENCE	82

RULE 1.0
GENERAL INFORMATION

1.1 **Title.** The official title of the Court shall be:

FAIRFIELD COUNTY COMMON PLEAS COURT
DOMESTIC RELATIONS DIVISION

1.2 **Application.** The rules herein shall apply only to the Domestic Relations Division of the Fairfield County Common Pleas Court.

The Rules of Practice of the General Division of the Fairfield County Common Pleas Court are incorporated by reference for the limited purpose to apply to any procedural matter within the jurisdiction of the Domestic Relations Division Court that is not found covered by any rule herein.

1.3 **Hours of Court.** The normal sessions of the Domestic Relations Division of the Fairfield County Common Pleas Court shall, unless otherwise ordered by the trial judge, begin at 8:00 A.M. and close at noon and shall resume at 1:00 P.M. and close at 4:00 P.M. on Monday through Friday each week, except those days designated by law as legal holidays; however, the hearings or cases assigned to the Magistrate may be conducted at such times designated by the Magistrate without prior Court approval.

RULE 2.0
PLEADINGS: FORMAT AND PROCEDURE

- 2.1 **Caption Requirements.** In every pleading or initial post-decree motion filed on behalf of a party or parties, there shall be set forth in the caption the names of all parties with their most recent complete address and date of birth of the parties. Social Security numbers of the parties shall not be required. For any motion or document (except an entry or order [for entries and orders format see Rule 22.5]) filed after the pleadings or initial post-decree motion, the caption may contain only names of the first party on each side of the case with the applicable “et al” designating multiple parties.
- 2.2 **Attorney Information.** Every pleading, motion or document filed on behalf of a party shall, in addition to complying with the Ohio Rules of Civil Procedure, have printed or typed thereon the name, address, attorney registration number and telephone number of counsel or if no attorney, of the party filing the same; and if filed by a law firm, it shall be indicated thereon the name of the particular attorney having primary responsibility for the case.
- 2.3 **Case Identification.** Each complaint or petition that contains a cause of action within the jurisdiction of the Domestic Relations Division of the Fairfield County Common Pleas Court shall be numbered with the last two digits of the current year followed by DR, DS or PA and the sequential number provided by the Clerk’s office.

The initial pleading or motion shall include under the case number one of the following designations:

1. Divorce with children
2. Divorce without children
3. Dissolution with children
4. Dissolution without children
5. Post-decree motion

6. Post-decree Motion for Modification (if it is for a modification of a previous judgment entry)
7. Motion for Temporary Order
8. Motion
9. Motion to Vacate Judgment
10. Parentage
 - a. Establish Parent-Child Relationship
 - b. Complaint for Custody
 - c. Complaint for Support
 - d. Complaint for Visitation
11. Civil Protection Petition
12. Fairfield County Child Support Enforcement Agency Action
13. Motion for Contempt
14. U.I.F.S.A.
15. Complaint for Custody

If none of the above apply, then omit any designation.

- 2.4 **Affidavits.** In any action or motion in which income, assets or liabilities are an issue, the parties shall file a financial affidavit. The financial affidavits shall be in the same format and include the same information as required for temporary support orders and must adhere to local rule 9.0 requirements.

If a financial affidavit is used by a party that varies from the forms prescribed by the Court, it must contain all of the information required to be disclosed by the Court.

Failure to include all necessary information as required by the Court may result in the affidavit being stricken from the case file.

- 2.5 **Copies.** Sufficient copies of every pleading, motion or document to be served by the Clerk or Sheriff shall be filed with the Clerk. The Clerk shall make a copy of any pleading, motion or document for any counsel of record who has not previously been supplied with a copy and charge the expense as costs in the case.

- 2.6 **Paper and Legibility Requirements.** All pleadings and motions shall be typewritten or legibly printed on paper of eight and one-half (8 1/2) by eleven (11) inches.

- 2.7 **Electronic Filing.** The Clerk may accept electronic filing of pleadings and motions (not to exceed 10 pages in length) on plain paper. Any pleadings

or motion on thermal paper is to be rejected by the Clerk. Electronic pleading shall not be followed up by hard copy.

2.8 **Interlineation/obliterations.** After a pleading or motion has been filed, there shall be no amendments by interlineation or obliteration except by prior approval of the Court.

2.9 **Replacements.** No document in any case file may be removed or replaced. However, an amended document may be filed with Court approval.

2.91 **Non-compliance.** If any pleading or initial post decree motion fails to meet the format requirements of this rule, it may be returned to the originator for revision or it may be subject to a *sua sponte* dismissal by the Court.

RULE 3.0
SPECIAL FILING REQUIREMENTS

3.1 **Procedure.** The Clerk's office receives for filing a large number of documents that fall outside the category of pleadings, motions, entries or orders. Certain documents do not require the Court's attention while other documents require disposition by the Court.

In order to insure that documents in the latter category are given prompt attention, it shall be counsel's responsibility to immediately provide the Court Administrator a file stamped copy of the following documents:

- a) Requests for Findings of Facts and Conclusions of Law
- b) Proposed Findings of Facts and Conclusions of Law
- c) Requests for statements of evidence
- d) Proposed statements of evidence
- e) Motions that have non-oral hearing dates
- f) Objections to a magistrate's report
- g) Responses to objections to a magistrate's report
- h) Documents, affidavits or supplemental information ordered or requested by the court
- i) Rule 75 motions on temporary orders
- j) Motions to set aside a settlement memorandum.

RULE 4.0
COUNSEL OF RECORD

- 4.1 **Entering an appearance.** All entries of appearance of counsel shall be in writing. An entry of appearance of counsel may be effected by signature of counsel on a pleading, motion or letter to the Court.

Until an entry of appearance properly made and signed by counsel has been filed, counsel shall not be entitled to appear at any proceeding in the action, unless waived by the Court.

- 4.2 **Withdrawing.** It is contemplated that counsel who have entered an appearance in the case shall remain on the case until it has concluded. All requests for withdrawal as counsel of record, except those agreed to by client, must include a memorandum in support indicating the general reasons for the request. Withdrawals as counsel of record within 45 days of the hearing, which cause a continuance, may be denied or may cause sanctions by the Court. In considering a request to withdraw, the Court may require the party to appear before the Court, prior to the counsel of record being permitted to withdraw, so that the Court may advise the party what course of action will be expected to avoid any delays in the proceedings. An immediate substitution of counsel will negate the necessity for an appearance before the Court.

The provision of DR 2-110, EC 2-29 and EC 2-31 of the Code of Professional Responsibility are incorporated herein. Failure to appear by any counsel of record may subject counsel to Court sanctions.

RULE 5.0
TIME REQUIREMENTS

5.1 **Filing Times.** In all cases where the time for filing of a pleading, an amended pleading, a response or a reply is not fixed by local rule, statute, or the Ohio Rules of Civil Procedure, it shall be filed on or before the fourteenth calendar day after the filing date of the opposing party's document or Court's order or entry unless otherwise specified in the order or entry.

5.2 **Extensions.** Any requests for extensions of time for filing must be submitted by motion to the Court. The party must include the following information in the motion:

1. If the motion is being filed within or outside the allocated time for the original filing.
2. The reasons needed for the extension.
3. If the opposing party objects to or approves of the extension.
4. If there have been any prior extensions.

Upon submissions of the motion (including proposed entry), the Court, within its own discretion, may immediately approve or deny the motion; or, the Court may request the opposing party to file, within five days, specific objections for any extensions.

5.3 **Case Rulings.** Cases that have been on the docket for six months without any proceedings taken in the case, except cases awaiting trial, shall be dismissed, after notice to counsel of record.

All cases submitted for determination after a trial shall be decided within ninety days from the date the case was submitted. All motions shall be ruled upon within one hundred twenty days from the date the motion was filed. (See Sup. R. 40(A))

RULE 6.0
SERVICE

6.1 **Residence known.** Service shall be pursuant to Civil Rule 4.

6.2 **Residence unknown.** In divorce, annulment and legal separation actions, service may be perfected by one of two ways.

6.21 **In forma pauperis actions.** In divorce, annulment and legal separation actions, the party or counsel shall file an affidavit in the Clerk of Court's office pursuant to Civil Rule 4.4(A)(2).

(a) Three copies of the prepared notice will accompany the affidavit to be filed in the case. (Note: Responsibility to include an answer date in the notice is that of the party or counsel.)

(b) The Clerk shall post the notice in the following designated conspicuous places:

(1) On the bulletin board located in the Clerk's Office in the Hall of Justice.

(2) On the bulletin board on the first floor of the Fairfield County Courthouse.

(3) On the bulletin board on the first floor of the Lancaster Municipal Building.

6.22 **All other actions.** In all other actions within the jurisdiction of the Domestic Relations Court, where the residence of the defendant or respondent is unknown, the service shall be pursuant to Civil Rule 4.4(A)(1) and the party or counsel shall:

(a) File with the necessary affidavit, a copy of the prepared publication (Note: It will be the responsibility of the party or counsel to include the answer date in the publication.)

(b) It will be the responsibility of the counsel to transmit the publication to the newspaper of his/her choice.

(c) The proof of publication including the invoice shall be filed with the Clerk's office. Publication costs are not included in deposits and shall be paid directly to the newspaper when Notice of Publication is presented to be published.

- 6.3 **Failure of Service - Post decree motions.** Post-decree motions requiring service of process under Civil Rule 4 through 4.6 will be monitored for proof of service. Where the moving party has failed to obtain service on the opposing party within 45 days after the filing date of the motion, the party or counsel will be notified that the motion will be subject to dismissal without prejudice unless good cause is shown to permit it to remain an active case.
- 6.4 **Notification of Failure of Service.** The Clerk shall notify counsel or party of any failure of service of any pleading or motion that has an oral hearing date. Once the Clerk has reported the notice of failure of service to counsel, counsel must notify the Assignment Commissioner within seven days that instructions for alternate service have been filed, or the hearing date will be cancelled.

RULE 7.0
CIVIL PROTECTION ORDERS

- 7.1 **Hearing Requirements.** No civil protection order will be granted without a hearing. The first hearing may be *ex parte*, but a second hearing shall be conducted within the guidelines of Revised Code Section 3113.31 unless waived by the parties.
- 7.2 **Failure of Service.** Failure to serve respondent before the second hearing may result in either a continuance or a dismissal of the petition and the termination of the temporary protective order.
- 7.3 **Visitation.** Where children are involved, requests should include proposed visitation guidelines and/or propositions why visitation should be temporarily denied. Failure to include a visitation schedule may result in a denial of the requested protection order.
- 7.4 **Effective Time of Order.** Any order issued after the full hearing shall be effective for up to five full years.
- 7.5 **Termination of Order.** An entry to terminate must be filed with orders to the Clerk of Courts to serve a copy of the entry to the proper law enforcement agencies to remove the Protection Order from their indexes.

RULE 8.0
MOTIONS

- 8.1 **Contents.** All motions, except motions the relief of which has been agreed to by opposing counsel and/or motions for pendente lite or temporary support orders, shall be accompanied by a brief or memorandum stating the grounds including citations of any case authority. In the absence of a brief or memorandum, the motion may be stricken from the files.
- 8.2 **Notice of Hearing.** Each motion except motions which do not require a hearing shall include either separately, or in a **distinct manner**, a notice of hearing unless waived by the Court, Magistrate or Court Administrator. All hearing times and dates shall be obtained from the Assignment Commissioner. Where opposing counsel has made an appearance in the matter, no motion, notice of hearing or order to appear should be filed by any party unless reasonable effort has been made to have the oral hearing time and date coincide with opposing counsel's availability.
- 8.3 **Non-oral motions.** Except as to temporary order hearings, if an oral hearing is not required, a non-oral hearing **date** may be designated and all required briefs, responses, documents or exhibits necessary to resolve the issue must be filed on or before the day immediately prior to the non-oral hearing date.
- 8.31 **Types of non-oral motions.** No oral hearing dates will be given for objections to Magistrate's reports, motions under Civil Rule 60(B) or 75(I), motions to strike, motions to dismiss or motions for summary judgment unless a hearing date is ordered by the Court.
- 8.4 **Service.** The motion and order containing the oral or non-oral hearing date shall be served upon all opposing parties or their counsel by the moving party in accordance with the requirements of the Ohio Rules of

Civil Procedure. In accordance with Rule 6(d) of the Rules of Civil Procedure, the oral or non-oral hearing may be set no earlier than seven days after the date of service of the motion unless the parties or counsel agree with Court approval to an earlier hearing.

8.5 **Motions with entries.** If the approval of all opposing parties or their counsel of record is obtained, a party may submit a motion and entry together to the Court for its consideration. The entry shall contain an approval line for each party or their counsel of record and shall affirmatively indicate that all of the opposing parties or their counsel have approved it. However, the Court retains the discretion to approve or reject the entry.

8.6 **Motions for *ex parte* order.** *Ex parte* orders are discouraged but there are certain circumstances when they are necessary. When possible, *ex parte* orders issued under this section shall be granted only after the party requesting such relief appears in open court and recites the grounds therefore on the record. Further, if later in the proceedings it is determined that said moving party's statements made either orally on the record or non-orally by affidavit were untrue, so as to mislead the court, said party shall be subject to sanctions, including but not limited to a dismissal of their action, an award of attorney fees to the opposing party and costs.

8.61 **Orders affecting children.** The Court will issue *ex parte* orders affecting children where it is shown that irreparable harm will occur unless immediate action is taken. Motions requesting relief of this nature must have supporting affidavits which clearly delineate the expectant harm. The motion must also include a notice of a full hearing on the motion, which shall be scheduled within 14 days of the *ex parte* order.

8.62 **Orders affecting discovery.** This rule recognizes that contested issues require less Court time where discovery has been fully conducted. Motions to compel discovery shall usually be granted

ex parte where the memorandum in support of the motion indicates that reasonable efforts to obtain discovery have been ignored or neglected by the opposing party. The motion must also contain a specific description of the documents and/or information which has not been provided.

If a party or deponent fails to comply with a court entry compelling discovery within the time specified in the entry, the party propounding the discovery shall contact opposing counsel (or the party if proceeding *pro se*), and make a written request for the discovery responses. If any discovery has been provided, the written request shall identify the specific documents or information which was not provided by the party or deponent.

Should the party or deponent fail to comply fully with the discovery request within seven (7) days of the date of the written request, the requesting party may file a motion for sanctions and demand a show cause hearing. The party requesting sanctions shall attach a copy of the written request to the motion.

If good reason is not shown at the show cause hearing why discovery was not provided, the Court shall impose a sanction in the minimum amount of \$500.

- 8.63 **Orders affecting intervention.** The Court will generally grant motions to intervene without a hearing and issue *ex parte* orders of intervention by interested parties. Motions should include the basis for and interests of the intervening party. All orders affecting intervention shall be submitted to the Magistrate or Judge assigned to a case or specific hearing or trial.
- 8.7 **Dates and Times of Hearings.** To expedite the hearing of issues as soon as possible, counsel may obtain hearing dates by phone from the Assignment Commissioner.

RULE 9.0
TEMPORARY OR PENDENTE LITE ORDERS

9.1 **Temporary Support.** All motions or request for temporary spousal or child support, or any modification thereof, shall include accurate financial affidavits. Child support requests should have a completed work sheet as described by statute. Last year's federal tax return together with all schedules and W-2 forms shall be filed if available. Current wage statements from the employer indicating the year-to-date earnings or pay stubs showing year-to-date earnings shall be filed. If there is self-employed income, the party shall verify income under oath.

Included in the affidavit should be a statement of living expenses and monthly debt obligations of the parties and their gross and net monthly earnings. The affidavits of parties applying for, or opposing, spousal or child support should be submitted fully completed on forms prescribed by the Court. If an affidavit is submitted on a form other than prescribed by the Court, it shall contain all the information required by the Court. Either party may file other affidavits in support of, or opposing, requests for temporary support. The request and affidavit of the party applying for temporary spousal or child support shall be served upon the opposing party or their counsel, if represented, pursuant to the Ohio Rules of Civil Procedure.

By leave of Court obtained prior to the date and time of the non-oral hearing specified in the notice of hearing on the financial affidavit, additional affidavits may be filed by either party subsequent to said non-oral hearing date, whereupon the court may *sua sponte* continue said non-oral hearing to an alternate date upon notice to all parties. In any event, should the filing of such additional affidavits cause the court to continue said non-oral hearing, the effective date of the court's order shall be

retroactive to the first Friday following the originally scheduled non-oral hearing date.

9.11 **Accuracy of Information.** All information contained in a financial affidavit must be accurate. Any information that is estimated must be identified as estimated. Similarly, inaccurate, understated, or exaggerated financial information may result in sanctions against the offending party including an immediate termination of an order based upon the information with retroactive application.

9.12 **Payments.** An order for payment of temporary spousal or child support shall be payable through the Fairfield County Child Support Enforcement Agency. A processing charge shall be added to the ordered payments. Such payments shall be made by means designated by the Fairfield County Child Support Enforcement Agency. Where employer information is available, the payments shall be by a wage withholding statement.

9.2 **Motion to Vacate the Premises.** A motion to vacate the premises shall state with particularity the reasons for the motion and shall be supported by an affidavit of the moving party or verified in the complaint setting forth the facts on which the motion is based.

No motion to vacate premises will be granted unless it is shown to the satisfaction of the Court upon oral hearing that:

- (1) acts of physical violence have occurred or are probable; or
- (2) threats of imminent serious physical harm have occurred; or
- (3) abuse has been committed toward any child; or
- (4) the opposing party has already vacated the premises, or
- (5) any other reasons justifying the relief demanded by the motion exists.

9.21 **Allocation of Expenses.** If the parties are living together, then the court in writing may allocate their living expenses and debt service and the children shall remain at the house until further order of the court.

9.3 **Standard Temporary Restraining Orders.** Upon the filing of any Complaint for Divorce, the Court shall, *sua sponte*, issue a reciprocal Restraining Order in the format approved by the Court, a copy of which is set forth in the Appendix to these rules. All entries submitted to the Court with Motions for Temporary Restraining Orders, issued pursuant to Civ. R. 75(l) shall be reciprocal and shall be submitted on forms prescribed by the Court. **Standard Temporary Restraining Orders may not be used to attempt to order custody. As to children, only the prohibition against removing children from the jurisdiction and changing their school placement is permitted. Any attempt to obtain custody on an ex parte basis must be accomplished pursuant to Local Rule 8.6. Any attempt on the part of an attorney to violate this Rule may result in sanctions against the offending attorney.** Attorneys may utilize their own forms, but the language of the restraining order shall be the same as the Court form. If restraining orders are submitted on forms other than the Court's form, it shall include the following certification which shall be signed by the attorney pursuant to Civ. R. 11:

"I hereby certify that the foregoing temporary restraining order is identical to the Court Order required by Local Rule 9.3."

Submitted by:

(Attorney's name)

The Court will not approve any temporary restraining order which is not on the Court's form or which does not include the foregoing language.

9.4 **Third Party/Special Restraining Orders.** In the event any party believes that a third party or special restraining order is necessary and authorized by Civ. R. 75(l), counsel making the request shall draw to the Court's attention the fact that the restraining order is a third party/special restraining order prior to the Court being requested to sign the same.

9.5 **Restraining Orders Granting Exclusive Occupancy.** When one party has voluntarily left the marital residence and established residence elsewhere, the party remaining in the marital residence may request a

restraining order prohibiting the other party from re-entering the marital residence except upon Court order. These restraining orders must be supported by separate affidavit and may not be used in situations where the other party has left the residence on a temporary basis. **Restraining orders granting Exclusive Occupancy may not be used to attempt to order custody. As to children, only the prohibition against removing children from the jurisdiction of the Court and changing their school placement is permitted. Any attempt to obtain custody in an ex parte basis must be accomplished pursuant to Local Rule 8.6. Any attempt on the part of an attorney to violate this rule may result in sanctions against the offending attorney.**

RULE 10.0
PRETRIAL REVIEWS

10.1 **Objective.** Unless waived by the Court, all contested domestic relations cases (i.e. where an answer has been filed) shall have a pretrial review. Such pretrial reviews shall be held with the intention of accomplishing the objectives set forth in Rule 16 of the Ohio Rules of Civil Procedure. The pretrial review shall be either a case management conference and/or, if applicable, a pretrial hearing and shall be held at such times as the Court shall direct.

10.2 **Pretrial Hearings.** A pretrial conference will be scheduled after the temporary order's date. Its purpose will be to narrow factual and legal issues by stipulations or motions and to set a settlement conference and trial date. Attorneys shall comply with the Pretrial Discovery Order on or before seven (7) days prior to the pretrial. At the time of the pretrial hearing, counsel shall be prepared to:

- (1) State your case clearly (theory and physical facts)
- (2) Inform the Court as to the progress of valuation of assets;
- (3) Advise the Court on the need and time for additional discovery.

Pretrial statements, if requested, shall be prepared and submitted to the Court at the pretrial hearing and shall include an updated and **accurate** itemization of the party's income and expenses with a full and accurate description of the nature and value of the assets and liabilities of the parties. It shall also list names and addresses of all witnesses. No witness, except for rebuttal, shall be permitted to testify, if not on the list, unless for good cause shown.

Parties shall be present at the pretrial hearing unless for good cause shown excused by the court in which event the party so excused must be accessible by phone.

The Court, in its discretion, may schedule more than one pretrial hearing in any case, and it may suspend the requirement for the filing of a pretrial statement pertaining to any pretrial hearing.

- 10.3 **Settlement conference.** A settlement conference will be scheduled about 90 days after the pretrial hearing and about 15 days before the trial date. This conference is to determine trial procedure, exchange expert reports and discuss settlement. The parties shall attend this conference or, if excused by the Court, be accessible by phone.

RULE 11.0
MEDIATION

- 11.1 **The Court incorporates by reference herein, R.C. 2710 “Uniform Mediation Act” (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities, and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.** All definitions found in the “Uniform Mediation Act” (UMA) R.C. 2710.01 are adopted by this Court through this local rule.
- 11.2 **Actions for divorce, annulment, legal separation, custody, or parenting time.** At any time, any action under the jurisdiction of this Court may be referred to mediation. After service of summons in an action for divorce, annulment or legal separation involving the allocation of parental rights and responsibilities or an initial action for custody or parenting time, the Court may order the parties to participate in mediation screening. Parties may also participate in mediation prior to or after the filing of a contempt motion for denial of parenting time. The Mediation Coordinator will also provide voluntary mediation screenings to parties wishing to mediate without litigation pending. If the Mediation Coordinator determines that mediation is appropriate for the parties, the parties shall participate in mediation.
- 11.3 **Post-decree motions to reallocate parental rights and responsibilities and contempt.** Upon the filing of a motion to modify the allocation of parental rights and responsibilities, the Court may order the parties to participate in mediation screening and mediation. The Court may order the parties to participate in mediation screening and mediation after the filing of a contempt motion for denial of parenting time. If the Mediation Coordinator determines that mediation is appropriate for the parties, the parties shall participate in mediation.

11.4 **Exemption from mediation.** The following actions may be exempted from mediation upon request of any party:

- (1) Cases in which a party does not have the capacity to mediate due to mental illness or domestic violence;
- (2) In emergency circumstances requiring an immediate hearing;
- (3) Cases in which the parties have achieved an executed Agreed Judgment Entry; or
- (4) If the parties have previously mediated the matters at issue.

11.5 **Mediation.** If the Mediation Coordinator determines that mediation is appropriate for the parties and the parties agree to or are ordered to mediate, then the parties shall participate in mediation with a court approved mediator. Mediation sessions may be convened from time to time until all issues are resolved in a manner mutually acceptable to the parties or until the mediator determines continued efforts would not be productive. Unless ordered to participate in mediation, the parties may agree to terminate mediation. The Court may order parties to participate in or return to mediation at any time. At the request of the parties or counsel, or upon the Court's own motion, the Court may stay proceedings for mediation for a period of time not to exceed ninety (90) days.

Parties are generally referred to mediation to mediate issues related to the allocation of parental rights and responsibilities. However, parties may agree to mediate issues other than, or in addition to, the allocation of parental rights and responsibilities, with the approval of their respective counsel or pursuant to court order.

All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the referral to mediation order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

Statements made by mediators shall not be construed as giving legal advice.

- 11.6 **Confidentiality / Privilege.** Pursuant and subject to the provisions of the UMA, O.R.C. 2710.01 to 2710.10, O.R.C. 3109.052, the Rules of Evidence, and any other pertinent judicial rule, all communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, Rules of Evidence and other pertinent judicial rules.

Upon the conclusion of the mediation, the mediator shall notify the Court whether the mediation occurred or was terminated, the attendance of the parties, whether the parties reached an agreement on all or some issues, and, if agreement has been reached, the content and details of the agreement. 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. Agreements reached in mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court.

- 11.7 **Participation.** Any mediator providing services for the Court shall utilize procedures that will:

- (1) 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.
- (2) Screen for domestic violence both before and during mediation.
- (3) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
- (4) Prohibit the use of mediation in any of the following:
 - (a) As an alternative to the prosecution or adjudication of domestic violence;

- (b) In determining whether to grant, modify or terminate a protection order;
- (c) In determining the terms and conditions of a protection order; and
- (d) In determining the penalty for violation of a protection order.

Nothing in this division of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

Further, any mediator providing services for the Court shall only conduct a mediation session where violence or fear of violence is alleged, suspected, or present, when the mediator has completed the specialized training specified herein and ensures that all of the following conditions are satisfied:

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

Party / Non-Party Participation

Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. All parties may have their attorney and/or other support persons attend the mediation. The Judge, Magistrate, and/or mediator may require the attendance of the parties' attorneys and/or the Guardian ad Litem at the mediation sessions if the mediator deems it necessary and appropriate.

If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge or Magistrate. By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B)(3) and 2710.04(A)(2).

If the opposing parties to any case are 1) related by blood, adoption, or marriage, 2) have resided in a common residence, or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the Court.

11.8 **Qualifications.** To be a court approved mediator for divorce, annulment, legal separation, post-decree and other cases involving the allocation of parental rights and responsibilities, a mediator shall possess the following qualifications:

(1) **General Qualifications and Training**

A mediator employed by the Court or to whom the Court makes referrals for mediation shall satisfy all of the following:

- (a) Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the Court, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the Court.
 - (b) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court.
 - (c) After completing the above training, complete at least forty (40) hours of specialized family or divorce mediation training which has been approved by the Dispute Resolution Section of the Supreme Court.
- (2) Specific Qualifications and Training: Domestic Abuse
A mediator employed by the Court or to whom the Court makes referrals for mediation of any case shall complete at least fourteen (14) hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution Section. A mediator who has not completed this specialized training may mediate these cases only if he/she co-mediate with a mediator who has completed the specialized training.
- (3) Adherence to the Model Standards of Practice for Family and Divorce Mediation.
- (4) Maintenance of appropriate liability insurance specifically covering the activities of the individual as a mediator.
- (5) Adherence to the ethical standards of any other profession that the mediator practices or in which the mediator is licensed.
- (6) A commitment to continuing education.

- (7) Awareness of the factors affecting the propriety of mediation in particular cases.
- (8) Substantial divorce and family mediation experience, or successful completion of a supervised domestic and family mediation apprenticeship.

11.9 **List of Court Approved Mediators.** The Court shall maintain a list of approved mediators.

All those on the list of approved mediators shall submit to the Court a regularly updated Curriculum Vitae (including a list of training related to the field of dispute resolution and professional or association memberships) which Curriculum Vitae shall be provided by the Court to those requesting information on an assigned mediator's qualifications to mediate a dispute pursuant to the requirements set forth in R.C. 2710.08(C).

The Court will review applications of persons seeking to be added to the list of approved mediators.

11.10 **Fees and Costs.** The parties shall equally divide the cost of mediation unless the parties agree upon or the Court orders a different division of the fee. Mediation is available at a reduced cost to low income parties or no cost to indigent parties.

11.11 **Sanctions.** If any individual fails to attend mediation as ordered by the Court, without good cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

RULE 12.0
PARENT EDUCATION CLASS

- 12.1 **General application.** All parents in divorce, legal separation or dissolution actions in which there are any minor children (or in post-decree actions involving parenting time or reallocation of parental rights and responsibilities) shall attend an educational seminar conducted by the Fairfield County Domestic Relations Court.
- 12.2 **Compliance.** Attendance at the seminar shall take place within 45 days after the filing of the action or motion. **No action or motion shall proceed to final hearing until there has been compliance with this rule; provided, however, that non-compliance by a parent who enters no appearance and does not contest the action shall not delay the final hearing.** This requirement may be waived by the Court for good cause shown. Proof of completing the seminar must be presented to the Court on or before the final hearing. Seminar attendance may be waived by the Court for good cause; however, any requests for waivers should be presented to the Court no later than 30 days before the final hearing.
- 12.3 **Procedure.** Each parent shall be responsible for registering for the class by calling (740) 438-5424 or by e-mail to fairfieldrtc@yahoo.com. It will not be required that both parents attend at the same time.

An instructional letter shall be included by the Clerk of Courts with service of process in each action for divorce or legal separation in which there are minor children and in each post-decree motion involving parenting time or reallocation of parental rights and responsibilities. At the time of filing, the Clerk of Courts shall provide a copy of the instructional letter to counsel for delivery to the plaintiff or movant and to pro se litigants. Counsel filing dissolution of marriage actions shall provide a copy of the instructional letter to both parties to the action.

12.4 **Post decree motions.** Seminar attendance may also be required by order of the Court in matters relating to (1) post-decree relief concerning custody or parenting time with minor children; (2) in parentage actions; (3) in parenting time actions brought under Revised Code Section 3109.11 or 3109.12; (4) domestic violence actions filed under Revised Code Section 3113.31; (5) or actions brought pursuant to the Uniform Child Custody Jurisdiction Act.

RULE 13.0
GUARDIAN AD LITEM

13.1 **Appointment.** The Court may appoint a Guardian ad Litem upon its own motion and shall appoint a Guardian ad Litem upon the motion of either party.

Counsel for the party requesting the Guardian ad Litem shall be required to notify the Assignment Commissioner of said request. The Assignment Commissioner and all counsel shall notify the Guardian ad Litem of all proceedings. It shall be the responsibility of counsel in the case to copy the Guardian ad Litem with all pleadings, notices of hearings and depositions, entries and any other necessary documents. Any additional expense incurred by the Guardian ad Litem as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party or parties responsible for such failure.

The Court will appoint a Guardian ad Litem from a list of eligible applicants. Whenever feasible, the same Guardian ad Litem shall be reappointed for a specific child in any subsequent actions relating to the best interest of the child.

The Guardian ad Litem shall represent the best interest of the minor child(ren) until discharged by the Court. At the conclusion of the litigation, the Guardian ad Litem shall prepare an entry withdrawing as the Guardian ad Litem and dismissing the child(ren) as parties.

13.2 **Training.** In order to serve as a Guardian ad Litem, an applicant shall have, at a minimum, the following training:

- (1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(2) The pre-service training course must be the six (6) hour Guardian ad Litem pre-service course provided by the Supreme Court of Ohio or the Ohio CASA/GAL Association's pre-service training program.

(3) The continuing education course must be at least three (3) hours in length and be provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association.

(4) If a Guardian ad Litem fails to complete a three (3) hour continuing education course within any calendar year, that person shall not be eligible to serve as a Guardian ad Litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three (3) calendar years or less, the person shall qualify to serve after completing a three (3) hour continuing education course offered under this rule. If the gap in continuing education is more than three (3) calendar years, that person must complete a six (6) hour pre-service education course to qualify to serve.

(5) An individual who is currently serving as a Guardian ad Litem on the effective date of this rule, or who has served during the five years immediately preceding the effective date, shall have one year from the effective date to obtain the required six (6) hour pre-service training in order to avoid removal from the Court's list of approved Guardians ad Litem.

(6) Attendance at an Ohio Guardian ad Litem Training Program approved by the Supreme Court of Ohio or at an Ohio CASA/Guardian Association pre-service training program at any time prior to the effective date of this rule shall be deemed compliance with the pre-service training requirement.

A Guardian ad Litem shall be responsible for providing the Court with a statement indicating compliance with all initial and continuing educational and training requirements. The compliance statement shall include

information detailing the date, location, contents and credit hours received for any relevant training course.

- 13.3 **Fees.** If any party has filed an affidavit of indigency, the Court may, in its discretion, not require that party to pay an initial deposit but the appointment of a Guardian ad Litem will not be made until the financial arrangements have been made and approved by the Court.

When a Guardian ad Litem requires fee arrangements inconsistent with those set forth in the required entry, he/she shall so notify the Court prior to accepting an appointment.

No later than seven (7) days after final hearing in the matter on which the Guardian ad Litem has been appointed, the Guardian ad Litem shall submit an affidavit of fees to the Court. If approved by the Court, said fees shall be made a part of the final entry. Nothing herein shall delay the filing of said entries, and they shall be filed in accordance with the Rules of the Supreme Court as to Civil Procedure and Superintendence.

In order to protect the fee for the services of the Guardian ad Litem, the Court shall have the discretion to issue a lump sum judgment against the party or parties for the fees due and owing at the time of the final adjudication.

- 13.4 **Duties.** In order to provide the Court with relevant information and an informed recommendation regarding the child's best interest, a Guardian ad Litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.

(1) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;

(2) Visit the child at his or her residence in accordance with any standards established by the Court in which the Guardian ad Litem is appointed;

(3) Ascertain the wishes of the child(ren);

- (4) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;
- (5) Review pleadings and other relevant court documents in the case in which the Guardian ad Litem is appointed;
- (6) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;
- (7) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;
- (8) Recommend that the Court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the Guardian ad Litem deems necessary or helpful to the Court; and
- (9) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.

A Guardian ad Litem shall immediately identify himself or herself as a Guardian ad Litem when contacting individuals in the course of a particular case and shall inform these individuals about the Guardian ad Litem's role and that documents and information obtained may become part of court proceedings.

A Guardian ad Litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and **shall have no *ex parte* communications with the Court regarding the merits of the case.**

A Guardian ad Litem is an officer of the Court and shall act with respect and courtesy to the parties at all times.

A non-attorney Guardian ad Litem must avoid engaging in conduct that constitutes the unauthorized practice of law, be vigilant in performing the

Guardian ad Litem's duties and request that the Court appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions on behalf of the Guardian ad Litem in the case.

A Guardian ad Litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A Guardian ad Litem shall avoid self-dealing or associations from which the Guardian ad Litem might benefit, directly or indirectly, except from compensation for services as a Guardian ad Litem.

Upon becoming aware of any actual or apparent conflict of interest, a Guardian ad Litem shall immediately take action to resolve the conflict, shall advise the Court and the parties of the action taken and may resign from the matter with leave of Court, or seek Court direction as necessary. Because a conflict of interest may arise at any time, a Guardian ad Litem has an ongoing duty to comply with this division.

A Guardian ad Litem shall promptly advise the Court of any grounds for disqualification or unavailability to serve.

When a Guardian ad Litem determines that a conflict exists between the child's best interest and the child's wishes, the Guardian ad Litem shall, at the earliest practical time, request in writing that the Court promptly resolve the conflict by entering appropriate orders.

As an officer of the Court, a Guardian ad Litem shall make no disclosures about the case or the investigation except in reports to the Court or as necessary to perform the duties of a Guardian ad Litem. A Guardian ad Litem shall maintain the confidential nature of personal identifiers, as defined in Rule 44 of the Rules of Superintendence, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A Guardian ad Litem may recommend that the Court restrict access to the report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person

for whom the Guardian ad Litem was appointed in accordance with Rule 45 of the Rules of Superintendence. The Court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure of or access to the information that addresses the need to challenge the truth of the information received from the confidential source.

A Guardian ad Litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney Guardian ad Litem may request timely Court reviews and judicial intervention in writing with notice to parties or affected agencies.

A Guardian ad Litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the Court monthly and provide a copy to each attorney and any party who is not represented by counsel.

- 13.5 **Powers.** The powers of the Guardian ad Litem shall be wide-ranging, including but not limited to, the right to review all confidential records involving the child(ren) by request, through deposition and by subpoena.

A Guardian ad Litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.

- 13.6 **Reports and Court Appearances.** The Guardian ad Litem shall be present at all hearings pertaining to the children. The Guardian ad Litem may subpoena and examine independent witnesses.

A Guardian ad Litem shall prepare a written final report, including recommendations to the Court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the Guardian ad Litem in reaching the Guardian ad Litem's recommendations and in accomplishing the duties required by statute, by Court rule, and in the Court's Order of Appointment. In addition, the following provisions shall apply to Guardian ad Litem reports:

The final report shall be filed with the Court and made available to the parties for inspection no less than seven (7) days before the final hearing, unless the due date is extended by the Court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the final report shall be provided to the Court at the hearing. The Court shall consider the recommendation of the Guardian ad Litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

- 13.7 **Communications.** Communications between the child(ren) and the Guardian ad Litem are not privileged.
- 13.8 **Fees and Costs.** All filing fees and court costs are waived as to Guardians ad Litem.
- 13.9 **Responsibilities of the Court.** The Court hereby appoints the Court Administrator to coordinate the application and appointment process, keep the files and records required by this rule, maintain information regarding training opportunities, receive written comments and complaints regarding the performance of Guardians ad litem practicing before the Court and perform other duties as assigned by the Court. The Court shall do all of the following:
- (1) Maintain a public list of approved Guardians ad Litem while maintaining individual privacy under Rules 44 through 47 of the Rules of Superintendence.
 - (2) The Court hereby establishes the following criteria, which shall be considered, along with all of the requirements of this rule, for appointment and removal of Guardians ad Litem to ensure an equitable distribution of the work load among the Guardians ad Litem on the list:
 - (a) Whether the Guardian ad Litem has been appointed to the case previously

- (b) Agreement of counsel(s) of the parties/conflict between the counsel(s) of the parties
- (c) Experience of the Guardian ad Litem, especially with specific issues in the case
- (d) Fees charged by the Guardian ad Litem
- (e) Location of the parties
- (f) Age(s) of the child(ren)
- (g) Gender of the child(ren)

(3) Maintain files for all applicants and for individuals approved for appointment as Guardians ad Litem with the Court. The files shall contain all records and information required by Rule of Superintendence 48 and Local Rules for the selection and service of Guardians ad Litem, including a certificate or other satisfactory proof of compliance with training requirements.

(4) Require all applicants to submit a resume or information sheet stating the applicant's training, experience and expertise demonstrating the person's ability to successfully perform the responsibilities of a Guardian ad Litem.

(5) Conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a Guardian ad Litem.

(6) Conduct, at least annually, a review of its list to determine that all individuals are in compliance with the training and education requirements of Rules of Superintendence 48 and Local Rules, that they have performed satisfactorily on all assigned cases during the preceding calendar year, and are otherwise qualified to serve.

(7) All individuals on the Guardian ad Litem list shall certify annually, by March 1st, they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with division 13.2 of this rule.

(8) The Court Administrator shall accept and consider written comments and complaints regarding the performance of Guardians ad Litem practicing before the Court. A copy of comments and complaints submitted to the Court shall be provided to the Guardian ad Litem who is the subject of the complaint or comment. The Court Administrator may forward any comments and complaints to the Administrative Judge of the Court for consideration and appropriate action. Dispositions by the Court shall be made promptly. The Court will maintain a written record in the Guardian ad Litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject Guardian ad Litem of the disposition.

RULE 14.0
HEARING/TRIAL ASSIGNMENTS

14.1 **Assignments.** All assignments of cases for a hearing or trial shall be made by the Assignment Commissioner. Where counsel requests a hearing date, it shall be set by the Assignment Commissioner. Requesting counsel shall notify opposing counsel of the hearing date; and failure to notify opposing counsel, or dilatory tactics by opposing counsel, may result in sanctions including an award of attorney fees to the aggrieved party. Notice of the hearing date shall be mailed or delivered forthwith to all interested counsel.

Cases are assigned to a Magistrate or to the Judge at the time the case is scheduled for pretrial. In the event that a case is assigned to a Magistrate, the case shall remain assigned to that Magistrate for all pretrial hearings, final hearings and post-decree motions, except upon a showing of cause. Any case that is dismissed and re-filed shall be reassigned to the Magistrate or Judge that was originally assigned to the case. (Note: The Magistrate who rules upon temporary orders may not necessarily be assigned the case. Likewise, cases heard by the Judge will not be assigned to a Magistrate until a post-decree motion is filed.

Counsel, upon filing a post-decree motion or re-filing a case that was previously dismissed, shall notify the Assignment Commissioner of the same so that the case can be reassigned to the appropriate Magistrate.

This rule shall not affect certain motions that are always heard by the Judge, i.e. MIMPS, Civ. R. 60(B) motions, exclusive occupancy hearings, and the like.

14.2 **Expedited hearings.** Any hearing involving an emergency situation may be expedited by requesting a need for an immediate hearing. Counsel should notify the Assignment Commissioner that the matter requires an

- immediate hearing. Every effort will be made to hear these matters as quickly as possible.
- 14.3 **Objections to Report.** No hearing dates will be assigned for a review of any objections to a Magistrate's Report, unless the Court directs otherwise. All objections to any report must conform with Civil Rule 53.
- 14.4 **Uncontested matters.** A divorce, annulment or legal separation case shall be deemed to be uncontested unless an answer, motion or stipulation for leave to plead is filed within 28 days after completion of service or publication. When such a case has been set down for final hearing as an uncontested case, the defendant may appear but may be precluded from presenting any evidence except by leave of Court for good cause shown.
- 14.5 **Final hearings.** A final hearing may be delayed where the parties have insufficient security deposits to cover the court costs or have failed to make any approved arrangements for the deferred payment of costs.

RULE 15.0
APPEARANCE/DISMISSALS

- 15.1 **Non-Appearance.** If a party seeking relief fails to appear on the scheduled trial or hearing date, either in person or by counsel, the Court may enter an order dismissing the action for want of prosecution. If the other party failed to appear, either in person or by counsel, and the party seeking relief does appear, the Court may allow the case to proceed and determine all matters.
- 15.2 **Capias.** Where a party or a witness has failed to appear, the Court will not, unless provided sufficient cause, issue a capias or bench warrant where the record reflects the party or witness was not personally served to appear.
- 15.3 **Not ready for trial.** A party and/or counsel shall be presumed ready for trial on the scheduled trial date. If a party and/or counsel appears but is not ready for trial and fails to show good cause for not being ready, the Court may enter an order dismissing the action for want of prosecution or proceed with the case and determine all matters.
- 15.4 **Dismissals.** Last minute requests for dismissals may subject the movant to sanctions including attorney fees.

RULE 16.0
CONTINUANCES

- 16.1 **Form.** Except in cases of emergency or by order of the Court on its own motion, a motion for a continuance of a cause after it has been set for trial/hearing must be in writing.
- 16.2 **Contents of Motion.** Each motion shall set forth the following:
- (a) the specific reasons for a continuance;
 - (b) if a conflict with another court hearing, a copy of the other court's notice must be attached;
 - (c) the number of prior continuances (Note: if there has been more than one prior request for a continuance, the motion must also be signed and authorized by the client);
 - (d) an averment that counsel has contacted opposing counsel and has obtained either approval or disapproval;
 - (e) the date of existing trial/hearing.
- 16.3 **Automatic Denial.** Where counsel fails to contact opposing counsel, the continuance may be denied irrespective of the basis for the request. Opposing counsel in this instance includes counsel where minimal effort or knowledge would have identified the attorney representing the opposing party. Where there is no counsel of record and one cannot be readily ascertained, then the opposing party should be served with a copy of the requested continuance.
- 16.4 **Unavailability of Witness.** A continuance of a cause may be granted on the ground of inability to produce the testimony of an absent witness when it is made clear that due diligence was used to procure such testimony. In order to obtain a continuance on this ground, the party making the application must support the same by affidavit stating therein what is expected to be proven by the appearance of such witness. If the Court finds the testimony so set forth to be immaterial or if both parties consent

to the reading of an affidavit into evidence, the application will not be sustained and the cause will proceed to trial.

- 16.5 **Trial/Hearing Conflicts.** Where a continuance of a cause is requested on the grounds that counsel of record in the case is already engaged on the date set for trial in another Court of record or a governmental bureau, proof of such prior assignment shall be attached to the motion for continuance which shall be filed forthwith following notification of the assignment of the case in this Court.
- 16.6 **Attached Entries.** All motions for a continuance shall be accompanied by a proposed entry granting the request to a new day certain. In the event a continuance is granted, the Court may, at its discretion, assess costs and expenses against the moving party.
- 16.7 **Continuance within seven days of Hearing/Trial Date.** Unless extraordinary circumstances are shown to exist, motions for continuances submitted within seven days of the trial/hearing date will automatically be denied.
- 16.8 **Submission of continuances.** A motion for continuance of a cause must be submitted to the Magistrate or Judge hearing that specific trial or hearing. A proposed entry granting the request to a new date certain must have a signature line for the Magistrate or Judge.

RULE 17.0
STANDARD PARENTING TIME ORDER
(Effective for cases decided after March 1, 2007)

17.1 **LOCAL PARENTING TIME.** The following schedule is applicable to those situations where the parties live within 150 miles of each other. The primary goal of any parenting time schedule is to maintain contact between the non-residential parent and the child(ren). The optimum parenting time schedule is where the parties agree to be as flexible as possible.

17.11 **Regular Parenting Time.** The non-residential parent shall have parenting time on alternate weekends from Friday, 6:00 p.m. until Sunday, 6:00 p.m.; however, if the preceding Friday or the following Monday of that weekend is a holiday during which the non-residential parent is scheduled to have parenting time, then parenting time will be expanded to include the holiday by beginning Thursday evening at 6:00 p.m. (if Friday is the holiday) or shall extend through Monday to 6:00 p.m. (if Monday is the holiday).

The non-residential parent will have mid-week parenting time of 5:00 p.m. to 8:00 p.m. on Wednesday evening every week. At the discretion of the non-residential parent, if he or she has the facilities and is able to take the child to school on Thursday morning this parenting time period may extend all night Wednesday and the non-residential parent must provide transportation and deliver the child to school on Thursday morning or to the residence of the residential parent or to daycare by 9:00 a.m. Thursday morning.

17.12 **Holidays.** For the following listed holidays:

- | | |
|----------------------------|---------------------|
| (1) Martin Luther King Day | (2) President's Day |
| (3) Easter or Passover | (4) Memorial Day |
| (5) July 4th | (6) Veteran's Day |
| (7) Labor Day | |

the parenting time schedule shall be:

For the years ending with an odd number, the non-residential parent shall have parenting time on the above odd numbered holidays, and the residential parent shall have parenting time on the above even numbered holidays. For the years ending with an even number, the non-residential parent shall have parenting time on the above even numbered holidays, and the residential parent shall have parenting time on the above odd numbered holidays. Parenting time shall be from 6:00 p.m. the day before the holiday to 6:00 p.m. of the holiday except that with notice to the other parent, the July 4th return may be delayed until the following morning at 9:00 a.m.; however, where a non-residential parent's work schedule would not permit this parenting time, the holiday parenting time will be restricted to the hours the non-residential parent can actually spend with the child(ren) between 9:30 a.m. to 8:30 p.m. (except July 4th as noted above) unless notice is given that the child(ren) will be staying with grandparents during the holiday parenting time. Holidays shall take precedence over regular weekend parenting time.

17.13 Days of Special Meaning. Mother's Day shall always be with the children's mother and Father's Day shall always be with the children's father, **regardless of the weekend parenting time schedule.** If the parties cannot agree, the times shall be 9:30 a.m. to 6:00 p.m.

The child(ren)'s birthdays shall always be with the mother in years ending with even numbers and always with the father in years ending with odd numbers. The non-residential parent must provide one week's notice of the intent to have parenting time for the birthday. If the parties cannot agree, the parenting time shall be 10:00 a.m. to 7:00 p.m. if the birthday falls on a non-school day for the child and a non-working day for the designated parent. If it is the child's school day or the designated parent's work day, the parenting time shall be 5:00 p.m. to 8:00 p.m. The child(ren)'s birthday parenting time schedules take precedent over all

other designated parenting times. Brothers and sisters shall be permitted to attend the birthday event.

17.14 Extended Holiday Periods. There are certain holiday periods where school age children receive additional time off from school during spring breaks, Thanksgiving and Christmas.

For the years ending in even numbers, the non-residential parent shall have, and for the years ending in odd numbers, the residential parent shall have parenting time as follows:

(1) Thanksgiving break: Wednesday before Thanksgiving from 6:00 p.m. to Friday after Thanksgiving at 6:00 p.m.

(2) Spring break: 6:00 p.m. the last day of school before break begins through 6:00 p.m. of the last day before school resumes. If the child is not of school age, the school schedule for the school district in which the residential parent resides shall determine the spring break dates.

17.15 Christmas Parenting Time. For the years ending in even numbers, the non-residential parent shall have, and for the years ending in odd numbers, the residential parent shall have Christmas parenting time from 6:00 p.m. on the last day of school before Christmas break until 2:00 p.m. on December 25.

For the years ending in odd numbers, the non-residential parent shall have, and for years ending in even numbers, the residential parent shall have Christmas parenting time from 2:00 p.m. on December 25 until 6:00 p.m. on January 1.

If the child is not of school age, the school schedule for the school district in which the residential parent resides shall determine the Christmas break dates.

17.16 Summer Vacations. The non-residential parent shall have the opportunity to have the child(ren) for five weeks during the summer vacation schedule which may be exercised in two blocks of no more than three weeks separated by at least 14 days. During summer vacation there will be reciprocal weekends and mid-week parenting time for the residential

parent. Provided also that the parties shall each have two weeks of uninterrupted parenting time with the children without parenting time with the other.

Both the residential parent and the non-residential parent shall provide the other party with notice of the weeks during which he or she intends to exercise summer vacation with the minor child(ren) on or before April 15 of that year. The non-residential parent's choice of vacation has priority over the residential parent's choice **unless** the residential parent's vacation is during a mandatory shut-down of that party's employer.

17.17 Transportation.

The non-residential parent is responsible for all transportation associated with midweek parenting time. The transportation associated with all other parenting times shall be equally divided between the parties as follows: The child(ren) shall be picked up at the home of the residential parent by the non-residential parent, or a designated driver, at the beginning of the non-residential parent's time. The residential parent, or a designated driver, shall pick up the child(ren) from the non-residential parent's home at the beginning of the residential parent's time.

17.2 LONG DISTANCE PARENTING TIME
(For Parties Residing Over 150 Miles Apart)

The intent of long distance parenting time (over 150 miles) is the same as when the parties are located reasonably close to one another and that is to maintain contact between the child(ren) and the non-residential parent. Both parties are encouraged to be as flexible as possible concerning parenting time.

17.21 Extended Holiday Periods. The non-residential parent shall have parenting time:

- (A) Thanksgiving: From 6:00 p.m. Wednesday (before Thanksgiving Day) to Sunday, 6:00 p.m.

(B) Spring Break: From 6:00 p.m. the last day of school before break begins to 6:00 p.m. of the day before school starts.

(C) Christmas Break: From 3:00 p.m. Christmas Day (or Hanukkah) to 6:00 p.m. on the last day before school resumes after New Year's Day.

If the child is not of school age, the school schedule for the school district in which the residential parent resides shall determine the Spring and Christmas break dates.

17.22 Summer Vacation. The non-residential parent shall have seven (7) weeks of summer parenting time with the child(ren) which shall be exercised at the discretion of the non-residential parent in two blocks of no more than four weeks separated by at least two weeks. During summer vacation there will be reciprocal weekends for the residential parent if travel time is less than six hours (round trip). In any event, with school age children, the child shall be returned to the residential parent at least one week prior to the start of school. The only exception would be where the residential parent's vacation is controlled by a mandatory shut-down of the employer's operations. The non-residential parent shall provide the residential parent with notice of the weeks during which he or she intends to exercise summer vacation with the minor child(ren) on or before April 15 of that year.

17.23 Additional Vacation Times. The non-residential parent may exercise additional parenting time with the child(ren) as follows:

(A) Where the travel time does not involve more than six hours (round trip), the non-residential parent may exercise each year one period of parenting time for a three day weekend during a holiday otherwise designated for a non-residential parent under Rule 17.12 beginning at 4:30 p.m. the day before the first day of the three day weekend to 8:30 p.m. of the last day of the three day weekend. The non-residential parent must provide a thirty day notice of intent to exercise this parenting time.

(B) If the non-residential parent elects to travel to the area where the child(ren) normally reside, the non-residential parent may exercise parenting time pursuant to Rule 17.13 except the following times would apply:

- (1) Mother's/Father's Day: 1:00 p.m. to 5:00 p.m.;
- (2) Non-residential Parent's Birthday: 1:00 p.m. to 5:00 p.m. (non-school days); 6:00 p.m. to 8:30 p.m. (school days); (if both parents have same birth date, they are to alternate).
- (3) Child(ren)'s Birthday: 1:00 p.m. to 5:00 p.m. (non-school days), 6:00 p.m. to 8:30 p.m. (school days).

(C) If the non-residential parent intends to exercise this additional parenting time, fourteen (14) days notice must be given to the residential parent. Unless the order or decree specifies otherwise, the non-residential parent shall be responsible for the costs of transportation for any parenting time exercised under this Section 17.23.

17.24 Transportation. Where the parties reside more than 150 miles apart, the parties will divide the hours of transportation and the expense as evenly as possible.

17.3 PARENTING TIME WITH INFANTS (AGE BIRTH TO 18 MONTHS)

The court recognizes that parenting time with infants raises special concerns for the parties because of the care, skill and needs of the baby or infant. During this most formative of times it is important that both parents are able to observe, share and participate in activities with the infant. The court encourages the non-residential parent to have frequent short visits with the infant at the beginning, with more and longer visits as the infant grows and the comfort level for the infant and parent increases.

17.31 Birth to twelve months. The non-residential parent shall have parenting time from 2:00 p.m. until 6:00 p.m. on Sundays and 5:00 p.m. to 8:00 p.m. on Wednesdays, every week.

17.32 **Twelve months to 18 months.** The non-residential parent shall have parenting time from 6:00 p.m. on Saturdays to 6:00 p.m. on Sundays, and from 5:00 p.m. to 8:00 p.m. on Wednesdays, every week.

17.33 **After 18 months.** Regular parenting time schedule applies.

17.34 **Special Situations.** If the parties have an infant who is younger than 18 months of age and either parent does not believe this infant schedule is appropriate in their circumstances then, upon the request of either parent, the court will schedule an oral hearing for the purpose of establishing a reasonable parenting time schedule. Said hearing will be scheduled for 30 minutes allowing each parent 15 minutes to present his/her case.

17.4 GENERAL RULES (APPLICABLE TO ALL PARENTING TIME ORDERS)

(A) **Notice.** Parents have a right to visit their child(ren) and the child(ren) has the right to prepare for and expect a visit. Notice of the intent not to visit shall be given 24 hours in advance. The child(ren) must only be available for 30 minutes past the scheduled pick-up time unless prior arrangements have been made by the parties.

(B) **Special situations.** When the residential parent will be gone overnight regardless of the age of the child(ren), the non-residential parent shall be afforded the opportunity to exercise overnight parenting time.

(C) **Telephone.** Each parent shall have telephone contact of reasonable frequency and duration with the child(ren) while in the physical custody of the other parent. Each parent shall provide the other with appropriate telephone numbers.

(D) **Address.** Each parent shall provide the other parent and the Court with any change in residential address promptly and in accordance with the Notice of Relocation required by the Ohio Revised Code.

RULE 18.0
HEARINGS/TRIALS

18.1 **With a Pretrial Hearing.** In all trials or hearings before the Court where a pretrial hearing has been conducted, the following matters shall be accomplished prior to and without delaying the trial/hearing.

(A) All exhibits shall be marked and reviewed by both counsel. In addition, a list of exhibits to be offered by each party shall be submitted to the Court and opposing counsel.

(B) All stipulations are to be in writing, approved by the parties or their counsel and filed with the Court unless waived by the Court.

(C) If a trial brief has been requested by the Court, counsel shall serve it upon opposing counsel. The trial brief shall contain at least the following material:

(1) a clear statement of the issues involved;

(2) a summary of the factual situation in regard to each claim or defense;

(3) the nature of the relief specifically sought.

18.2 **Without a Pretrial Hearing.** In all trials or hearings before the Court where a pretrial hearing has not been held, counsel for all parties are expected to comply with Rule 18.1 as reasonably as can be anticipated.

18.3 **Jury Trials.** In all jury trials in addition to the requirements of Rule 18.1, counsel for all parties shall:

(A) Review jury questionnaires before trial. Failure to do so will preclude counsel from asking questions where answers were readily available in the questionnaires.

(B) Be present with their clients in the courtroom fifteen minutes before the trial commencement time.

(C) Question only those jurors in the jury box. Be aware that all challenges for cause and preemptory are outside the hearing of the jury.

(D) Have citations of authority accompanying any written proposed jury instructions.

- 18.4 **Conduct.** Counsel and their parties shall be present in the courtroom promptly on the date and time of the trial/hearing. Counsel will advise their clients and witnesses to remove all chewing gum, chewing tobacco, or snuff which would impair their testimony.
- 18.5 **Time of Trial.** The trial or hearing shall begin promptly on the date and time set, and no delay shall be permitted for additional negotiations between the parties, unless prior approval is received from the Court. Failure to comply with this rule will result in a continuance of the hearing with sanctions against the counsel and/or the parties.
- 18.6 **Examination of Witnesses.** Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding, and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.
- 18.7 **Video Depositions.** The Court has audio-visual playback capability. If use of the equipment is necessary, the Bailiff must be notified three days in advance of the time it will be needed.
- 18.8 **Argument Limitations.** In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument as it may deem reasonable.

In contested divorce, annulment or legal separation matters, the Court may require counsel for each party to submit a proposed decree incorporating their respective views of the evidence. The Court may request proposed decrees in lieu of closing arguments.

RULE 19.0
MAGISTRATE

19.1 **Appointment.** A court of record may appoint one or more magistrates who shall be attorneys at law admitted to practice in Ohio. The order of reference assigns to the magistrate all Fairfield County Domestic Relations Court matters that the magistrate can lawfully handle.

19.2 **Compensation.** The compensation of the magistrate shall be fixed by the court, and no part of the compensation shall be taxed as costs.

19.3 **Reference and Powers.**

(1) **Order of reference.**

(a) A court of record may by order refer any of the following to a magistrate:

- (i) any pretrial or post-judgment motion in any case;
- (ii) the trial of any case that will not be tried to a jury; and
- (iii) upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury.

Except as provided in division (C)(1)(a)(iii) of this rule, the effect of a magistrate's order or decision is the same regardless of whether the parties have consented to the order of reference.

(b) Subject to division (C)(1)(a)(ii) and (iii) of this rule, an order of reference may be specific to a particular case or may refer categories of motions or cases.

(c) The order of reference to a magistrate may do all of the following:

- (i) specify or limit the magistrate's powers;
- (ii) direct the magistrate to report only upon particular issues, do or perform particular acts, or receive and report evidence only;
- (iii) fix the time and place for beginning and closing the hearings and for the filing of the magistrate's decision.

- (2) **General powers.** Subject to the specifications and limitations stated in the order of reference, the magistrate shall regulate all proceedings in every hearing as if by the court and do all acts and take all measures necessary or proper for the efficient performance of the magistrate's duties under the order. The magistrate may do all of the following:
- (a) issue subpoenas for the attendance of witnesses and the production of evidence;
 - (b) rule upon the admissibility of evidence, unless otherwise directed by the order of reference;
 - (c) put witnesses under oath and examine them;
 - (d) call the parties to the action and examine them under oath.
 - (e) In cases involving direct or indirect contempt of court, and when necessary to obtain the alleged contemner's presence for hearing, issue an attachment for the alleged contemner and set bail to secure the alleged contemner's appearance, considering the conditions of release prescribed in Crim. R. 46.
- (3) **Power to enter orders.**
- (a) **Pretrial orders.** Unless otherwise specified in the order of reference, the magistrate may enter orders without judicial approval in pretrial proceedings under Civ. R. 26 to 37, temporary restraining orders under Civ. R. 75(H), in hearings under Civ. R. 75(M), and other orders as necessary to regulate the proceedings.
 - (b) **Appeal of pretrial orders.** Any person may appeal to the court from any order of a magistrate entered under division (C)(3)(a) of this rule by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten days after the magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order unless the magistrate or the court grants a stay.

- (c) **Contempt in the magistrate's presence.** In cases of contempt in the presence of the magistrate, the magistrate may impose an appropriate civil or criminal contempt sanction. Contempt sanctions under division (C)(3)(c) of this rule may be imposed only by a written order that recites the facts and certifies that the magistrate saw or heard the conduct constituting contempt. The contempt order shall be filed and a copy provided by the clerk to the appropriate judge of the court forthwith. The contemnor may by motion obtain immediate review of the magistrate's contempt order by a judge, or the judge or magistrate may set bail pending judicial review.
- (d) **Other orders.** Unless prohibited by the order of reference, a magistrate shall continue to be authorized to enter orders when authority is specifically conveyed by statute to magistrates or referees.
- (e) **Form of magistrate's orders.** All orders of a magistrate shall be in writing, signed by the magistrate, identified as a magistrate's order in the caption, filed with the clerk, and served on all parties or their attorneys.

19.4 **Proceedings.**

- (1) All proceedings before the magistrate shall be in accordance with these rules and any applicable statutes, as if before the court.
- (2) Except as otherwise provided by law, all proceedings before the magistrate shall be recorded in accordance with procedures established by the court.

19.5 **Decisions in referred matters.** Unless specifically required by the order of reference, a magistrate is not required to prepare any report other than the magistrate's decision. Except as to those matters on which magistrates are permitted to enter orders without judicial approval pursuant to division (C)(3) of this rule, all matters referred to magistrates shall be decided as follows:

- (1) **Magistrate's decision.** The magistrate promptly shall conduct all proceedings necessary for decision of referred matters. The magistrate shall prepare, sign, and file a magistrate's decision of the referred matter with the clerk, who shall serve copies on all the parties or their attorneys.
- (2) **Findings of fact and conclusions of law.** If any party makes a request for findings of fact and conclusions of law under Civ. R. 52 or if findings and conclusions are otherwise required by law or by the order of reference, the magistrate's decision shall include proposed findings of fact and conclusions of law. If the request under Civ. R. 52 is made after the magistrate's decision is filed, the magistrate shall include the findings of fact and conclusions of law in an amended magistrate's decision.
- (3) **Objections.**
 - (a) **Time for filing.** Within fourteen days of the filing of a magistrate's decision, a party may file written objections to the magistrate's decision. If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law under Civ. R. 52, the time for filing objections begins to run when the magistrate files a decision including findings of fact and conclusions of law.
 - (b) **Form of objections.** Objections shall be specific and state with particularity the grounds of objection. If the parties stipulate in writing that the magistrate's findings of fact shall be final, they may object only to errors of law in the magistrate's decision. Any objection to a finding of fact 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 party shall not assign as error on appeal the court's adoption of any

finding of fact or conclusion of law unless the party has objected to that finding or conclusion under this rule.

(4) **Court's action on magistrate's decision.**

- (a) **When effective.** The magistrate's decision shall be effective when adopted by the court. The court may adopt the magistrate's decision if no written objections are filed unless it determines that there is an error of law or other defect on the face of the magistrate's decision.
- (b) **Consideration of objections.** Upon consideration of any objections, the court may adopt, reject, or modify the magistrate's decision, hear additional evidence, recommit the matter to the magistrate with instructions, or hear the matter. The court may refuse to consider additional evidence proffered upon objections unless the objecting party demonstrates that with reasonable diligence the party could not have produced that evidence for the magistrate's consideration.
- (c) **Permanent and interim orders.** The court may adopt a magistrate's decision and enter judgment without waiting for timely objections by the parties, but the filing of timely written objections shall operate as an automatic stay of execution of that judgment until the court disposes of those objections and vacates, modifies or adheres to the judgment previously entered. The court may make an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. An interim order shall not be subject to the automatic stay caused by the filing of timely objections. An interim order shall not extend more than twenty-eight days from the date of its entry unless, within that time and for good cause shown, the court extends the interim order for an additional twenty-eight days.

RULE 20.0
OBJECTIONS TO PROPOSED DECISIONS

- 20.1 **Objections.** Any objections filed by a party pursuant to Civil Rule 53 shall be specific and state with particularity the grounds therefore. The party shall specify which finding of fact and/or conclusions of law is objectionable.
- 20.2 **Service.** In addition to serving a copy of the objections upon opposing counsel or parties, counsel must verify that a copy of the objections has been provided to the Court Administrator.
- 20.3 **Transcripts.** If a transcript, or parts thereof, is required to support a party's objections, the party shall request by written motion an extension of time in which to have the transcript prepared. A transcript shall be required if the parties objections relate to the magistrate's findings of fact, unless the parties stipulate as to the facts in issue. If there is a delay caused by the preparation of a transcript, the Court may make such temporary orders as is deemed necessary and just including the requirement that the party requesting the extension post bond to cover any damages the opposing party may suffer because of the delay. A ruling on the objections shall be made by the Court without a hearing unless the Court deems a hearing is necessary.
- 20.4 **Payment of Transcript.** Where a party requests the preparation of a complete or partial transcript, the request must be made in writing to the Court Reporter. The party must deposit with the Court Reporter sufficient monies to cover the costs of preparation. The amount of the deposit shall be determined by the Court Reporter and must be deposited within seven days after notice from the Court Reporter unless the time is extended by an order of the Court. Failure to deposit the required amount will equate to a waiver of any objections to the report.

20.5 Filing Requirements and Times. As provided in the Ohio Rules of Civil Procedure, a party may file objections to a Magistrate's report within fourteen days of the filing of the report. This time limitation will not be extended by Civil Rule 6.

Within ten days, opposing parties may file objections to the report or a response or memorandum contra to the first objections. If the second party files objections, the first party may, within ten days, file a response or memorandum contra. No other filings will be permitted and such filings will be subject to a motion to strike.

20.6 Effective Dates of Orders. While objections to the Magistrate's report may stall the execution of any recommended orders, it will not change the effective date of recommendations unless the Court indicates otherwise in a subsequent order.

RULE 21.0
MEMORANDUM ENTRY

21.1 **Procedure - Scheduled Hearings.** Where any issue has been set for an oral hearing, it is expected that both counsel and parties are prepared to go forward with the presentation of their evidence.

The commencement of a hearing may be delayed where negotiations between the parties will be meaningful and result in stipulations or settlement of contested issues.

Where parties and counsel have appeared on the day of the hearing and have negotiated a settlement of the contested issues, a written memorandum entry shall be prepared.

Both parties and counsel shall sign the memorandum entry and submit the memorandum to the Court for approval.

The Court shall designate its approval by signing the memorandum. Once signed by the Court, the memorandum entry shall be filed with the clerk's office and placed in the case file.

21.2 **Procedure - Mediation.** Where the parties have reached an agreement through mediation, the written agreement must be signed by the parties and counsel (if applicable) and submitted to the Court. If the Court approves the agreement it shall be filed with the clerk's office and placed in the case file.

21.3 **Entry requirements.** Except as provided in Local Rule 22.5, within 30 days counsel or non-represented parties shall prepare and submit to the Court an entry incorporating the terms of the memorandum entry or mediation agreement.

21.4 **Failure to submit entry.** If counsel and/or parties fail to submit an entry within the required time period, the Court may dismiss the matter.

RULE 22.0
ENTRIES/ORDERS

22.1 **Preparation.** When counsel is directed by the Court to prepare the proper entry and submit it together with approval of opposing counsel to the Court for signature, the following time limitations and procedures shall apply:

The entry shall be submitted to the Court within **fifteen (15) days** unless directed otherwise by the Court.

If the entry has not been filed after fifteen days, the Court shall contact the responsible attorney to determine the cause of delay. If the delay is due to opposing counsel refusing to approve it, counsel shall submit it to the Court without said approval with the notation “submitted but not approved”. Opposing counsel may, instead of approving the entry, forthwith submit objections to the proposed entry. The Court may sign the entry as submitted or modify it and thereafter have it filed with the Clerk.

If the delay is due to the failure of opposing counsel or party to respond, the preparer shall submit the entry to the Court with the notation “submitted but not returned”.

22.2 **Signing of Entries.** Entries and applications for special orders may be presented by counsel or an agent for signing at the opening of a session or in chambers at the convenience of the Court.

Once an entry or order has been signed by the Court, absolutely no interlineation, deletions or additions are to be made without proper approval of the Court, Magistrate or Court Administrator.

22.3 **Entry Contents.** All final entries or any entries ordering or modifying spousal support or child support, custody, visitation or the payment of any expenses relating to the parties’ children shall not be accepted for filing by the Clerk of Courts without the current address, social security number and date of birth of each party. This order must be followed unless there is a waiver of this requirement by the Court, Magistrate or Court

Administrator; or an affidavit from the filing party indicates that such information is unavailable.

Where orders or entries require payment for any type of support to be made through the Child Support Enforcement Agency and the designated amounts do not include processing charge, Enforcement Agency shall be permitted to assess the applicable processing charge by adding the processing charge to the designated figure.

22.4 **Decrees with children.** No decree will be signed where there is a failure to comply with Local Rule 12.0.

22.5 **Decrees.** When counsel is directed by the Court to prepare a final decree of divorce and submit it together with approvals of opposing counsel to the Court for signature, the following time limitations and procedures shall apply:

The final decree **shall** be submitted to the Court within **ninety (90) days** of the final hearing. No extensions will be granted. Failure to file the decree will result in dismissal of the case. No reinstatements will be permitted.

All decrees for divorce, legal separation, annulment, and dissolution must contain current addresses of the parties and each party must have a different address. The Court will not accept a final decree where the parties have the same address.

Each dissolution of marriage decree must have a separation agreement attached to it even if it is the same agreement filed with the petition. Failure to attach a separation agreement to the decree may cause the matter to be continued or a delay in the court signing the decree. Orders or entries resulting from trials or hearings conducted by the Magistrate shall contain an approval line for the Magistrate and Judge.

22.6 **QDRO's.** In all final decrees that require Qualified Domestic Relations Orders for retirement plans of both or either party, the decree shall be worded to place responsibility for the preparation and submission of the Qualified Domestic Relations Order upon the primary participant in the

plan. The decree shall also include a requirement that the Qualified Domestic Relations Order be submitted to the retirement plan administrator no later than 30 days after the final decree has been filed.

22.7 **Hearing Dates.** Where the parties are able to reach an agreement before the scheduled hearing date, the agreed entry **must** contain a statement that any pending hearing date is to be canceled unless other issues remain to be resolved. It is the responsibility of the parties and/or attorneys to contact the Assignment Commissioner to cancel any pending hearing dates from the court docket.

RULE 23.0
FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 23.1 **Procedure.** A request for findings of fact and conclusions of law must comply with Civil Rule 53.
- 23.2 **Proposed Findings of Fact and Conclusions of Law.** When a request for findings of fact and conclusions of law is made, the Court may direct each counsel to submit proposed findings of fact and conclusions of law. Each counsel shall submit their respective proposed findings of fact and conclusions of law within seven (7) days unless otherwise directed by the Court. A copy of all requests for, and proposed, findings of fact and conclusions of law must be submitted to the Court Administrator (see local rule 3.0). Failure to submit the proposed findings of fact and conclusions of law within the required time will constitute a waiver of the party's right to request findings of fact and conclusions of law. However, only the findings of fact and conclusions of law issued by the Court shall form part of the record.
- 23.3 **Contents.** Succinctly, proposed findings of fact must contain findings of fact and proposed conclusions of law must contain conclusions of law. Reiterating the testimony of witnesses does not comply with a request for proposed findings of fact. Any proposed findings of fact and conclusions of law submitted by counsel that are poorly drafted or that contain arguments, opinions of counsel or facts obtained after the hearing will be rejected and the Court may return the proposed findings of fact and conclusions of law to counsel to be redone or the Court may reject the proposed findings of fact and conclusions of law and deem the request for findings of fact and conclusions of law to be waived.

RULE 24.0
STATEMENTS OF EVIDENCE

- 24.1 **Procedure.** Where no record has been made of the proceedings or the record is incomplete, counsel may supplement the record with a statement of evidence prepared pursuant to Appellate Rule 9(C). **A file-stamped copy of the statement of evidence must be submitted to the Court Administrator.** It is the responsibility of counsel to insure that the file-stamped copy is immediately provided to the Court Administrator.
- 24.2 **Resolution of objections.** Where there are objections or proposed amendments to the statement, the Court shall resolve the conflict or objection by submitting a “Trial Court’s Statement of the Evidence.” **A file-stamped copy of all objections or proposed amendments must be immediately provided to the Court Administrator.** Failure to provide the Court Administrator a copy may result in an incomplete record before the Court of Appeals.

RULE 25.0
CHILD SUPPORT ENFORCEMENT AGENCY

- 25.1 **Duties.** It shall be the duty of the Child Support Enforcement Agency to collect and disburse spousal support and/or child support payments and maintain records of the same. The Child Support Enforcement Agency shall maintain a file for each order under the jurisdiction of the Fairfield County Domestic Relations Court and shall conduct administrative procedures and provide services required under Ohio and federal law.
- 25.2 **Copies of Orders.** A copy of every order establishing or affecting a spousal and/or child support obligation shall be furnished to the Child Support Enforcement Agency.
- 25.3 **Wage Assignments.** The agency shall be responsible for the preparation of all income withholding orders, benefit withholding orders, lump sum orders, notices to income providers, and administrative orders for income withholding. The agency shall forward all withholding orders to the parties and income providers. If an entry or order is not prepared by the agency, counsel shall be responsible for providing the complete name and address of the withholding agent directly to the CSEA. The agency shall be responsible for subsequent activity pertaining to the withholding orders. The agency shall provide the required forms to effectuate the income withholding.
- 25.4 All support orders issued or modified by the Court must contain the language set forth in "Exhibit A" and "Exhibit B" attached hereto.
- 25.5 **Required Notice Language.** Pursuant to Section 3121.29 of the Revised Code, each support order, or modification of support order, shall contain a notice that states the following in **boldface** type and in ALL CAPITAL LETTERS:

**EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY
THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING
OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT**

RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER'S LICENSE NUMBER, AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE COURT OR AGENCY, WHICHEVER ISSUED THE SUPPORT ORDER. IF YOU ARE THE OBLIGOR UNDER A CHILD SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY BE FINED UP TO \$50 FOR A FIRST OFFENSE, \$100 FOR A SECOND OFFENSE, AND \$500 FOR EACH SUBSEQUENT OFFENSE. IF YOU ARE AN OBLIGOR OR OBLIGEE UNDER ANY SUPPORT ORDER ISSUED BY THE COURT AND YOU WILFULLY FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY BE FOUND IN CONTEMPT OF COURT AND BE SUBJECTED TO FINES UP TO \$1000 AND IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

IF YOU ARE AN OBLIGOR AND YOU FAIL TO GIVE THE REQUIRED NOTICES YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU: IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE, DRIVER'S LICENSE, OR RECREATIONAL LICENSE; WITHHOLDING FROM YOUR INCOME, ACCESS RESTRICTIONS AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS; AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION.

Additionally, if there is a child support order involved, the following language shall occur:

THE PARENT WHO IS THE RESIDENTIAL PARENT AND LEGAL CUSTODIAN OF A CHILD FOR WHOM A CHILD SUPPORT ORDER IS ISSUED OR THE PERSON WHO OTHERWISE HAS CUSTODY OF A CHILD FOR WHOM A CHILD SUPPORT ORDER IS ISSUED IMMEDIATELY SHALL NOTIFY, AND THE OBLIGOR UNDER A CHILD SUPPORT ORDER MAY NOTIFY, THE CHILD SUPPORT ENFORCEMENT AGENCY ADMINISTERING THE CHILD SUPPORT ORDER OF ANY REASON FOR WHICH THE CHILD SUPPORT ORDER SHOULD TERMINATE, WITH RESPECT TO A COURT CHILD SUPPORT ORDER, A WILLFUL FAILURE TO NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY AS REQUIRED BY SECTION 3119.87 OF THE REVISED CODE IS CONTEMPT OF COURT.

All such orders shall also contain language requiring the notices required by Section 3119.87 as set forth above shall be sent to Job &

Family Services, Child Support Enforcement Agency, 239 West Main Street, Lancaster, OH 43130.

The following language is also required by Section 3119.32 of the Revised Code and shall appear in cases where a party is required to obtain health care insurance coverage for a child:

IF THE PERSON REQUIRED TO OBTAIN HEALTH CARE INSURANCE COVERAGE FOR THE CHILDREN SUBJECT TO THIS CHILD SUPPORT ORDER OBTAINS NEW EMPLOYMENT, THE AGENCY SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 3119.32 OF THE OHIO REVISED CODE, WHICH MAY RESULT IN THE ISSUANCE OF A NOTICE REQUIRING THE NEW EMPLOYER TO TAKE WHATEVER ACTION IS NECESSARY TO ENROLL THE CHILDREN IN HEALTH CARE INSURANCE COVERAGE PROVIDED BY THE NEW EMPLOYER.

25.6 Preservation of Assigned Support Rights. The following language is required in all divorce, dissolution, and any other order or decree providing for child support.

IT IS FURTHER ORDERED that all child support arrearages for the minor children herein payable either by temporary or final order accruing during any period of time when either parent assigned support rights and received or receives benefits from any Department of Human Services for said children shall survive and continue as an enforceable obligation due the Department of Human Services that provided said benefits, until paid in full.

25.7 Termination of Support Orders. All entries terminating support prior to submission to the court for approval shall first be submitted to the CSEA for certification that no support arrearage exists and the CSEA shall enter its approval thereon. If arrearages are owed, the amounts due shall be paid before certification of the entry by the CSEA or submission of the entry to the court for approval.

25.8 CSEA Pretrial Procedures. All motions filed by the CSEA in the Domestic Relations Division of the Common Pleas court except for motions to impose shall first be scheduled for a pretrial hearing to be held in the CSEA hearing room or other location as indicated in the notice of hearing. The parties are required to attend the pretrial hearings and to be

prepared to produce at the hearings all subpoenaed items. If all issues are not resolved at the CSEA pretrial hearing, the Magistrate's Office will be contacted while the parties are present at the hearing for the scheduling of a final hearing date and time. The CSEA representative will serve the parties with written notice of the final hearing date and time before the Magistrate prior to the termination of the pretrial. The parties are required to attend the final hearing pursuant to the served written notice.

- 25.9 **Temporary Orders for Support.** In any entry wherein counsel desires to preserve support arrearages accruing from temporary orders, counsel shall specifically provide in said entry that the temporary arrearages survive and shall specify the exact amount of the surviving arrearage.
- 25.10 **Rules of Procedure for CSEA Administrative Hearings.** The CSEA is authorized to adopt rules of procedure for all administrative hearings conducted by the agency. Attached hereto and incorporated herein is "Exhibit C", copies of rules currently in effect.
- 25.11 **Certification of Support Arrearages.** The CSEA shall provide certification of support arrearages upon receipt of a written request from the parties or counsel. All written requests must identify the parties and case number and date of last support order, if known. All written requests must be received by the CSEA no less than fourteen (14) days before the date that the certification is required to be completed.

“EXHIBIT A”

GENERAL PROVISION FOR INCOME WITHHOLDING IN COURT ORDERS

The following language **MUST** appear in **ALL** support orders issued or modified by a court:

“ALL SUPPORT UNDER THIS ORDER SHALL BE WITHHELD OR DEDUCTED FROM THE INCOME OR ASSETS OF THE OBLIGOR PURSUANT TO A WITHHOLDING OR DEDUCTION NOTICE OR APPROPRIATE ORDER ISSUED IN ACCORDANCE WITH CHAPTERS 3119., 3121., AND 3125, OF THE REVISED CODE OR A WITHDRAWAL DIRECTIVE ISSUED PURSUANT TO SECTIONS 3123.24 TO 3123.38 OF THE REVISED CODE AND SHALL BE FORWARDED TO THE OBLIGEE IN ACCORDANCE WITH CHAPTERS 3119., 3121., 3123., AND 3125 OF THE REVISED CODE.”

“EXHIBIT B”

Pursuant to Ohio Revised Code Section 3121.28 which requires that all child support orders be specified in a monthly amount due, it is further ORDERED that Defendant, _____, shall pay child support of \$_____ per month, plus processing charge, for current support to be discharged in equal amounts according to the pay schedule of the obligor. In the event the discharge of this support order is in increments less than monthly, the Fairfield County Child Support Enforcement Agency shall administer this order on a monthly basis in the amount as set out above.

Each party to the support order has a right to request a review of the order thirty-six months from the establishment of the order or from the date of the most recent review, or sooner, if certain circumstances are present. Contact the CSEA for further details.

"EXHIBIT C"

The following rules of procedure will be effective for all Administrative Hearings conducted by the Fairfield County Child Support Enforcement Agency as of March 1, 1994.

Said rules are pursuant to and in conformity with the procedures set forth in the Ohio Department of Job & Family Services Child Support Enforcement Manual.

1. The CSEA hearing authority shall permit a request for one postponement per party of the original scheduled date for the hearing based on "good cause", provided the request is received before the scheduled date.

"Good cause" is defined as circumstances which would reasonably prevent attendance at the hearing. The hearing must be rescheduled within fifteen (15) days of the original date.

2. Either party may bring a legal or other authorized representative to the hearing. The hearing officer may exclude any individual who does not have a valid interest in the proceedings.
3. The party requesting the hearing must be personally present for the hearing. Failure of the party requesting the hearing to personally appear for the hearing will result in a dismissal of the requested hearing.
4. The party and their authorized representative, if any, must appear for the hearing at the scheduled time or within twenty (20) minutes following the scheduled time. Failure to appear within these time limitations will result in a dismissal of the requested hearing.
5. All other procedures as set forth in the Ohio Department of Job & Family Services Child Support Enforcement Manual and the Ohio Administrative Code shall apply to the administrative process.

RULE 26.0
DEPOSITS/COSTS

26.1 **Payment of Court Costs.** From the initial filing of any complaint, petition or post-decree motion, the Clerk of Courts shall closely monitor the costs of each case. Where a security deposit fails to cover the costs as they accrue, the Clerk shall notify the party and/or counsel that an additional deposit must be posted within five (5) days. If the additional requested funds are not deposited within five (5) days, the Clerk shall promptly notify the Court. The Court will immediately schedule a hearing on the issue of costs to ascertain the basis for noncompliance. No other hearings will be held in the case until the costs hearing has been completed. The hearing may be avoided should the parties submit a proposal of payment to the Court Administrator and the Court Administrator approves the proposal.

26.11 **Affidavits of Indigency.** Where the Clerk has accepted any filing with an affidavit averring the party cannot financially prepay the costs, the Clerk shall immediately notify the Court. The Court in turn may request additional financial information from the party asserting financial inability to prepay costs.

The Court will review the financial information to determine the affiant's indigency. If the Court finds the information sufficient to determine indigency, the Court will issue an order to the Clerk to accept all subsequent filings without prepayment of costs. If the party avers at the final hearing of the new case that their financial status has not changed, the Court will enter an order directing the Clerk to waive payment of any costs assessed to that party.

If the financial information is not filed within the specified times, the Court shall set a hearing to determine the party's ability to pay any costs assessed against that party. If any request for affidavits

fail to provide sufficient information, the Court may set a hearing on the issue of the payment of courts costs before the final hearing.

All affidavits should include a proposal of deferred payments of costs or a statement that the party is financially unable to make any deferred payments toward the costs. All costs payment determination hearings will be scheduled before any final hearing is held.

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

26.3 **Designation of Deposits.** On or before the tenth of January of each calendar year, the Clerk shall prepare a list of proposed amounts for security deposits in the filing of various pleadings, motions and documents in the Domestic Relations Division of the Fairfield County Common Pleas Court.

If approved by the Domestic Relations Court, the Clerk shall journalize the costs and form the list of security deposits which will be effective for the remainder of the calendar year.

If the Clerk fails to submit a proposed list by the tenth of January, the deposits approved the previous year shall carry over and remain in effect for the new year or until revised by the Court or statute.

26.31 **Schedule of Deposits.** Unless waived by the Court upon a showing of good cause, deposits for costs must be made with the Clerk of Courts when pleadings are filed in the following matters:

Complaints for Divorce, Legal Separation, Annulment,
Custody, Petitions for Dissolution of Marriage,

Private Parenting Actions, Cross-Claims, Counter Claims _____	\$250.00
Post-Decree Motions _____	\$150.00
Notice of Appeal _____	\$150.00
Certifications _____	\$ 5.00
Copy of Local Rules _____	\$ 10.00

All costs will be paid from all deposits then divided in accordance with the Court entry. If the costs are not allocated in the final judgment entry, the Clerk of Courts will charge the costs equally to all parties.

Publication costs are not included in deposits and shall be paid directly to the newspaper when Notice of Publication is presented to be published.

26.4 Computerization costs. Pursuant to the authority of Revised Code 2303.201(A) it is determined that, for the efficient operation of the Domestic Relations Division of the Fairfield County Common Pleas Court, additional funds are required to obtain computerized legal research services.

The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of \$3.00 upon the filing of each cause of action or appeal under Revised Code 2303.20(A), (Q) and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization of this Court in procuring and maintaining computerized legal research services.

Pursuant to the authority of Revised Code 2303.201(B) it is determined that, for efficient operation of this Court, additional funds are required to computerize the office of the Clerk of the Court of Common Pleas.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of \$10.00 upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in

execution or petition to vacate, review, or modify a judgment under Revised Code 2303.20(A), (P), (Q), (T), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be disbursed, upon an order of the Court of Common Pleas, Domestic Relations Division and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas.).

In order for the Clerk of Courts to efficiently and effectively administer this rule, all post-decree motions to modify or vacate a judgment must be properly designated by proper identification within the caption of the case just under the case number. This includes a multi-branch motion if one or more of the branches request a modification or vacating of a judgment. **FAILURE TO PROPERLY IDENTIFY A POST-DECREE MOTION WILL RESULT IN A DISMISSAL OF THE MOTION** unless just cause is shown for the failure to properly identify the motion.

26.5 Filing Deposits. The Clerk shall not accept for filing any of the above mentioned pleadings or motions without payment of the prescribed security deposits unless:

- (a) An affidavit of an inability to prepay the deposit is filed with the Clerk as prescribed in Revised Code 2323.31; or
- (b) The party is exempt by law.

RULE 27.0
CUSTODY OF FILES AND EXHIBITS

- 27.1 **Removal.** No person except a Judge of the Court, Magistrate or representative of either shall remove any documents or case files from the custody of the Clerk of Court.
- 27.2 **Examination.** Upon request, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by the Clerk's Office. Examination shall be allowed during the regular business hours of the Clerk.
- 27.3 **Copies.** Upon request and the payment of a fee fixed by law, the Clerk shall provide copies of any original document maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk. A reasonable period of time shall be based upon the size of the request with efforts toward a 24-hour response time.
- 27.4 **Security.** Papers or files in the courtroom during the time a cause is on trial shall be considered in the custody of the Clerk. The Clerk is required to keep files of pending cases in a place secure from unauthorized handling or inspection and under his personal supervision.
- 27.5 **Custody of Exhibits and Documents Used in Hearings and/or Trials.** Due to space limitations it is necessary for the Court to periodically dispose of exhibits and documents used as or associated with the presentation of evidence at hearings and/or trials before the Court. The Court establishes the following time schedule:
- All exhibits and documents maintained by the official Reporter of this Court shall after five years be distributed to the party/parties or shall be destroyed. Five years is defined as commencing the date of journalization of this Court's order in such proceeding. The

retention period of five years may be extended upon motion filed by a party to the proceeding and upon notice and hearing.

27.6 Custody of Audio Tapes. In order to conserve costs through the reuse of audio tapes it will require the Court to authorize the erasure of various tape recordings of testimony made during hearings and/or trials. The time schedules are set out in the following paragraphs.

27.61 Tapes involving children. For all recordings made where minor children were involved the Court shall comply with Ohio Revised Code Section 3109.36 which requires all pleadings, orders and decrees, any record made of any hearings and other pertinent documents to be kept until the child reaches eighteen years or two years after the last appeal or post decree entry which ever event occurs last. Therefore all audio tapes involving children shall be kept until six months after the eighteenth birthday of the youngest child in the case. Each tape shall be marked with a “DO NOT ERASE UNTIL (DATE)”.

27.62 Other tapes. For all recordings made where no children were involved the tape shall be kept for a period of two years after the date of last appeal or post decree entry which resolved the issues. At least thirty days prior to the expiration of the time periods designated above the Court shall publish a list of the cases where exhibits, documents and audio tapes are scheduled for disposition. Any party or counsel of record may request possession of said exhibits, documents or tapes by petitioning the Court. However, if any audio tape is requested a cost of a replacement tape shall be assessed and paid before any tape is released.

RULE 28.0
COURT REPORTER

- 28.1 **Recording of Proceedings.** Unless otherwise ordered by the Court, all matters of record shall be preserved by electronic recording. In any *in chambers* proceedings, if counsel for any party desires that a record be made, said counsel shall notify the court, in writing, at least three full working days prior to the time of the scheduled proceeding, of counsel's desire for a record.
- 28.2 **Ordering of Transcripts.** Any party objecting to factual determinations in a report of the Magistrate shall order a transcript of said hearing from which the objections are raised. All transcripts of proceedings must be transcribed by a certified court reporter. A request for transcript shall be filed in writing and a copy delivered to a certified court reporter PRIOR to the expiration of 14 days after the issuance of the Magistrate's Proposed Decision. The ordering party shall be responsible for contacting the certified court reporter and making arrangements for the costs of said transcript to be paid directly to the court reporter. The Court Reporter shall use due diligence in preparing the transcript in a timely manner.
- 28.3 **Qualifications.** The Court does not have an appointed Court Reporter on staff but any person desiring to be a Court Reporter for this Court must hold, at the minimum, the Registered Professional Reporter designation from the National Court Reporters Association. The court reporter must have no less than four years of experience as a court reporter and must have experience in transcribing from audio recordings. All transcripts must contain a certification by the court reporter stating that the transcript is authentic and accurate, and that the court reporter is an impartial third party, unrelated to any litigant, attorney or witness in the case, and has no financial or other interest in the outcome of the case.

All transcripts filed with the Domestic Relations Division of the Common Pleas Court will be signed and sealed by the Court Reporter and remain sealed until opened by the Court. Rights to copy transcripts filed are reserved by the Court Reporter.

- 28.4 **Transcript Deposits and Payments.** The Court Reporter reserves the right to require a deposit for the preparation of all transcripts; that deposit to be based on a reasonable estimate of the number of pages requested. The amount of the deposit shall be the TOTAL ESTIMATED COST of the transcript, unless otherwise specified by the Court Reporter. Any overpayment of deposit will be refunded; however, any balance will be due within seven days of notification of the completion of the transcript. All costs must be paid in full before the original is filed or copy released.

The transcript is considered ordered only after a signed request for transcript and the required deposit is made to the Court Reporter.

If final payment is not received within the allotted amount of time, the Court will proceed to rule on the objections without the benefit of the transcript; however, final payment will still be due and owing to the Court Reporter.

- 28.5 **Substitution.** Either party may secure the services of a free-lance Court Reporter to record said trial/hearing with the Court's approval. The requesting party shall be responsible for all the expenses associated with said Court Reporter including any transcription. However, the Court may order a prevailing party to be reimbursed for any such additional expenses.

- 28.6 **Copies.** A copy of a hearing may be obtained by delivering a blank CD to a Domestic Relations Court Bailiff. There is no charge for "burning" the CD.

RULE 29.0
SUBPOENAS

- 29.1 **Requests.** All praecipes or request for subpoenas shall be filed no later than five days before trial unless provisions are included for special process servers. Failure of service of a subpoena prepared five days or less before the hearing of trial may preclude a continuance of the matter.
- 29.2 **Service.** Where the attorney has requested a special process server, the attorney shall verify that the process server has promptly completed and returned the proof of service to the Clerk.
- 29.3 **Civil Rules 34(C) and 45.** Requested documents from non-parties shall be requested under Ohio Rules of Civil Procedure 34(C). All parties shall follow the procedure set forth in Ohio Rules of Civil Procedure with the intent of this Local Rule to mandate notice in writing to every other party to the action prior to the production of the documents. When documents are received by the requesting party/attorney, copies of all said documents shall be provided to opposing party/attorney within seven (7) days of receipt thereof. If proper notice has not been provided or if copies of the requested documents have not been provided to every other party, any such documents provided by the non-party shall be subject to exclusion by the Court.

RULE 30.0
PATERNITY ACKNOWLEDGMENTS

30.1 **General.** The parent and child relationship between a child and the natural father of the child may be established by an Acknowledgment of Paternity as provided in Sections 3111.20 to 3111.35 of the Revised Code and pursuant to Sections 3111.01 to 3111.18 or 3111.38 to 3111.54 of the Revised Code. An Acknowledgment of Paternity Affidavit must be signed and processed through the Ohio Department of Health, Bureau of Vital Statistics. When done properly, the Ohio Department of Health will issue a certified copy of that Acknowledgment to the parents. When parents wish to establish support, custody or visitation, an action will be filed in Domestic Relations Court.

30.2 **Procedure.** A Complaint for Support; Complaint for Custody (Allocation of Parental Rights and Responsibilities) or Complaint for Visitation shall be filed in the Domestic Relations Court and will be given a “PA” case number. Where the establishment of paternity is by Acknowledgment of Paternity Affidavit pursuant to Sections 3111.01 to 3111.18 or 3111.38 to 3111.54 of the Revised Code, the certified Acknowledgment of Paternity Affidavit or certified copies of the Centralized Paternity Registry Screens DEPI and DEPD from the CSEA must be a part of the initial pleadings to verify that paternity has been established. If the children were not born during the marriage of the parties and there has not been an Acknowledgment of Paternity or other administrative parentage determination, paternity must be established prior to filing in accordance with Section 3111.381(A) of the Revised Code. Absence of the Acknowledgment or certified screen copies will result in refusal of the initial pleadings.

When the initial pleadings along with the certified Acknowledgment or certified screen copies are presented for filing, it should be drawn to the attention of the Clerk that this is a “PA” case number situation. The initial pleading shall include under the case number a designation in accordance with Local Rule 2.3 (10).

RULE 31.0
PRECEDENCE

- 31.0 **Subordination.** The rules set forth herein are promulgated pursuant to Rule 83 of the Ohio Rules of Civil Procedure and, in case of conflict, shall be subordinate to the Ohio Rules of Civil Procedure.
- 31.2 **Precedence.** These rules supersede any and all local rules issued by the court from July 1, 1991 to December 31, 2008. These rules adopted for the Common Pleas Court of Fairfield County, Ohio, Domestic Relations Division, this 1st day of January, 2009.

JUDGE KATHY S. MOWRY

I hereby certify that a copy of the foregoing rules was electronically filed with the Supreme Court of Ohio on the 26th day of January, 2009.

DEBORAH SMALLEY
Clerk of Courts
Fairfield County, Ohio