AMENDED RULES OF

PRACTICE AND PROCEDURE

of the

COURT OF COMMON PLEAS

DOMESTIC RELATIONS DIVISION

SUMMIT COUNTY, OHIO

Adopted March 15, 1991
Amended December 1, 1991, June 15, 1993,
January 10, 1996, May 30, 1996, February 7, 1997,
January 3, 2000, August 1, 2001, November 1, 2003,
October 14, 2008, February 1, 2016, January 20, 2021
March 29, 2021, February 24, 2022, December 31, 2023

RULE 1 COMPLIANCE WITH OHIO RULES OF CIVIL PROCEDURE

Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure and the Local Rules of this court.

RULE 2 PLEADINGS, MOTIONS, AND ORDERS

2.01 Form

(A) **Case Designation Form**

Upon the filing of any new case, or with an Answer and Counterclaim, each party shall complete a Case Designation Form which shall contain the names, social security numbers, and dates of birth of all parties to the case as well as names and dates of birth of all minor children involved in the case. This form shall be stored in electronic format only by the Clerk of Courts.

(B) The caption of all complaints, petitions, answers, counterclaims and any other initial filing, shall state the name and address of the plaintiff and defendant/respective individual parties, or shall contain a certification that this information is unknown. Social security numbers and dates of birth shall not be included on pleadings unless required by the nature of the document (i.e., QDRO's or capias orders, etc.). The caption of all initial post-decree filings shall include the current addresses of the parties.

(C) The caption of all subsequent pleadings, motions, and other papers shall state the case number and the name of the judge and the magistrate to whom the case is assigned. In cases commenced by complaint, the subsequent captions shall state the name of plaintiff, defendant and any other party who has a relevant interest in the matter raised by the pleading. In cases commenced by petition, the subsequent captions shall retain the caption of the original petition; parties shall be designated by their names in the body of the motion.

(D) All papers, including orders, filed with the Clerk of Courts shall be typewritten on 8 1/2" x 11" paper, without backing. The face caption of all papers shall provide a blank space approximately 3" in diameter in the upper right portion of the page, sufficient to permit the Clerk of Courts to add the time-stamp imprint. Child Support Enforcement Agency (CSEA) forms are exempt from this requirement.

(E) All papers filed with the Clerk of Courts by an attorney shall bear the attorney's name, office address, Ohio Supreme Court registration number, telephone number, and e-mail address. All papers filed with the Clerk of Courts by an unrepresented party shall bear the party's name, complete address, telephone number and e-mail address.

(F) All motions shall be made in writing and state with particularity the grounds and relief sought.

(G) All motions shall state in the caption each issue to be addressed by the court (example: motion for modification of parenting time, motion for modification of child support, motion for

contempt). All motions regarding support shall specify the SETS number in the caption, if a SETS account has been created by the CSEA.

(H) All child support orders shall include a child support worksheet and SETS number if a SETS account has been created by the CSEA.

2.02 Initial filings and affidavits

(A) **Divorces, annulments, legal separations.** When a complaint is filed, a party shall also file an Affidavit of Income and Expenses, and Affidavit of Property. If there are minor children, the party shall file a Health Insurance Affidavit, Parenting Proceeding Affidavit, as well as an Application for Child Support Services Non-Public Assistance Applicant (JFS 07076) provided by the CSEA the affidavits shall be served on the Defendant with the complaint.

(B) **Parentage complaints**. When a parentage complaint is filed, a party shall also file an Affidavit of Income and Expenses, Health Insurance Affidavit, Parenting Proceeding Affidavit, and an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by CSEA. The affidavits shall be served on the defendant with the complaint. See also Rule 16.

(C) **Answers and counterclaims.**

(1) **Divorces, annulments, legal separations**. A party who files an answer and/or counterclaim shall also file an Affidavit of Income and Expenses and Affidavit of Property. If there are minor children, the party shall file a Parenting Proceeding Affidavit, Health Insurance Affidavit, as well as an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by the CSEA. The affidavits shall be served on the plaintiff with the answer and/or counterclaim**.**

(2) **Parentage Complaints**. A party who files an answer and/or counterclaim shall also file an Affidavit of Income and Expenses, Health Insurance Affidavit, Parenting Proceeding Affidavit, and an Application for Child Support Services Non-public Assistance Applicant (JFS 07076) provided by CSEA. The affidavits shall be served on plaintiff with the answer and/or counterclaim.

(D) **Dissolution.** When a petition for a dissolution is filed, the parties shall file a Dissolution Affidavit of Property and Income. If there are minor children, the parties shall file a Parenting Proceeding Affidavit, Health Insurance Affidavit as well as an Application for Child Support Services Non-public Assistance Applicant **(**JFS 07076) for services provided by the CSEA. A child support worksheet shall also be completed. See Rule 7.

(E) **All cases with children**. In cases involving children the parties are required to attend an educational program.

(1) Upon the initial filing of a complaint for divorce, legal separation, or annulment, or a filing of a petition for dissolution of marriage, where minor children are involved the Clerk of Courts shall docket an order requiring both parties to attend the Remember the Children program within 60 days. A schedule of program dates is provided on the court's website at www.drcourt.org. The Clerk of Courts shall serve this order on the defendant along with the complaint and provide the filing party with a copy of the order.

No dissolution hearing will be scheduled without leave of court until both parties attend the Remember the Children program. No final decree of divorce, legal separation or annulment shall be issued until both parties attend the Remember the Children program unless leave of court is obtained.

(2) An initial complaint to establish parentage and parenting rights shall include an order requiring both parties to attend the Working Together program on a specific date and time. Attendance at the program will occur prior to any hearing on the case. The court will dismiss the complaint if the filing party fails to attend the program without leave of court for good cause shown. See Rule 16 for further requirements.

2.03 Court exhibit file.

(A) The Court will retain exhibits in a separate file from the case file kept by the Clerk of Courts.

(B) This file will include, but will not be limited to the all exhibits which are submitted at temporary hearings, status, pretrial, and trial.

(C) Upon the request of either party or an order of the court, the exhibits contained within this file shall be considered as part of "the original papers and exhibits filed in the trial Court" for purposes of the record. App. R. 9(A).

(D) The Court will retain exhibits for at least one year following the conclusion of the proceeding for which the exhibits were submitted. Parties desiring the return of any exhibits submitted by them shall contact the Court Administrator after the time period for appeal has run. If no appeal has been filed, exhibits may be returned to the submitting party.

2.04 Mutual restraining order.

(A) In all cases, when the initial complaint for divorce, annulment or legal separation has been filed, both parties are restrained from:

(1) Threatening, abusing, annoying, or interfering with the other party or the parties' child(ren);

(2) Creating or incurring debt (such as a credit card) in the name of the other party or in the parties' joint names or causing a lien or loan to be placed against any of their real or personal property.

(3) Selling, disposing of, or dissipating any asset, real or personal property (other than regular income)**,** including without limitation: existing bank accounts, tax refunds, or bonuses of either party or a child.

(4) Removing household goods and furniture from the marital residence without approval of the court or other party.

(5) Changing or failing to renew the present health, life, home, automobile or other insurance coverage; removing the other party as beneficiary on any life or retirement benefits without further order of this court.

(6) Changing or establishing a new residence for the parties' minor children without the written consent of the other party or permission of the Court.

(B) These restraints shall be imposed by the court's standard mutual restraining order which shall be accepted by plaintiff upon filing the complaint and shall be served upon defendant along with summons. Upon plaintiff's filing of a complaint, plaintiff is deemed to have notice of the mutual restraining order.

2.05 Case management plan.

(A) If no answer to a complaint for divorce, annulment or legal separation is filed by the defendant, the case will be heard at an uncontested final hearing before the assigned judge or magistrate.

(B) If an answer has been filed, a status hearing date or initial pretrial conference date will be scheduled. The court will send notice of date and time of the status hearing or initial pretrial conference to counsel of record and any unrepresented party along with the mandatory exchange of discovery order required by Rule 16.01.

2.06 Leave to plead.

When a party desires a leave to plead, the party shall do the following:

(A) When no previous leave to plead has been taken, a party may obtain one automatic leave to plead by filing with the Clerk of Courts a certification that the party has not previously obtained any leaves to plead in that particular case. The leave to plead may not be for more than 21 days and a copy shall be mailed to the opposing party.

(B) One additional leave to plead may be obtained by a party for a period of 21 days by the filing of a stipulated leave to plead, noting the opposing party's consent and the length of the prior leave.

(C) Leave to plead instanter may be granted at the discretion of the court.

(D) Except as provided above, leaves to plead may be obtained only by written motion and order to the court. The motion shall set forth the number of leaves to plead previously obtained and the total length of those leaves.

2.07 Post-decree motions.

(A) Each post-decree motion will be assigned a motion number. If there are multiple motions, each item/branch will have a separate designation letter or number. A hearing cannot be scheduled until the motion has been filed and assigned a number.

(B) Post-decree motions which involve parental rights and responsibilities shall be accompanied by Information for Parenting Proceeding Affidavit, which shall be filed and served on the opposing party with the motion. .

(C) Post-decree motions to modify or to terminate child support or spousal support shall be accompanied by an Affidavit of Income and Expenses and Health Insurance Affidavit (for child support motions), which shall be filed and served on the opposing party with the motion. The responding party shall file and serve an Affidavit of Income and Expenses and Health Insurance Affidavit (for child

support motions) on the moving party prior to the scheduled hearing.

(D) Cases on microfilm**.** For any case for which the content of the Court's file has been converted to microfilm, it shall be the responsibility of the moving party to attach to the motion copies of all pertinent documents including but not limited to, decrees, agreements, support calculations, and relevant court orders/decisions. The motion with attachments shall be served upon the opposing party.

(E) Unless the motion has not been served, failure of the moving party to appear at the hearing may result in dismissal of the motion. If service was not obtained, the attorney or party may request the court to continue the hearing to a new date. *See* Rule 23.

2.08 Motions and orders.

(A) All motions filed shall contain a request for service or a certification of service of the motion upon opposing counsel or unrepresented party and, if appropriate, a copy shall be mailed to all interested parties including, but not limited to, Family Court Services, guardians *ad litem*, and the Child Support Enforcement Agency.

(B) It is the responsibility of the attorney or party filing a motion to obtain a hearing date and time from the Domestic Relations Scheduling Office by calling 330-643-2368 or using the online scheduling features in the electronic filing system. If the filing party does not obtain a hearing date, the motion or action may be dismissed for failure to prosecute.

(C) A party filing a motion on a routine matter which does not require a hearing (including but not limited to: motion to withdraw as counsel, motion for continuance, motion for extension of time to supplement an objection), shall deliver a time-stamped copy of that motion, with a proposed order, to the Court.

2.09 Notice of Intent to Relocate.

(A) Except as provided in Revised Code section 3109.051, (G) (2),(3) and (4), if a parent intends to move to a residence other than the residence specified in the parenting time order or decree of the court, that parent shall file with the Summit County Clerk of Courts, Domestic Relations Division, the following documents:

(1) A Notice of Intent to Relocate, and

(2) Instructions for service by ordinary U.S. mail to other party at the last known address, and

(3) A proposed Order Re: Notice of Intent to Relocate.

Except for good cause shown this notice shall be filed as follows:

In advance of a move, the relocating parent shall file with the court, and serve upon the other parent, a Notice of Intent to Relocate with a proposed order. If required, the relocating parent shall obtain a hearing date with the Court upon filing a Notice of Intent to Relocate. Notice, at the latest, must be provided pursuant to the following timeline: (If the relocating parent misses the deadline, that parent shall file the notice as soon as possible providing good cause for missing the deadline. The Court will consider whether the relocating parent has shown good cause for the late notice at the subsequent hearing.) The following is the minimum amount of notice required:

(a) 30 days if the move shall be within the current county of residence;

(b) 60 days if the move shall be outside the current county of residence but within the same state;

(c) 90 days if the move shall be outside the current state of residence.

(B) The non-relocating parent may file a written responsive pleading to the notice of intent to relocate within fourteen (14) days of service to address reallocation of parenting time and/or to object to the relocation.

(C) If the parties are in agreement with the relocation, they must file an agreed judgment entry with notarized signatures of each party prior to the hearing date. If the parties file an agreed entry, no hearing shall be required.

(D) The parties may also utilize the Informal Proceedings Program pursuant to Local Rule 32.04 prior to the filing of a Notice of Intent to Relocate.

(E) An Instruction Sheet for the Notice of Intent to Relocate, Notice of Intent to Relocate Form and Order for Relocation Hearing/Entry are available on the Court's website at drcourt.org under the Forms tab and on the second floor of the Court.

Comment:

The rule has been amended to clarify the Court's expectations with regard to relocating parents.

With the removal of "residential" from subsection (A), the rule is now applicable to all relocating parents subject to a parenting time order. Amended Subsection (A)(3) has been expanded to explain the procedure a relocating parent must follow. This Court has created an Order Re: Notice of Intent to Relocate that parties are required to use. This Order includes the three options that the parties may choose from to proceed. Two of the available options are at no cost to the parties. New subsections (A)(3)(a)-(c) create notice deadlines based on the distance the relocating parent intends to move. The increasing timelines recognize that the further a

parent intends to move, the greater potential for disruption to child(ren)'s schedule.

New Subsection (B) is added to state the deadline for a responsive pleading.

New Subsection (C) is added to provide guidance to parties already in agreement.

New Subsection (D) is added to explain that parties may utilize this Court's Informal Proceedings Program and attempt to reach an agreement through mediation. If the parties reach an agreement, there is no cost to the parties.

New Subsection (E) is added to direct parties to a detailed Instruction Sheet and standard forms available on the Court's website.

In an effort to put parties on notice regarding this amended rule, this Court has updated the standard Supreme Court of Ohio forms and the Parenting Time Schedules available on this Court's website to reflect the changes listed above.

2.10 Emergency *ex parte* motions and orders.

(A) Property Issues. The court may issue emergency *ex parte* orders when it appears to the court, by motion and affidavit, that a party or a third party is about to dispose of or encumber property so as to defeat another party in obtaining an equitable division of marital property, a distributive award, spousal or other support, and/or to effectuate or enforce a prior court order.

(B) Children's Issues.

(1) A party may submit to the court a motion, affidavit in support and proposed order requesting *ex parte* relief with respect to children where:

(a) A residential parent is about to move out of the jurisdiction and the request is that the parent be restrained from removing the children from the jurisdiction;

(b) An order is needed to enroll a child in school. The order shall be limited to authorizing the party to enroll the child pending further hearing.

(2) Where *ex parte* relief is granted a *de novo* hearing shall be scheduled before either the judge or magistrate of record. The emergency *ex parte* order shall remain in full force and effect until that hearing.

2.11 Third-party motions.

A third-party motion, pursuant to Civ. R. 75, including, but not limited to, property, child support, and allocation of parental rights and responsibilities, shall be handled as follows:

(A) A third party seeking to join the case shall file a motion setting forth the reasons for the joinder along with a proposed copy of the motion for relief requested. The third party shall also deliver a proposed order granting the joinder to the court.

(B) After the order granting the joinder has been signed by the assigned judge, the third party shall file the order granting the joinder along with the motion for relief requested.

(C) All motions shall comply with Local Rules 2.08 and 3.

2.12 Motion to intervene on workers' compensation claims.

Attorneys may intervene for fees due in workers' compensation claims. Intervention for attorney's fees due in workers' compensation related issues shall be handled pursuant to *Rowan v. Rowan* (1995), 72 Ohio St.3d 486 as follows:

(A) The attorney seeking to intervene shall file a motion to intervene and a motion setting forth the relief requested. The attorney shall deliver a time-stamped copy of those motions to the court along with proposed orders granting the intervention and the relief requested.

(B) After the orders have been signed by the court, the attorney shall file the orders.

(C) All motions shall comply with Local Rule 3, "Service."

2.13 Blank Forms.

There are several forms including required affidavits, Application for Child Support Services, and various motions on the court's web site at www.drcourt.org. Parties may use these forms as needed.

RULE 3 SERVICE

3.01 Service of complaints, motions, etc.

(A) A party requesting service by the Clerk of Courts shall file instructions for service regardless of the form of service requested.

(B) Any request for service of a complaint, motion, order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a time-stamped copy of the paper to be served. For electronically filed documents, the Clerk of Courts will print copies of the documents for service and will tax the costs of printing to the costs of the case.

3.02 Appointment of process servers

(A) **Process server (one-time appointment).** If a party desires personal service to be made by special process server pursuant to Civil Rule 4.1 (B), that party must file with the Clerk of Courts an entry appointing a special process server. The following must be stated in the entry of appointment:

(1) The name of the person to be appointed as process server;
(2) That the person to be appointed as process server is 18 years of age or older;
(3) That the person to be appointed as process server is not a party or counsel for a party in the action.

(B) **Process server (continuing appointment)**

(1) A person may apply to be designated as a "Standing Process Server" for cases filed in this court by filing an application supported by an affidavit setting forth the following information:
(a) The name, address, and telephone number of the applicant;
(b) That the applicant is 18 years of age or older;
(c) That the applicant agrees not to attempt service of process in any case in which the applicant is a party, counsel for a party, or related to a party by blood or marriage;
(d) That the applicant agrees to follow the requirements of Civil Rule 4 through 4.6, any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases.

(2) **Recording order of appointment**

(a) The applicant requesting designation shall also submit an order captioned "In Re The Appointment of (name of applicant) As Standing Process Server" and stating as follows: "It appearing to the court that the following applicant has complied with the provisions of Local Rule 3.02, (name of applicant) is hereby designated as a Standing Process Server authorized to make service of process in all cases filed in this court, to serve until

further order of this court."

(b) The Clerk of Courts shall record such appointment on the court's general docket and shall retain the original application and judgment entry. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such an order as satisfying the requirements of Civil Rule 4.1(B) for designation by the court of a person to make service of process.

3.03 Service by publication.

(A) In all cases when service of process is to be accomplished by publication in a newspaper of general circulation such as the Akron Legal News, it shall be the responsibility of the serving party to ensure that the publication is accomplished, including the selection of the means of publication and administration of the publication.

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

(C) Service of process by posting and mail. Where service of process by publication is perfected in accordance with Civil Rule 4.4(A)(2), the Clerk of Courts shall cause notices to be posted in a conspicuous place in the main lobby of the Summit County Courthouse, the Auto Title Department, and the office of the Summit County Department of Job and Family Services.

3.04 Service of pleadings, motions, and orders after initial complaint and answer.

(A) Service of all pleadings and other papers subsequent to the original complaint, petition, or post-decree motion shall be made in accordance with Civil Rule 5, except that service upon a third party or parties shall not be required unless the pleading or other paper affects an interest of a third party or parties.

(B) All post-decree motions shall be served pursuant to Civil Rule 4 through Civil Rule 4.6.

RULE 4 COURT COSTS

4.01 Costs deposit.

The Clerk of Courts shall not accept any action or proceeding for filing without a deposit as security for costs in the amount set forth on the schedule of filing fees. CSEA forms and domestic violence petitions are exempted from this requirement.

4.02 Indigence.

If the filing party is indigent, the deposit costs may be met if the party files a financial affidavit listing the income, expenses, and assets of the party and states that the party is

without funds or assets to pay the deposit accompanied by a Motion to Proceed *in Forma Pauperis.* If the filing party is represented by counsel, the attorney must also file a statement that no attorney fees have been paid by the client and certify to the court that the appropriate filing fees will be paid to the court before counsel is paid. In cases where counsel is appointed by the Volunteer Legal Services Project counsel may accept the reduced retainer from the VLSP client, but shall indicate that receipt on the statement.

If a Motion to Proceed *in Forma Pauperis* is filed, the Clerk of Courts shall immediately forward that motion to the court for review. If the motion is not granted the court shall enter an order providing for the payment of costs by a date certain or the case shall be dismissed.

The filing of a poverty affidavit does not relieve a part from liability for court costs.

4.03 Subsequent deposit.

If, during the course of a proceeding, the court learns that a party who has filed a poverty affidavit is or has become able to pay the applicable deposit, the court may order that party to pay the deposit within a reasonable period of time commensurate with the circumstances.

4.04 Responsibility for costs.

All judgment entries shall contain a provision for payment of costs as ordered by the court. CSEA cases and Domestic Violence petitions are exempt from this requirement. In the absence of court order, after application of all deposits, the balance of costs shall be divided equally between the parties.

4.05 Application of deposit.

The Clerk of Courts is authorized to apply the deposit when, after 90 days from the date of the final decree, all attempts to collect the costs from the designated party have failed.

RULE 5 ASSIGNMENT OF CASES

5.01 Assignment of Judge.

At the time of filing the initial complaint, the Clerk of Courts shall utilize the automated assignment feature of the court's case management system to randomly assign a judge to the case. The clerk shall then stamp the assigned judge's name on the complaint and summons. For electronically filed documents, the name of the judge shall be provided in the emailed acceptance notification sent to the filing party. The judge's name also shall be listed in the time stamp of the documents.

5.02 Assignment of Magistrate.

All matters to be heard by a magistrate shall be allotted to the magistrate of record, or as otherwise designated by the court. At the time of filing the initial complaint or where no magistrate has been assigned, the Clerk of Courts shall utilize the automated assignment feature of the court's case management system to randomly assign a magistrate to the case. The clerk shall then stamp the assigned magistrate's name on the complaint and summons or other pleading being filed. For electronically filed documents, the emailed acceptance notification sent to the filing party shall indicate the name of the magistrate assigned to the case.

5.03 Domestic violence.

If a Petition for Domestic Violence Civil Protection Order has been previously filed or is being filed simultaneously with a complaint involving the same parties, the cases shall be assigned to the same magistrate and judge, unless that magistrate or judge is no longer an employee of the court.

5.04 Refiled cases.

Unless otherwise ordered by the court, all cases which have been dismissed and are subsequently refiled within one year shall be assigned to the judge and magistrate of record to whom the case was allotted at the time of dismissal.

5.05 Cases heard by a Judge.

A judge shall hear or review the following, unless otherwise ordered:

(A) Dissolutions, divorces, legal separations, and annulments;
(B) Declaratory judgments and summary judgments;
(C) Motions for continuance of pretrial and trials or other hearings scheduled before the Judge;
(D) Motions to set aside a magistrate's order;
(E) Motions for new trial;
(F) Motions for relief from judgment and to vacate prior orders;
(G) Objections to a magistrate's decision;
(H) Emergency *ex parte* orders; and
(I) Motions for stay of execution upon appeal to the Court of Appeals.
(J) Request for determination of validity of a prenuptial agreement.

5.06 Cases heard by a Magistrate.

(A) All other matters not assigned to the judge shall be set before the magistrate of record.

(B) The magistrate may hear divorces, dissolutions, complaints to establish parent-child relationships, motions to dismiss, jurisdictional issues, common law marriage issues, emergency *ex parte* orders, temporary hearings, pre-decree motions, domestic violence *ex parte* hearing and evidentiary hearings, post-decree motions, CSEA administrative appeals, request for determination of validity of a prenuptial agreement, and any other matters assigned by the judge.

RULE 6 COURT REPORTERS

6.01 Cases heard by the Judge.

In matters heard by a Judge, a court reporter may be provided by the Court and taxed as costs.

6.02 Visiting Judge Hearings.

In matters heard by a visiting judge, the matters will be recorded by an audio recording system.

6.03 Cases heard by the Magistrate.

All matters heard by a Magistrate will be recorded by an audio recording system.

6.04 Retention of audio recordings.

All audio recordings shall be preserved by the Court for a minimum period of one year after the decision is issued, unless otherwise ordered by the Court on written request of a party.

6.05 Transcription.

Upon written request by praecipe and payment of a deposit to cover the cost of transcription, an official court reporter will prepare a transcript of the proceedings. (A sample praecipe is provided on the court's website: www.drcourt.org). The transcript, not the audio recording, constitutes the official record of the proceeding. (See also Local Rules 26 and 27.03).

6.06 Back-up audio recordings

(A) The court may use a backup system to record all conversation which takes place in the courtrooms. This system is purely a back up to ensure that proceedings which are intended to be recorded are recorded in the event of a failure of the primary system. Access to the backup system shall be restricted to the court administrator and deputy court administrator.

(B) Recordings from the backup system may only be obtained in the event that there was a failure of the primary recording system. In that case, only proceedings which were intended to be held on the record may be obtained. "Intended to be held on the record" means that the magistrate or judge called the case on the record or made some indication of the case being on the record.

RULE 7 DISSOLUTIONS

(A) **Initial Filings.** A petition for dissolution of marriage shall be signed by both spouses and shall have attached and incorporated a separation agreement agreed to by both spouses. Any document or exhibit referenced in the separation agreement shall be attached to the separation agreement at the time of filing, including legal descriptions of real estate, shared parenting plans, and child support worksheets. The parties shall also file a Dissolution Affidavit of Property and Income. A petition for dissolution must be served on both parties unless a waiver of service is filed.

(B) **Cases with Minor Children.**

(1) **Parenting Proceeding Affidavit.** In addition to the petition, the parties shall file a Parenting Proceeding Affidavit, and an Application for Child Support Services.

(2) **Allocation of Parental Rights and Responsibilities.** The parties may address the allocation of parental rights and responsibilities in the separation agreement or in an attached and incorporated shared parenting plan. A child support worksheet shall be attached and incorporated in the separation agreement or shared parenting plan.

(3) **Remember the Children.** Both parties shall attend the Remember the Children program prior to the scheduling of the dissolution hearing. This requirement may be waived for good cause only. If the parties have not attended the Remember the Children Program prior to their hearing, the case may be dismissed.

(C) **Hearing.** It is the responsibility of counsel, or the parties if unrepresented, to call the judge's bailiff to obtain a hearing date. Not less than thirty nor more than ninety days after the filing of a petition, both spouses shall appear before the court and each spouse shall acknowledge under oath that he or she has voluntarily entered into the separation agreement, that he or she is satisfied with its terms, and that he or she seeks a dissolution of the marriage. If the parties do not schedule a hearing with the court the case may be dismissed.

(D) **Conversion of Dissolution to Divorce.** Pursuant to Revised Code section 3105.65(C), at any time before a decree of dissolution of marriage has been granted by the court, either spouse may convert the dissolution action into a divorce action. This shall be done by filing with the court a motion to convert dissolution action to divorce action. The motion shall be accompanied by a complaint for divorce that contains grounds for a divorce and that otherwise complies with the Rules of Civil Procedure. The party wishing to convert the dissolution case to a divorce case shall file as the plaintiff. The divorce action then shall proceed in accordance with the Civil and Local Rules in the same manner as if the motion had been the original complaint in the action, including, but not limited to, the issuance and service of summons upon the defendant. No filing fee shall be charged for the motion to convert the dissolution action to a divorce action.

RULE 8 UNCONTESTED AND INACTIVE CASES

8.01 Uncontested divorces or legal separations.

(A) When a complaint for divorce or legal separation is filed, the court shall assign a date for an uncontested final hearing. That hearing date shall be noted on the mutual restraining order and shall be served on the defendant along with the complaint. If service of the complaint is not completed at least 42 days before the uncontested hearing date, the hearing will not proceed as scheduled. A motion for continuance and proposed order shall be submitted to the court and a new hearing date obtained.

(B) If the defendant appears at the uncontested hearing and wishes to submit evidence on any issue, the court may convert the uncontested hearing into a status conference or pretrial. At any subsequent evidentiary hearing, the defendant may submit evidence on all issues except grounds for the divorce or legal separation.

(C) **Failure to attend final hearing.** If the plaintiff does not attend the final hearing, the case shall be dismissed for failure to prosecute.

8.02 Inactive cases.

After written notice to the parties, inactive cases shall be dismissed for failure to prosecute.

RULE 9 TEMPORARY ORDERS BY ORAL HEARING

9.01 By motion.

Any requests for temporary orders, other than those provided in Civil Rule 75(I), shall be made by proper motion and determined after oral hearing as provided in Local Rule 9.02. The moving party shall give the responding party at least seven days' notice of hearing, pursuant to Civil Rule 6(D).

9.02 Oral hearings.

Each party shall exchange an Affidavit of Income and Expenses as well as an Affidavit of Property at the temporary hearing if the affidavits have not been previously filed pursuant to Rule 2.02.

(A) **Statements of counsel.** As a general rule, oral temporary hearings are conducted on statements of counsel and submission of documents. One

hour is allocated for this hearing with thirty minutes allotted for each party.

Each party shall submit documents relevant to pending issues, including but not limited to, evidence of parental incomes and deductions from gross income as required by statute (R.C. 3119.01 et seq.), child care expenses, medical insurance expenses, and any other relevant exhibits.

(B) **Evidentiary hearing**. If an evidentiary hearing is necessary, the moving party shall file a written motion and proposed order requesting an evidentiary hearing specifying the time needed for hearing. This motion and order shall be hand delivered to the magistrate of record. If the motion is granted, the magistrate shall then set the evidentiary hearing.

9.03 Failure to appear.

If either party or counsel fails to appear at the appointed time of the scheduled hearing, the magistrate may hear the evidence of the party who is present and rely on the sworn Affidavits of the parties and may, upon review of same, issue an order concerning the relief requested by the motion(s).

RULE 10 DISCOVERY STATUS CONFERENCE- INITIAL PRETRIAL CONFERENCE

10.01 Discovery and pretrial proceedings.

Discovery and pretrial proceedings in contested cases shall be pursuant to orders issued in the case**.**

10.02 Sanctions.

Failure to comply with discovery or pretrial orders may result in sanctions against the non-complying attorney or party.

RULE 11 PRETRIAL CONFERENCE

11.01 Pretrial Conference.

The court shall schedule a pretrial conference. Both parties and their counsel shall appear unless excused for good cause shown.

11.02 Pretrial responsibility of counsel.

(A) The purpose of the pretrial conference is to encourage settlement.

(B) Counsel shall serve upon the court and opposing counsel at the time of the pretrial conference a pretrial statement. The pretrial statement shall not be filed with the Clerk of Courts. The pretrial statement shall contain the following items:

:

(1) a brief statement of the facts;
(2) legal issues which are in dispute;
(3) a list of exhibits and witnesses;
(4) a brief outline or summary opinion of the testimony of all experts (including appraisers) to be called**;**
(5) a completed and updated Affidavit of Income, Expenses and Property.
(6) three years income tax returns;
(7) health insurance information;
(8) a master list of household items acquired during the marriage;
(9) proposed stipulations.

(C) Failure to comply with the above may result in sanctions against the non-complying attorney or party.

11.03 Pretrial responsibility of the court.

At the pretrial conference, the court shall:

(A) Dispose of any pending discovery motions;

(B) Determine, with counsel, the time needed for trial and schedule the trial date;

(C) Determine whether trial briefs shall be submitted and upon what issues; and

(D) Make all other orders necessary to prepare the matter for trial.

RULE 12 TRIALS AND EVIDENTIARY HEARINGS

12.01 Exhibits.

(A) All exhibits shall be marked prior to trial or evidentiary hearing and indicate whether submitted by plaintiff or defendant. Plaintiff shall use numbers and defendant shall use letters. The exhibit marker shall indicate the date of trial or evidentiary hearing.

(B) The parties shall submit to the court and the opposing party all expert witness reports not less than 30 days prior to the trial or evidentiary hearing absent leave of court.

(C) Not less than seven days prior to the trial or evidentiary hearing, the parties shall submit to the court and the opposing party copies of all documents or other exhibits to be introduced at the trial or evidentiary hearing. At the trial or evidentiary hearing, the court will not admit any exhibits not timely submitted, except for good cause shown.

12.02 Witnesses.

Not less than seven days prior to the trial or evidentiary hearing, the parties shall file with the Clerk of Courts and submit to the court and the opposing party a list of all witnesses who will testify at the trial or evidentiary hearing including each witnesses name and address. At the trial or evidentiary hearing, the court will not admit the testimony of any witnesses not timely listed, except for good cause shown.

12.03 Failure to comply.

Failure to comply with the above may result in sanctions against the non-complying attorney or party.

12.04 Findings and conclusions.

The court may require the parties to file a brief on proposed findings of fact and/or conclusions of law.

RULE 13 CONTEMPT MOTIONS

13.01 Specificity.

(A) All motions for contempt and/or orders "to show cause," except those filed by the CSEA, shall be accompanied by an affidavit setting forth the specific facts forming the basis for the motion.

(B) Contempt charges filed by the CSEA relative to support shall contain a reference to the specific order that has been violated and the amount of arrearages outstanding on a date certain.

13.02 Order to Appear and Show Cause.

A person filing a contempt motion may obtain an order directing an alleged contemnor to appear before the court to show cause why they should not be held in contempt of court. The moving party must present a time-stamped copy of the motion, affidavit (if applicable) and proposed order to the judge or magistrate who is assigned to the case. The order must make a preliminary finding that, if proved, the facts alleged by the affidavit would constitute contempt.

13.03 Service.

A motion for contempt and the order to appear shall be served on the alleged contemnor pursuant to Civ. R. 4 through Civ. R. 4.6. All contempt motions for failure to pay support or comply with visitation or parenting time orders must be accompanied by a summons and the notices required by Revised Code 2705.031(C). If there is a pending case, a copy of the motion, affidavit, order and notice shall also be sent to opposing counsel pursuant to Civ. R. 5.

13.04 Presence of Alleged Contemnor.

(A) The alleged contemnor must be present at the hearing in order to proceed with contempt charges. If the alleged contemnor has been properly served with an order to appear, but does not appear, the moving party may request a *capias* for the alleged contemnor's arrest.

(B) Failure to appear without good cause may also be prosecuted as an additional contempt.

13.05 *Capias*.

In determining whether to issue a *capias* the Court must first find from the affidavit that there is probable cause to believe that contempt has occurred. The Court will also consider the manner and type of service that has been done and any other relevant factors. Prior actual notice is preferred. However, the Court may issue a *capias* even without prior notice if the applicant demonstrates that such is necessary to obtain the presence of an alleged contemnor.

13.06 Appointment of Counsel.

The Court shall appoint counsel in contempt cases, where a jail penalty is possible, for any defending party who requests court-appointed counsel and who meets the income guidelines adopted by the state Public Defender's Office.

(A) Process for requesting appointed counsel. Any party requesting court-appointed counsel must file an indigency affidavit with the Clerk of Courts within three business days after receipt of the summons. There is a $25 fee for the filing of the affidavit. Once the affidavit is filed with the Clerk of Courts, the filing party must personally bring the time-stamped affidavit to the Court's Scheduling Office on the second floor. Court staff will review the affidavit to determine whether the applicant is qualified to receive appointed counsel. If eligible, the applicant will be notified who will be appointed to represent them. The court staff member will ensure that the appointed attorney is available to cover the scheduled hearing.

(B) Waiver of filing fee. If a party is unable to pay the filing fee for the indigency affidavit, the party must file a motion requesting waiver of that fee at the time of filing the affidavit. A time-stamped copy of the motion as well as proposed order granting the waiver shall be brought to the Court's Scheduling Office along with the affidavit.

13.07 Procedure for Selection of Appointed Counsel

(A) Qualifications of Appointed Counsel. Attorneys requesting to receive appointments to represent alleged contemnors in this Court are required to complete the Court's training which details the Court's procedures for contempt cases.

(B) **Request for inclusion on the appointed counsel list.** Attorneys who desire to be placed on the Court's list of appointed counsel shall send a letter to the court administrator requesting to be added to the list and attach their resume setting forth their qualifications for representing litigants in the Court. Counsel shall indicate in the letter the types of contempt matters they wish to accept (e.g., child support only, parenting time only, all types of contempt issues, etc.). Counsel must provide the Court with their email address and a telephone number at which counsel may be reached to accept appointments. Upon verification of the attorney's credentials and the Administrative Judge's approval, the court administrator may add the attorney to the appointed counsel list and note the types of cases the attorney is qualified to handle.

(C) **Distribution of Appointments.** The Court will maintain a list of qualified attorneys who have requested to be placed on the Court's list of appointees to represent indigent parties and will update regularly. The Court will make an equitable distribution of appointments to counsel on the list. The court staff will review the distribution regularly to ensure that appointments are made in an equitable fashion. The Court may consider the skill and expertise of the appointee in the designated area and the management by the appointee of their caseload.

(D) **Availability of counsel to accept assignments.** When a party requesting counsel contacts the Court and is determined to be eligible for appointed counsel, court staff will contact the next attorney on its appointed counsel list. If that attorney is not available to accept the appointment at that time, the court staff will note that contact attempt and shall move to the next attorney on the list, until an attorney is contacted who is available to accept the assignment. The previous attorney shall be placed back into rotation for appointment after all remaining attorneys have been called.

(E) **Removal from appointed counsel list.** Counsel may, at any time, request to be removed from the Court's list of appointees. The Court may, in its discretion, remove any attorney from the list.

13.08 Compensation of Counsel.

(A) **Rate of Compensation.** Court-appointed counsel in contempt cases shall be compensated at the rate set forth in the Fee Schedule provided on the Court's website www.drcourt.org in accordance with Summit County Codified Ordinance (SCCO) 113.09. Appointed counsel shall be compensated by the Court only for work completed in relation to the contempt matter. Any other representation of the same litigant shall be by private agreement between the defending party and counsel.

(B) **Extraordinary fees.** In the event that fees for appointed counsel should exceed the limits set forth in SCCO 113.09, the appointed attorney shall file a motion for extraordinary fees detailing why the additional time was required on this case. Counsel shall include therewith a detailed listing of all time and expenses

expended on the case along with the motion. Counsel shall also provide the court with a proposed judgment entry approving the extraordinary fees. Any award of extraordinary fees are within the sole discretion of the Court and are not guaranteed.

(C) Procedure for payment of fees. To obtain payment for services rendered counsel shall submit an Application for Appointed Counsel Fees – OPD Form 1026-R, to the assigned judge NO LATER THAN 30 DAYS AFTER THE ISSUANCE OF A FINAL APPEALABLE ORDER ON THE CONTEMPT MATTER. If the application is submitted later than 30 days after the final appealable order, the fees may be reduced due to state reimbursement requirements. Once the judge has signed the application, counsel shall file the application with the Clerk of Courts along with a copy of the client's Indigency Affidavit. The Clerk of Courts will then forward the application to the Summit County Fiscal Office for payment. (Note: The computer software for completing the form 1026-R may be downloaded at no cost from the Office of the Ohio Public Defender at: http://opd.ohio.gov/reimb/rm_Reimbursement.htm.)

RULE 14 POST-DECREE MODIFICATION HEARINGS

14.01 Child support modification.

(A) A motion to modify child support must be accompanied by a completed Affidavit of Income and Expenses and Health Insurance Affidavit.

(B) At hearing the parties shall present evidence or stipulations of income, potential income, and adjustments to income to enable the court to make a proper child support calculation as provided by Revised Code section 3119.01 et seq.

(C) Whenever the court modifies, reviews, or reconsiders a child support order, it will also review, and modify if appropriate, the existing health care order and the existing designation of the right of either parent to claim the child(ren) as dependent(s) for income tax purposes. *See* R.C.§§ 3119.30, 3119.32, 3119.82.

(D) Failure of the moving party to provide the required evidence may result in dismissal of the motion.

14.02 Spousal support modification.

(A) A motion to modify spousal support must be accompanied by a completed Affidavit of Income and Expenses.

(B) The moving party shall be prepared to present evidence or stipulations with respect to the following matters:

(1) jurisdiction of the court to modify spousal support;

(2) a change of circumstance;
(3) the relevant factors listed in Revised Code section 3105.18(C)(1)(a) through (n);
(4) current income, three years tax returns, and other documents as required;
(5) any other relevant factors.

(C) Failure of the moving party to provide the required evidence may result in dismissal of the motion.

14.03 Modification of parenting orders.

(A) Motions for modification of parenting time and/or reallocation of parental rights and responsibilities shall be heard by the magistrate. The moving party shall file a Parenting Proceeding Affidavit with the motion.

(B) Case Management.

(1) At the initial hearing, which is not evidentiary, the court shall determine whether the motion is contested and the basis of the motion.

(2) The court may order the parties to mediate. If the parties are approved for mediation, the court will set a second hearing before the magistrate.

(3) If the parties do not resolve their parenting issues at either the hearing or through mediation, the court may order an evaluation through Family Court Services, counseling, parent educational classes, psychological evaluations, drug and alcohol testing, supervised parenting time, and/or the appointment of a guardian *ad litem*. Unless specified otherwise by the court, fees will be assessed equally between the parties and should be deposited with the Clerk's office within 10 days of the order. Failure to comply with court orders regarding any of these matters may negatively affect the outcome of the case for the party who fails to comply.

(4) The court will establish a written case management plan that sets forth additional hearing dates as well as provisions for any services.

(C) Final Settlement Conference**.** The court shall schedule a **s**ettlement conference date unless the case has been settled and finalized at an earlier stage. The purpose of the final settlement conference is to reach a resolution with the benefit of the information that has been developed from the case plan.

(1) Prior to the settlement conference, counsel or any *pro se* party shall review all court-ordered written reports, which shall be made available not less than one week prior to the conference date, and discuss with their clients the options that are available.

(2) The parties and their attorneys shall appear at the settlement conference and shall be prepared to discuss resolution of the pending issues.

(D) Evidentiary Hearing**.** The court will set an evidentiary hearing date for a date approximately 30 days after the final settlement conference. Counsel and parties shall follow this court's local rule on trials and evidentiary hearings.

RULE 15 DOMESTIC VIOLENCE ACTIONS

15.01 Filing for a Civil Protection Order.

(A) **Name of parties.** A person who wants to file for a Civil Protection Order (CPO) is referred to as the petitioner. The person against whom the CPO is filed is referred to as the respondent.

(B) **Where to find assistance.** The petitioner may file for a CPO *pro se* or may hire a private attorney. The petitioner may apply for assistance from Community Legal Aid Services (330) 535-4191, or may request the assistance of a victim advocate for help in filing the necessary paperwork for the CPO and for attending all hearings.

(1) Both the Battered Women's Shelter and the Victim Assistance Program provide victim advocates.

(2) If the petitioner requests assistance from either of the victim advocate programs listed above, the victim advocate will conduct a short interview to see if the person qualifies for a CPO. If the person qualifies, a mandatory appointment is scheduled. At the appointment, the advocate will help the person complete the necessary paperwork for filing for a CPO, help the person file the necessary paperwork, and attend all hearings with the person.

(C) **Where to obtain necessary paperwork.** The petitioner may obtain the necessary paperwork to file for as CPO from the following:

Domestic Relations Court website: www.drcourt.org	
Domestic Relations Court	(330) 643-2365
Clerk of Courts, Domestic Relations Division	(330) 643-2201
Municipal Clerk of Courts in	
(a) Akron	(330) 375-2920
(b) Barberton	(330) 753-2261
(c) Cuyahoga Falls	(330) 971-8110
Akron Prosecutor's Office	(330) 375-2730
Barberton Prosecutor's Office	(330) 848-6728
Cuyahoga Falls Prosecutor's Office	(330) 971-8110
Battered Women's Shelter Legal Advocate's Office	(330) 375-2247
Victim Assistance Program	(330) 376-0040

(D) What must be filed.

The necessary paperwork for filing for a CPO is as follows:

(1) Petition for Domestic Violence CPO (Supreme Court standard domestic violence form 10.01). The petition shall include:
    (a) An allegation that there has been domestic violence against a family or household member, including a description of the alleged violence.
    (b) The relationship of the respondent to the petitioner.
    (c) A request for relief.
(2) Parenting Proceeding Affidavit (if the Petitioner and Respondent have children together).
(3) Affidavit of Income and Expenses, Health Insurance Affidavit, and Application for Child Support Services (if the Petitioner is requesting support from the Respondent).
(4) Request for service.

(E) Where to file.

(1) The necessary paperwork listed above must be filed at the Summit County Clerk of Court's Office, Domestic Relations Division, 205 S. High Street, First Floor, Akron, Ohio 44308.
(2) The Clerk of Courts will assign a case number, a judge, and a magistrate. If a complaint for divorce, annulment, legal separation, to establish a parent-child relationship, or petition for dissolution involving the same parties is being filed simultaneously with the CPO or was filed before the CPO was filed, the petitioner shall inform the clerk so that the cases can be assigned to the same judge and magistrate.
(3) After the CPO is filed, the Clerk will prepare a folder containing a copy of the paperwork filed, which the Petitioner shall then take to Domestic Relations Court, third floor so that a magistrate may hold an immediate *ex parte* hearing.

15.02 *Ex parte* hearing.

(A) The petitioner shall give the folder prepared by the Clerk of Courts to the security bailiff at the reception desk on the third floor at the Domestic Relations Court.

(B) The *ex parte* hearing shall be held the same day the petition is filed. If the petition is filed after 2:30 p.m. it may not be possible to file the *ex parte* order or obtain service of the *ex parte* order. The *ex parte* order may not be served until the following day.

(C) At the *ex parte* hearing, a magistrate will hear the petitioner's statement of the facts under oath.

(D) If the magistrate finds that the facts meet the requirements of the law, the court will grant an *ex parte* CPO and schedule a full hearing.

    (1) The full hearing must be scheduled within seven court days if the respondent is ordered to vacate a residence shared with the petitioner,

otherwise the full hearing will be scheduled within ten court days.

(2) If an *ex parte* order is not granted, the case will proceed as under the Rules of Civil Procedure.

(E) The Petitioner will complete a confidential domestic violence questionnaire provided by the Court prior to the hearing and submit it to the security bailiff.

(F) A signed copy of the *ex parte* CPO and Protection Order Notice to NCIC (Form 10A) shall be hand-delivered to the Clerk of Courts for filing.

(G) The clerk will provide the petitioner a certified copy of the *ex parte* CPO.

(H) The clerk will process the *ex parte* CPO for personal service on the respondent by the sheriff and for police department notification. The clerk or sheriff will notify the petitioner once the respondent has been served.

15.03 Full hearing.

(A) At the full hearing, unless the parties reach an agreement the magistrate will take sworn testimony from each party and any witnesses presented by the parties.

(B) If the magistrate finds that the facts meet the requirements of the law, the court will issue a full hearing CPO, which may include the following provisions:

(1) prevent respondent from abusing the petitioner;

(2) grant exclusive use of the home to petitioner;

(3) permit respondent to pick up personal items from the home;

(4) provide child or spousal support;

(5) allocate parenting time;

(6) require respondent to complete counseling;

(7) grant exclusive of a vehicle to petitioner;

(8) require respondent to surrender house and/or car keys;

(9) prevent respondent from possessing or using a deadly weapon;

(10) prevent respondent from possessing or using drugs and/or alcohol;

(11) grant other relief as the court considers equitable and fair.

(C) A completed Protection Order Notice to NCIC (Form 10A) shall be **filed with** the Full Hearing CPO.

(D) The Full Hearing CPO will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.

(E) If the petitioner fails to attend the full hearing and no continuance has been granted, the court may dismiss the case.

(F) Objections or Appeals to a CPO are governed by Civil Rule 65.1. A copy of the objections or response shall be hand-delivered to the assigned judge's bailiff. All objections shall comply with Civil Rule 65.1 and Local Rule 27.04.

15.04 Consent Agreement.

(A) At the time of the full hearing, the petitioner and respondent may enter into a Consent Agreement CPO.

(B) All consent agreements shall be approved verbally by the magistrate and then prepared as an order by the court with no finding of domestic violence.

(C) A completed Protection Order Notice to NCIC (Form 10A) shall be filed with the consent agreement.

(D) The consent Agreement will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.

15.05 Duration of CPO.

A CPO shall be valid until a date certain, but not later than five years from the date it was issued.

15.06 Effect of other court cases on CPO.

(A) The CPO shall remain in effect even if either the petitioner or respondent subsequently becomes involved in another court case, such as a divorce, annulment, legal separation, parentage, or dissolution case.

(B) An order allocating parental rights and responsibilities and/or support issued in a CPO case shall terminate on the date a court issues an order allocating parental rights and responsibilities and/or support in another court case involving the petitioner and respondent, such as a divorce, annulment, legal separation, parentage, or dissolution.

(C) When this court issues an order allocating parental rights and responsibilities and/or support in a subsequent court case as described in paragraph (B) above, the parties may need to obtain a modified CPO to reflect those orders if they differ.

15.07 Modification, extension, or termination of CPO.

(A) The petitioner or respondent may file a motion to modify, extend, or terminate the CPO. Victim advocates will not assist the petitioner or respondent with the filing of a motion to terminate the CPO.

(B) All such motions must be filed and scheduled for hearing as set forth in Local Rule 2.08. The court may require the petitioner to attend a domestic violence education program prior to termination of the CPO.

(C) Any modification, extension, or dismissal of a CPO shall be done as an order by the court. A completed Protection Order Notice to NCIC (Form 10A) shall be filed with the order granting the modification, extension, or termination. The order will be delivered to the Clerk of Courts for filing, for mail service on the petitioner and respondent, and for police department notification.

15.08 Enforcement of CPO.

A party may file a motion for contempt and/or orders "to show cause" in order to enforce the provisions of the CPO. All such motions must be filed and scheduled for hearing as set forth in Local Rule 20 and 2.08.

15.09 Objections to CPO.

A party wishing to file an objection to a CPO must follow the objection procedure delineated in Local Rule 12.03 "Objections to Magistrate's Decision." . However, pursuant to Civil Rule 65.1, there is no automatic stay of the CPO when the objection is filed. The Full Hearing CPO is a final appealable order. It is not required to file an objection before appealing the CPO to the Court of Appeals.

RULE 16 PARENTAGE: ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP, ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES AND/OR COMPANIONSHIP ACTIONS

16.01 Commencement of the Action.

A parent or alleged parent may begin an action by filing a complaint for establishment of a parent-child relationship and appropriate motions for relief requested.

(A) The person filing the complaint shall allege whether or not a parent-child relationship has been established by acknowledgement or any other method and shall attach documentation of such to the complaint.

(B) If parenting orders are requested, the moving party shall file a Parenting Proceeding Affidavit with the complaint.

(C) If child support is an issue, each party shall submit an Affidavit of Income and Expenses and a Health Insurance Affidavit.

(D) An Application for child support Services (ODFS Form 7076) shall be filed with all new parentage complaints regardless of whether child support is being sought.

16.02 Initial Hearing.

(A) Where the allocation of parental rights and responsibilities and/or the parenting time schedule are issues, the court shall schedule a date

for the parties to attend the Working Together Program. The scheduled date shall appear on the complaint or on a separate Notice of Hearing. At the Working Together Program the parties will be given information and materials about the court process, the law, and the court's expectations. The parties will then be given an opportunity to mediate their issues.

(1) If neither of the parties has an attorney and they reach an agreement, the court will prepare an entry for the parties to sign, and the case will be concluded.

(2) If there is an attorney for one or both of the parties, the case will not be concluded at the Working Together Program. If the parties reach an agreement, the court will prepare a memorandum of understanding which will be mailed to the attorney(s), and the case will be set for an initial hearing before the assigned magistrate. The initial hearing will be cancelled if an agreed entry is submitted and approved prior to the hearing.

(3) If the moving party does not appear for the Working Together Program, the complaint or motion will be dismissed.

(4) If the responding party does not appear, or if both parties come but do not reach an agreement, the case will be set for an initial hearing before the assigned magistrate.

(5) After an initial hearing the claims will proceed in the manner described under the section of these rules titled Modification of Parenting Orders.

(B) In cases where parentage is an issue the initial hearing will be used to determine whether the matter is contested.

(1) If parentage is not contested the court may dispose of the claim at the initial hearing.

(2) If parentage is contested, the court may order genetic testing to determine whether the alleged father is the likely biological father. The matter will then be set for further hearing. If an evidentiary hearing is required, the case will proceed in the manner described in the section of these rules titled Evidentiary Hearings.

(a) CSEA will pay for the cost of genetic testing if parentage of the child has never been previously determined.

(b) The person raising the claim must pay for the testing if parentage of the child has been previously determined. Only the child and the alleged father need be tested. CSEA will arrange for the drawing of the samples. The person opposing the claim of parentage may be required to reimburse the other party for the cost of testing if the test results support the claim of parentage.

(C) In cases where child support is an issue, the matter may be concluded at the initial hearing if all the information necessary to establish an order is presented there. Otherwise, further hearing will be set. If an evidentiary hearing is required, the claim will proceed in the manner described in the section of these rules titled Evidentiary Hearings.

(1) Ordinarily the effective date of the support order will be the date the request for support was filed.

(2) Retroactive support may be ordered in cases where the parties were not married to each other. In that case the parties must present all information necessary to calculate a support order for each year that support is requested.

RULE 17 CHILD SUPPORT AND HEALTH INSURANCE ORDERS

17.01 Support orders.

(A) Every child or spousal support order shall include the mandatory provisions set forth in Revised Code sections 3121.27 and 3121.29.

(B) The Clerk of Courts will serve a copy of every order for child or spousal support upon the Summit County Child Support Enforcement Agency **(**CSEA). The CSEA shall prepare the required withholding notices and submit them to the employer or other withholding source.

(C) The caption of every order for child support, or other judgment entry that includes an order for child support, shall state the SETS number, each party's address, obligor's date of birth and the last 4 digits of the obligor's Social Security number..

(D) Child support orders shall contain a child support worksheet, and, if there is a deviation, the reason for the deviation pursuant to the statute should be stated.

17.02 Health Insurance Orders.

Every child support order shall include the health insurance provisions as required by Revised Code sections 3119.30 and 3119.32.

RULE 18 MOTION FOR RELIEF FROM JUDGMENT

18.01 Civil Rule 60(B).

All motions for relief from judgment, other than those based upon clerical mistakes, shall comply with Civil Rule 60(B) and Civil Rule 7(B). A copy of the judgment from which relief is sought shall be attached to the motion.

18.02 Supporting materials.

The motion shall be supported by materials that demonstrate:

(A) The timeliness of the motion;

(B) The reasons for seeking relief; and
(C) A material defense or claim.

The moving party shall file a memorandum of fact and law and may include affidavits, transcripts, depositions, answers to interrogatories, exhibits, and other relevant materials and shall serve a copy upon the non-moving party and hand-deliver a copy to the court. The procedures contained in Civil Rule 56, regarding documents and other materials, are suggested as guidelines.

18.03 Opposition to motion.

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

18.04 Determination.

Except when the court orders otherwise, motions for relief from judgment may be determined without oral argument.

RULE 19 PROCEDURES TO REGISTER, ENFORCE, OR MODIFY FOREIGN DECREES

19.01 Procedure for filings under UIFSA.
(Uniform Interstate Family Support Act R.C. 3115.39 *et seq.*)

(A) The registration of a support order or income withholding order of another state shall be accomplished as set forth in Revised Code section 3115.39 *et seq*. a Summit County case number is assigned to the registered order.

(b) The registering party shall prepare and submit to the court a notice to the non-registering party that complies with revised code section 3115.42.

(C) If the non-registering party does not timely request a hearing to contest the validity or enforcement of the registered order, the registering party shall prepare and submit to the court for signature an order confirming the registered order. R. C.. § 3115.44(c).

(d) If the non-registering party timely requests a hearing to contest the validity or enforcement of the registered order, the court shall schedule a hearing, with notice to all parties.

19.02 Procedure for filings under UCCJEA.
(Uniform Child Custody Jurisdiction and Enforcement Act, R.C. §3127.01 *et seq.*)

(A) An out-of-state child custody determination may be registered with this court as provided in Revised Code section 3127.35 *et seq.* A Summit County case number is assigned to the registered order.

(B) When filing the documents required in R.C. 3127.35, the filing party shall also submit a Proposed Order and Notice for signature by the Judge. That Order and Notice, when signed shall be served upon the other party along with the initial filings in the case.

(C) This court will modify an out-of-state custody determination only in accordance with sections 3127.15 to 3127.24 of the revised code.

19.03 Procedure for filings under Full Faith and Credit (not under UCCJEA or UIFSA).

(A) The registration of a foreign judgment shall be commenced by the filing of:

(1) A certified copy of the foreign judgment;
(2) An affidavit setting forth the names and addresses of the judgment creditor/obligee and judgment debtor/obligor; and
(3) Instructions for the Clerk of Courts to send notice of the filing, including the name and address of the judgment creditor/obligee, to the judgment debtor/obligor at the address given.

(B) A foreign judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings as a judgment of this court.

(C) The Clerk of Courts shall not accept any action or proceeding for filing without the required deposit as security for costs as set forth in the schedule of filing fees. A Summit County case number is assigned to the registered order.

RULE 20 DISCOVERY

20.01 In General.

The exchange of information between parties is required. Civil Rule 26 through Civil Rule 37 shall apply to any action in Domestic Relations Court, including post-decree motions filed pursuant to Civil Rule 75(J).

20.02 Interrogatories.

(A) Each party may serve 40 interrogatories as of right. Further interrogatories may be filed only with prior leave of court and upon good cause shown.

(B) If an interrogatory is identified by one number, but is divided into several parts, each requiring a specific item of information, each part shall be counted as a separate interrogatory.

(C) When there are more than 40 interrogatories without leave of court, the responding party need only to answer or object to the first 40 interrogatories.

20.03 Completion of discovery.

All discovery shall be completed prior to the date specified in the court's order. A list of documents to be exchanged is provided in Appendix A to these rules under "DOCUMENTS TO BE EXCHANGED." Expert witness reports shall be exchanged no later than 30 days prior to the trial date absent leave of court.

20.04 Income and pension information.

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

20.05 Motions to compel or to impose sanctions or to extend discovery.

All motions to compel discovery, to extend the time for discovery, or to impose sanctions shall be filed no later than seven days before the status conference, initial pretrial conference or any hearing subsequent thereto. All motions to compel shall contain a specific statement of counsel setting forth the attempts made to obtain compliance with discovery requests and a statement as to attorney's fees and amount requested.

RULE 21 SANCTIONS

The court may order sanctions or take other appropriate measures when an attorney or party unnecessarily causes undue delay or conflict, or fails to abide by these rules or the Ohio Rules of Civil Procedure. Undue delay or conflict includes, but is not limited to, unreasonable tardiness, failure to attend a hearing or failure to be prepared, engaging in conduct which is disruptive to a court proceeding, or undignified or discourteous conduct that is degrading to the court proceeding.

RULE 22 *EX PARTE* COMMUNICATION

22.01 Oral communication.

No attorney or party shall discuss the merits of any litigation with any judge or magistrate presiding over the matter without the presence of opposing counsel or the other party, if not represented.

22.02 Written communication.

If any attorney or party submits written correspondence to any judge or magistrate presiding over the matter without notifying opposing counsel or the other party, if not represented, the court shall cause the correspondence to be date- stamped and delivered to the judicial attorney for the assigned judge.

(A) Substantive pleading. If the correspondence is a substantive pleading (such as an answer, objections, motion to set aside, etc.), the court shall label the pleading type, file it with the Clerk of Courts, and mail a copy to the other party or other party's attorney.

(B) Procedural question and miscellaneous correspondence. Procedural questions and miscellaneous correspondence will be handled by the judicial attorney for the judge assigned to the case.

RULE 23 CONTINUANCES

23.01 Form of motion

(A) A party filing a motion for continuance of any hearing shall either submit an electronic motion via the court's efiling system, or if not efiling , shall hand deliver to the judge or magistrate assigned to hear the matter a copy of the motion filed and a proposed order (if not efiling).

1. The motion shall include:

   a. the reason for the request for a continuance;

   b. a statement whether other continuances of the hearing have been previously granted and if so when;

   c. whether opposing counsel or the opposing party agrees or disagrees to the proposed continuance;

   d. whether the client is aware of the request for continuance; and

   e. a certification of service of the motion upon opposing counsel or unrepresented party and all interested parties to the hearing, including, but not limited to, Family Court Services, the guardian *ad litem* and the CSEA.

2. The proposed order (if not efiling) shall include the following checklist:

   a. a statement that the continuance is granted along with a place where the new hearing date may be entered;

   b. a statement that the continuance is denied;

   c. a statement that no further continuances shall be granted (if applicable).

23.02 Procedure

A. If opposing counsel does not approve of the request for a continuance, the assigned judge or magistrate shall arrange a conference call to discuss the matter and shall rule accordingly. If either counsel is not available for said conference call, the motion may be granted or denied at the discretion of the court.

B. Temporary hearings shall be rescheduled to be heard within 14 days of the original hearing date absent extraordinary circumstances. Initial hearings on parenting issues shall be rescheduled within 21 days of the original hearing date absent extraordinary circumstances. No second initial hearing shall be continued without the permission of the assigned judge.

C. Any continuance of any hearing shall be at the total discretion of the court.

RULE 24 WITHDRAWAL OR SUBSTITUTION OF COUNSEL

24.01 Withdrawal.

After entering an appearance as counsel, no attorney shall be relieved of responsibility unless:

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

(B) The withdrawing attorney shall mail a copy of the court's order granting or denying the motion to all unrepresented parties and counsel.

24.02 Substitution of counsel of record.

Any attorney entering a case, on behalf of a party who has had previous representation in the case, shall do so by written notice of substitution filed with the Clerk and hand-delivered to the court.

RULE 25 ATTORNEY'S FEES AND EXPENSES

25.01 Consent entry.

A written stipulation for payment of attorney's fees by one party to the other may be entered at any time during the proceedings and filed as a consent entry.

25.02 Motion for payment of attorney's fees.

If the parties do not agree to payment of attorney's fees, the party seeking payment shall do so by a written motion or by another pleading, accompanied by a notice of hearing, pursuant to these rules and the Rules of Civil Procedure. A motion for attorney's fees may be combined with requests for other relief. (A sample affidavit of attorney's fees and costs is provided on the court's website: www.drcourt.org.) At a hearing on a request for attorney's fees, either party shall present evidence or stipulations sufficient for the court to make a decision under statutory guidelines.

25.03 Circumstances under which attorney's fees may be requested.

Attorney's fees and litigation expenses may be requested under Revised Code Section 3105.73 in actions for divorce, dissolution, legal separation, annulment of marriage, an appeal of any such action, and in post-decree proceedings which arise out of any such actions.

25.04 Factors to be considered in awarding attorney's fees.

In all cases, the court may award all or any part of reasonable attorney's fees and litigation expenses to either party, if the court finds the award equitable.

(A) **Equitability.** In determining whether an award of attorney's fees is equitable, in actions for divorce, dissolution, legal separation, annulment of marriage or appeal of that action, the court may consider the parties' marital assets and income, any award of temporary spousal support, the conduct of the parties, and any other relevant factors the court deems appropriate. In determining whether an award of attorney's fees is equitable in any post-decree motion or proceeding that arises out of an action for divorce, dissolution, legal separation, or annulment of marriage or an appeal of that motion or proceeding, the court may consider the parties' incomes, the conduct of the parties, and any other relevant factors the court deems appropriate, but it may not consider the parties assets.

(B) **Reasonableness**

(1) Expert testimony is not required to prove the reasonableness of attorney's fees.

(2) In determining the reasonableness of attorney's fees requested, the court shall consider the affidavit of the attorney concerning fees and expenses, and Rule 1.5 (a) of the Rules of Professional Conduct. (A sample affidavit is provided on the court's website: www.drcourt.org.)

(C) **Expenses.** If a party is requesting the reimbursement or advancement of expenses of suit, that party shall demonstrate with specificity those expenses required.

RULE 26 GENERAL AND SPECIFIC POWERS OF MAGISTRATES

Magistrates have all powers conferred upon them by the Civil Rules.

RULE 27 MAGISTRATES' ORDERS AND DECISIONS.

27.01 Magistrate's Orders.

A magistrate may enter orders such as Provisional Orders, Case Management, Interim, Temporary Orders and any other entry denoted as an Order necessary to regulate the proceedings and for the parties' and minor children of the parties' maintenance and support during the pendency of the case. Such orders are not dispositive of a claim or defense of a party.

27.02 Motion to Set Aside a Magistrate's Order

(A) A motion to set aside a magistrate's order shall be filed and served upon the opposing party within TEN (10) days of the filing of the order. A copy of the motion to set aside shall be hand-delivered to the judge assigned to the case OR emailed to the judge's bailiff with the attached motion. The order is not stayed unless the judge grants a stay upon filing of proper motion and order. The magistrate may continue to enter orders or decisions while a motion to set aside is pending.

(1) The Court will accept as timely any motion to set aside filed within FOURTEEN (14) days of the date of the magistrate's order. A motion for leave to plead instanter is not required.

(B) Motions to set aside a magistrate's order shall state with specificity the reasons for the motion. Any motion to set aside based on a finding of fact shall utilize an audio recording of the hearing in lieu of a transcript as a record of that proceeding for-all the evidence submitted to the magistrate relevant to that fact, or an affidavit of that evidence if an audio recording is not available. If the motion is NOT based on the magistrate's finding of fact, such must be stated in the first paragraph of the motion.

(C) If an audio recording of the court proceeding is required, an Audio Recording Request Form requesting an audio recording of the proceedings must be filed with the Motion to Set Aside and delivered to the Court Administration office on the second floor of the Domestic Relations Court, OR emailed to: audio@drcourt.org at the time of filing the motion to set aside (The Audio Recording Request form

is available on the Court's website: www.drcourt.org under the Forms tab). If the completed Audio Recording Request Form is not submitted and filed at the time of filing the motion to set aside, and facts as found by the magistrate are disputed, the motion to set aside may be denied.

(D) Unless the court orders otherwise, a motion to set aside a magistrate's order will be determined without an oral argument. A party may file a response to a motion to set aside within FOURTEEN (14) days of the date the motion is filed.

(E) The party who files a motion to set aside a magistrate's order automatically has FOURTEEN (14) days to file a supplemental brief after the Court files a Notice of Audio Record Provided to Parties. Any opposing party automatically has FOURTEEN (14) days to respond to the moving party's supplemental brief.

(F) When citing to the recording, the parties are to refer to the time code of recording date and exact time of that statement (Example: 12/19/2019 at 11:48-11:50AM).

27.03 Magistrate's Decision.

An entry that makes a final determination of the parties' rights and requires judicial approval shall be identified as a magistrate's decision in accordance with Civil Rule 53. The court generally adopts a magistrate's decision without waiting for objections unless it determines there is error or other defect on the face of the decision. Objections operate as an automatic stay of execution of the judgment except as otherwise provided in Civil Rule 53 (D)(4) (e) (ii) and these rules.

27.04 Objections to Magistrate's Decision.

(A) Objections to a magistrate's decision shall be filed and served upon the opposing party within 14 days after the date the decision is filed. The opposing party may file an objection or response within 10 days after the first objection is filed. A copy of the objections or response shall be hand-delivered to the assigned judge.

(B) All objections shall be specific and state the grounds of objection with particularity. 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.

(C) If a transcript is required, a praecipe to the court reporter requesting a transcript of the proceedings must be delivered to and acknowledged by the court reporter for the assigned judge and filed with the Clerk of Courts at the time of filing the objection (a sample praecipe is provided on the Court's website: www.drcourt.org). If a praecipe to the court reporter is not filed at the time of filing the objection, and the objection is to any fact found by the magistrate, the objection may be overruled.

(D) A deposit of costs to secure the transcript must be paid to the assigned court reporter within 14 days of the filing of the objection and praecipe to court

reporter. If the deposit for the costs of a transcript is not made within 14 days of the filing of the objection and the praecipe to court reporter, the objection may be overruled.

(E) The party who files an objection automatically has 14 days to file a supplemental brief after the filing of the transcript with the court. Any opposing party automatically has 10 days to respond to the objecting party's supplemental brief. Each party shall hand-deliver a time-stamped copy his/her supplemental or responsive brief to the assigned judge.

(F) The court may adopt, reject or modify the magistrate's decision, hear additional evidence, recommit to the magistrate with instructions, or hear the matter itself. The court may refuse to consider additional evidence unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

(G**)** 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.

(H) Except when the court orders otherwise, objections will be determined without oral argument.

RULE 28 JUDGMENT ENTRIES PREPARED BY ATTORNEYS/PARTIES

28.01 Preparation by party.

The court may order either party to prepare the judgment entry. When so ordered, the party shall prepare a proper judgment entry and submit it to the opposing party within 14 days, unless the time is extended by the court.

(A) The opposing party shall have seven days in which to approve or reject the judgment entry. In the event of rejection, the opposing party may file with the court, at the time of the rejection, a written statement of all objections to the judgment entry.

(B) If the opposing party fails to take any action on the judgment entry within seven days, the preparer may present the entry for journalization by certifying that the judgment entry was submitted to the opposing party and that no response was made.

(C) Agreed judgment entries may be presented to the court on or before the date of hearing. A party who does not have the proper agreed judgment entries prepared shall use the standard form agreed entry provided by the court.

(D) Child support orders shall contain a child support worksheet and if there is a deviation, the reason for the deviation pursuant to the statute shall be stated.

(E) All judgment entries shall contain each party's complete address.

28.02 Signature by both parties.

All judgment entries and orders shall be signed by both attorneys of record and by any party not represented by an attorney or shall include the certification provided for in Local Rule 28.01(B). Certain types of orders are excepted from this requirement, including, but not limited to, CSEA orders, *ex parte* restraining orders, orders appointing process server, escrow orders, and orders permitting withdrawal as counsel.

28.03 Service of agreed judgment entries.

The party preparing the agreed judgment entry shall serve a copy of the time-stamped entry by regular mail upon opposing counsel or unrepresented party, Family Court Services, any guardian *ad litem*, and the Child Support Enforcement Agency, if applicable.

RULE 29 CONCILIATION AND COUNSELING

29.01 Procedure.

Any time after 30 days from service, a party by motion, or the court *sua sponte*, may initiate conciliation for any period of time not to exceed 90 days. *See* RC. 3105.091.

29.02 Counseling.

Upon a party's motion or *sua sponte*, the court may order counseling for the parties and/or their minor children during the course of the proceedings, and may specify the counselor, type of counseling, length of time, costs, or any other specific requirements.

RULE 30 FAMILY COURT SERVICES DEPARTMENT

30.01 Referral.

The court may refer families with child(ren) to Family Court Services to provide and/or coordinate the following services:

(A) Intervention only, in which the Family Court Services evaluator helps resolve the dispute between parents;

(B) Referral to mediation and screening process;

(C) Evaluation;

(D) Appointment of guardian *ad litem*;

(E) Shared parenting plan checklist approval;

(F) Referral to or for:

1. psychological evaluation;

2. chemical dependency and/or drug screening;

3. parenting classes;

4. court educational programs;

5. supervised visitation;

6. other programs as appropriate.

30.02 Report and recommendation.

When referred for an evaluation, the Family Court Services evaluator will produce a report which may include a summary of the collateral information received, a summary of each parent's concerns, strengths and weaknesses, and a recommendation as to the allocation of parental rights and responsibilities.

30.03 Family Court Services file.

(A) The attorneys of record and unrepresented parties will be notified when the evaluation and/or Guardian ad Litem report is complete. Except for psychological or psychiatric reports, attorneys and pro se litigants may read the entire FCS file and all third party reports in the file. The file may be reviewed at Family Court Services between 8 A.M and 4 P.M. The attorney or unrepresented party must sign the Request for Review of Family Court Services file before reviewing the file. The file may not be photocopied, photographed, recorded, transcribed or otherwise copied verbatim. Brief notes may be taken.

1. Psychological or psychiatric reports must be obtained by the parties from the provider.

(B) Attorneys and *pro se* litigants may receive copies only of the recommendation portion of Family Court Services reports and then only after reading the report in its entirety.

(C) The written reports of the Family Court Services evaluator, guardian *ad litem* or any other court ordered reports or assessments contained within this file shall be considered as part of "the original papers and exhibits filed with the trial court" for purposes of Appellate Rule 9(A).

(D) Family Court Services files will be closed at the time agreement has been put on the record; evaluator has given testimony; or the parties have stipulated to the report. All files will be purged within three years of closing date unless a motion and order are filed to retain the file for a longer period.

30.04 Confidentiality.

The court proceeding, the Family Court Services report, Guardian *ad litem* report and recommendations contain information which is **not** to be shared with the minor children. Attorneys are expected to use professional discretion in sharing information with their clients.

RULE 31 PARENTING TIME

The Court has developed several Parenting Time Schedules parties may choose from depending on their circumstances. These schedules and an instruction sheet are provided on the Court's website: www.drcourt.org.

Comment:

The Court has developed a detailed Instruction Sheet to assist parties in choosing the parenting plan that best fits their circumstances. The Instruction Sheet and the parenting time schedules along with an Amendment Sheet are available on the Court's website at www.drcourt.org.

RULE 32 EDUCATIONAL PROGRAMS AND INFORMAL PROCEEDINGS PROGRAM

32.01 Remember the Children.

When parents of minor child(ren) file for divorce, dissolution, or legal separation, they shall complete an online program titled "Remember the Children" (RTC) within the following timeframe whichever event is sooner:

(A) In an action for dissolution, within thirty (30) days of the date of filing. The Court will not schedule the final dissolution hearing until proof of such attendance is provided to the Court.

(B) In any divorce or legal separation case in the event the parties are ordered to mediation, the parties are required to complete the RTC Program at least seven (7) days prior to the mediation date.

(C) In any divorce or legal separation case, the Plaintiff is required to complete the RTC Program within sixty (60) days from the date of filing.

Once service is completed on the Defendant, Defendant has sixty (60) days to complete the RTC Program.

(D) The Court in its discretion may dismiss the action, withhold signing any final decree, and/or limit a party scheduling for hearing any party's motions regarding parenting issues until proof of such attendance is provided to the Court. This requirement may be waived for good cause only.

32.02 Online Parenting Programs.

In cases in which the Court deems to be high-conflict–either in initial divorce, legal separation, legal custody or parentage filings, or in modification of parenting time or custody cases, parents and/or third parties may be ordered to complete a specifically designated Online Parenting Program—regarding improving communication skills, conflict reduction and positive co-parenting skills.

(A) In the event the parties are ordered to mediation, the parties are required to complete the Online Parenting Program at least seven (7) days prior to the mediation date.

(B) The Court in its discretion may dismiss the action, withhold signing any final decree, and/or limit a party scheduling for hearing any of a party's motions regarding parenting issues until proof of completion is provided to the Court. This requirement may be waived for good cause only.

32.03 Working Together Program.

In a parentage (never married), third party custody or legal custody action, regarding allocation of parental rights and responsibilities, parenting time issues, or legal custody, all parties are required to complete the Working Together Program (WTP) before the Initial Hearing date. The educational online program explains the Court's resources, co-parents'/third parties' rights and responsibilities, as well as issues concerning child development and positive co-parent/third party cooperation and communication.

(A) Failure to complete the Working Together Program prior to the Initial Hearing shall result in the parties appearing at the Initial Hearing being required to view the first WTP module on the Court's premises in lieu of the hearing. That Initial Hearing shall then be continued.

(B) Should the filing party appear for the continued Initial Hearing and fail to complete WTP, the filing party's motion or complaint shall be dismissed without prejudice at the filing party's costs.

(C) In the event the parties are ordered to mediation, all parties actively involved in the case are required to complete the WTP at least seven (7) days prior to the mediation date. Failure to comply shall result in

cancellation of the scheduled mediation session and the cost of mediation will be assessed to the party/ies failing to comply.

(D) Should a responding parent/third party fail to complete the Working Together Program, the Court in its discretion may limit visitation/custody, dismiss the action, withhold signing any final judgment entry, and/or limit a party scheduling for hearing any of a party's motions regarding parenting issues until proof of such completion is provided to the Court.

(E) In cases in which the Working Together Program was not available at the time of the initial filing, the Court shall issue an order requiring compliance and it shall be in the magistrate's discretion to limit visitation/custody, dismiss the action, withhold signing any final judgment entry, and/or limit a party scheduling for hearing any of a party's motions regarding parenting issues until proof of such attendance is provided to the Court.

(F) In the event of future filings, this Court shall recognize past attendance of the Working Together Program and credit the party for such attendance.

(G) The requirement to provide this Court with a Certificate of Attendance for the Working Together Program may be waived for good cause only.

Comment

The Court's educational programs are now all in an on-line format for greater convenience to the parties. To be most effective, the rules now set forth that any parent/party ordered to mediation is to complete the educational program at least seven days prior to the mediation. Cases will be dismissed without prejudice in situations where the moving party fails to timely complete court-ordered programs pursuant to the Court's notice issued at onset of the case. Should the Defendant/responding parent/party fail to complete the educational program, that party is not permitted to file a future parenting action until completion of the on-line education program.

32.04 Informal Proceedings Program.

(A) Eligibility for Services.

1. The Informal Proceedings program is available in post decree cases only. Parties must have a current order issued by or registered with the Summit County Domestic Relations Court that allocates parental rights and responsibilities or legal custody to be eligible for the Informal Proceedings program.

2. The Informal Proceedings program is available for parties experiencing "minor issues" in implementing or complying with their current order. Examples of minor issues are: relocation,

transportation, school /extracurricular activities, scheduling issues, vacation time, parent communication problems, etc. The parties may participate in the Informal Proceeding program only once in any 12 month period.

3. The program does not pertain to financial issues or reallocation of parental rights and responsibilities.

4. The Informal Proceedings program is a voluntary process. Neither party can be forced to attend.

5. In any case where there has been a finding of domestic violence, the court will determine whether an Informal Proceeding is in the best interest of the child(ren) and, if so, under what terms and conditions.

6. The Informal Proceeding process may not be used to modify or terminate a civil protection order.

7. A party may not have an open case within the court when filing for an Informal Proceeding. If a motion or complaint is filed prior to the Informal conference, the Informal Proceeding will be cancelled.

(B) Referral Process.

1. A party may appear at the Family Court Services Department and request assistance with "minor (parenting) issues" as referenced herein by completing the Informal Family Court Services Proceeding form and submitting the form to the receptionist in Family Court Services. Only one party needs to request an informal proceeding; or

2. A party may access the court website at www.drcourt.org and download the form as a PDF file, fill in the relevant information either mail to Family Court Services at 205 S. High St, Akron, OH 44308, email as attachment to fcs@drcourt.org or fax to (330) 643-2191.

(C) Informal Proceeding Process.

1. The parties will be contacted by the Court. If all parties indicate they are willing to participate in the Informal Proceeding process, a meeting between the parents and a Family Court Services mediator will be arranged.

2. When parties arrive, they are given a screening tool to complete for the mediator to assess the presence of domestic violence. Parties may then choose to engage in the informal process or decline. The mediator can also choose not to proceed.

3. The mediator will explain the Informal Proceeding process, including the limits of confidentiality.

4. At the meeting the mediator may

   a) assist the parties in resolving the issue(s);

   b) refer the parties to an outside mediator:

   c) instruct the parties on filing an agreed entry which the parties draw up;

   d) refer the parties to outside community resources;

   e) refer the parties to their attorneys.

5. The parties have the option of filing a formal motion if the Informal process fails.

6. No record shall be kept of the Informal Proceeding other than the initial request form noting the outcome of the Informal Proceeding.

7. If the parties cannot resolve their issue informally, the evaluator will notify the referral source.

8. Should the informal proceeding be successful, the parties may prepare and sign an agreed entry, present it to the court for approval, and if the court approves the entry, the parties shall file the entry with the Clerk of Courts after paying a $50 filing fee.

Comment

Parties are now able to email the request for informal proceedings via email pursuant to Loc. R. 32.04(B)(2). Should the parties come to agreement, they will be required to pay a filing fee at the Clerk of Courts.

RULE 33 MEDIATION

33.01 Introduction.

The Summit County Court of Common Pleas, Domestic Relations Division adopts Local Rule 33 effective January 1, 2007. Through Rule 33, the Summit County Domestic Relations Court incorporates by reference Revised Code section 2710 "Uniform Mediation Act" (UMA), Revised Code section 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.

33.02 Purpose.

It is the policy of this court to utilize mediation as opposed to litigation as the first option where disputes arise between parents with respect to allocation of parental rights and responsibilities or parenting time with their children.

33.03 Scope.

The court has four mediation programs designed to assist parents in resolving disputes between them with respect to their children:

(A) **In-House Mediation Program**

This program is primarily targeted to pre-decree and post-decree divorce, dissolution, annulment or legal separation cases where disputes exist involving allocation of parental rights and responsibilities or parenting time issues. Mediation is mandatory in these cases except as otherwise provided by law. There is no additional cost to parents to participate in mediation under this program. However, if the parties do not appear for a scheduled mediation session, mediation fees which would otherwise have been waived may be assessed by the Court.

(B) **Working Together Program**

This program is targeted to cases where disputes exist involving allocation of parental rights and responsibilities or parenting time issues between never married parents. This program consists of a one hour educational program followed by the opportunity for the parties to engage in mediation of their parenting related issues. Mediation is voluntary in these cases. There is no additional cost to parents to participate in mediation under this program.

(C) **Informal Proceeding Program**

The Informal Proceeding program is available in post-decree cases only where a current order exists allocating parental rights and responsibilities but no motion is pending. This program is available for parties experiencing "minor issues" in implementing or complying with their current order (*e.g.* transportation, school, extracurricular activity, scheduling issues, vacation time, parent communication issues, etc.) This program does not pertain to reallocation of parental rights and responsibilities or financial issues. Mediation is voluntary in these cases. There is no cost to parents to participate in mediation under this program.

(D) **Out-of-Court Mediation**

The court maintains a list of qualified out-of-court mediators which is available at the Family Court Services Department. The parties may select a mediator from this list to mediate issues where disputes exist involving allocation of parental rights and responsibilities or parenting time issues. Mediation is voluntary in these cases. Mediation costs are generally divided equally by the parties unless otherwise apportioned by the court.

33.04 Procedure

(A) **Domestic Violence**

(1) Any case referred to any of the court's programs for mediation will be screened for domestic violence prior to beginning the mediation and throughout the mediation if necessary. In any case where there has been a finding of domestic violence, the court will determine whether mediation is appropriate, and if so, under what terms and conditions. In cases where a party has been convicted of stalking, domestic violence, or

child abuse, the judge or magistrate referring a case for mediation will provide specific findings of fact that both parties wish to participate in mediation and that the mediation would be in the parties' best interest, pursuant to Revised Code section 3109.052.

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

a. The mediator has at least 14 hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Advisory Committee on Dispute Resolution;

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

c. The court and the mediator determine that the parties have the capacity to mediate without fear of coercion or control;

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

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

(3) Mediation shall not be used as an alternative to adjudication of domestic violence, to determine whether to grant, modify, or terminate a protection order, to determine the conditions of a protection order, or to determine the penalty for violation of a protection order.

(4) This does not 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.

(B) **Legal Advice**

If the parties to a mediation so desire, they may have their attorneys and/or other designated individuals accompany them and participate in mediation. All attending parties will be required to sign the court's agreement to mediate. The mediator may refer parties to seek legal advice or other support services as needed.

(C) **Mediation Process**

(1) **Mediator's Report**

At the conclusion of mediation, the mediator shall prepare a report to the court which shall contain only the following information:

(a) whether the mediation occurred or was terminated;

(b) whether settlement was reached on all, some or none of the issues;

(c) attendance of the parties.

(2) **Mediation Agreements**

Agreements reached in mediation shall not be binding until signed by both parties and reviewed and approved by each party's attorney, if applicable, and journalized by the court.

(3) **Termination of Mediation**

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, the mediator shall inform the parties and the court that mediation is terminated. Pending cases shall then proceed to hearing before the original judge or magistrate assigned to the case. Parents in non-pending cases shall be referred to the respective attorneys.

33.05 Confidentiality

All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) Revised Code sections 2710.01 to 2710.10, Revised Code section 3109.052, the Rules of Evidence and any other pertinent judicial rule(s). Statements made during the course of mediation assessment or the mediation sessions shall not be admissible as evidence in any subsequent proceeding in this court except as required by law. The mediator shall not be made a party to, and shall not be called as a witness, or testify in, any proceeding other than as set forth in Revised Code section 3109.062 (C), even if both parents give their consent thereto. In furtherance of the confidentiality set forth in this rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session. If a new or different person(s) attends a subsequent session, his or her signature shall be obtained prior to proceeding further in the process. A blank "Agreement to Mediate" form is available for review by any prospective participant by contacting the Family Court Services Department. The foregoing confidentiality requirements shall not preclude mediators from testifying as to a crime committed in their presence nor shall they be construed to exempt any person from the statutory duty to report child abuse pursuant to Revised Code section 2151.421 or to limit any of the exceptions to confidentiality contained in Revised Code section 2710.05.

33.06 Mediator Conflicts of Interest.

In accordance with Revised Code section 2710.08 (A) and (B), the mediator assigned by the court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the mediator's impartiality as soon as such conflict(s) become known to the mediator. If counsel or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator should withdraw and request that the

assigned judge or magistrate appoint another mediator. The parties shall be free to retain the conflicted mediator by an informed, written waiver of the conflict(s) of interest.

33.07 Qualifications.

Any mediator employed by the court, or to whom the court makes referrals, shall have the following minimum qualifications:

(A) A bachelor's or equivalent education experience 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 equivalent experience that is satisfactory to the court.

(B) Completion of at least 12 hours of basic mediation training or equivalent experience and at least 40 hours of specialized family or divorce mediation.

(C) Completion of at least 14 hours of specialized training in domestic abuse and mediation through a training program approved by the Dispute Resolution Section in accordance with the standards established by the Supreme Court Advisory Committee on Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if he/she co-mediates with a mediator who has completed the specialized training.

(D) Adherence to the ethical standards of mediators' profession, the Model Standards of Practice for Family and Divorce Mediation (adopted by the American Bar Association, Association of Family and Conciliation Courts, and the Association for Conflict Resolution) and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs.

33.08 Stay of Proceedings.

All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

33.09 Sanctions.

If any individual ordered by the court to attend mediation fails to attend mediation 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.

33.10 Continuances.

No continuances of a court ordered mediation session shall be granted without the approval of the assigned judge.

RULE 34 GUARDIANS *AD LITEM*

Pertinent portions of Sup. R. 48 through 48.07, shall apply to all cases where the court appoints a guardian *ad litem* ("GAL") to act in the best interest of a child. These sections are set forth below:

Sup. R. 48.01 Definitions

As used in Sup. R. 48 through 48.07:

(A) Allocation of Parental Rights and Responsibilities.

References in this rule to cases involving "allocation of parental rights and responsibilities" shall also include those cases in which legal custody, parenting time, companionship, or visitation rights are at issue. "Allocation of parental rights and responsibilities, legal custody, parenting time, companionship, or visitation rights" has the same meaning as in R.C. 3109.04 and 3109.051.

(B) Attorney for the Child.

"Attorney for the child" means an attorney appointed to act as legal counsel for a child and advocate for the wishes of the child.

(C) Guardian *Ad Litem*.

"Guardian *ad litem*" or "GAL" means an individual appointed to assist a court in its determination of the best interest of a child.

(D) Child.

"Child" means:

(1) A person under eighteen years of age;

(2) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under R.C. 2151.011(B)(6) or 2152.02(C);

(3) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations or juvenile court

.

Sup. R. 48.02 Appointment of Guardian *ad litem*

(A) Orders of Appointment.

Each court appointing a guardian *ad litem* under this rule shall enter an order of appointment. The order of appointment shall include statements regarding all of the following:

(1) Whether it is a sole guardian *ad litem* appointment or a dual guardian *ad litem* and attorney appointment;

(2) That unless otherwise specified by court rule, the appointment shall remain in effect until discharged by order of the court;

(3) That the guardian *ad litem* shall be given notice of all hearings and proceedings and be provided a copy of all pleadings, motions, notices, and other documents filed in the case;

(4) That the guardian *ad litem* report shall include the following language: "The guardian *ad litem* report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration."

(5) The rate or amount of compensation for the guardian *ad litem* in allocation of parental rights and responsibilities cases;

(6) The terms and amount of any installment payments and deposits in allocation of parental rights and responsibilities cases.

(B) Limited Scope of Appointment.

A court may appoint a guardian *ad litem* to address a specific issue or issues. A court shall include in the order of appointment the specific issue or issues to be addressed and a statement the guardian *ad litem* is relieved of the duties set forth in Sup. R. 48.03(D) that are not applicable to the specific issue or issues.

* * *

(D) Separate Appointments in * * * Cases of Conflict.

* * *

(2) If an attorney who has been appointed to serve as both guardian *ad litem* and attorney for the child or any other party believes that a conflict exists in the dual appointment, the attorney or party shall immediately notify the court in writing with notice to the parties or affected agencies and request a separate appointment of a guardian *ad litem* and attorney for the child. The court shall make such additional appointment or appointments or order or orders to remedy the conflict. The court may also make such appointment or appointments on its own motion.

(E) Separate Appointments in Cases Involving Allocation of Parental Rights and Responsibilities.

If a court appoints a guardian *ad litem* in an allocation of parental rights and responsibilities case, the guardian *ad litem* shall be appointed only to represent the best interest of the child and shall not also be appointed as the attorney for the child.

(F) Discretionary Appointments in Allocation of Parental Rights and Responsibilities * * *.

Unless a mandatory appointment is required by rule or statute, a court may make a discretionary appointment of a guardian *ad litem* in the allocation of parental rights and responsibilities * * `*. In making a discretionary appointment, a court should consider all of the circumstances of the case, including but not limited to all of the following factors:

(1) Allegations of abuse and neglect of the child;

(2) Consideration of extraordinary remedies, such as supervised visitation, terminating or suspending parenting time, or awarding custody or visitation to a nonparent;

(3) Relocation that could substantially reduce the time of a child with a parent or sibling;

(4) The wishes and concerns of the child;

(5) Harm to the child from drug or alcohol abuse by the party;

(6) Past or present child abduction or risk of future abduction;

(7) Past or present family violence;

(8) Past or present mental health issues of the child or a party;

(9) Special physical, educational, or mental health needs of the child that require investigation or advocacy;

(10) A high level of conflict;

(11) Inappropriate adult influence or manipulation;

(12) Interference with custody or parenting time;

(13) A need for more information relevant to the best interests of the child;

(14) A need to minimize the harm to the child from family separation or litigation;

(15) Any other relevant factor.

(G) Reappointment.

A court should consider reappointment of the same guardian *ad litem* for a specific child in any subsequent case determining the best interest of the child.

(H) Guardian *Ad litem* Fee Determinations in Cases Involving Allocation of Parental Rights and Responsibilities.

(1) A court appointing a guardian *ad litem* in a case involving allocation of parental rights and responsibilities shall make a determination of the ability of any party to pay a deposit for the fees and expenses to the guardian *ad litem* and may reconsider that determination at any time prior to conclusion of the case. In making this determination, the court shall consider all of the following:

(a) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;

(b) The complexity of the issues;

(c) The anticipated expenses, including the travel of the guardian *ad litem*.

(2) At any time prior to the conclusion of a case, a guardian *ad litem* may submit a motion for payment. A guardian *ad litem* shall submit a motion for payment upon conclusion of the duties. Any motion shall itemize the

duties performed, time expended, and costs and expenses incurred pursuant to Sup. R. 48.03(H)(1).

(3) In determining the allocation of guardian *ad litem* fees and expenses, a court shall consider any relevant factor, including any of the following:

(a) The rate or amount of compensation of the guardian *ad litem*;

(b) The sources of compensation of the guardian *ad litem*, including the parties, any specialized funds allocated for payment of the guardian *ad litem*, or pro bono contribution of services by the guardian *ad litem*;

(c) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated using an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;

(d) The conduct of any party resulting in the increase of the guardian *ad litem* fees and expenses without just cause;

(e) The terms and amount of any installment payments.

(4) Unless a hearing is requested by a party or the court within fourteen days after a motion for payment is filed, a court shall issue an order regarding payment of guardian *ad litem* fees and expenses approving or denying any portion of the requested fees and expenses and allocating payment to one or more of the parties as appropriate.

(I) <u>Enforcement of Payment.</u>

(1) If the fees and expenses of a guardian *ad litem* exceed the deposits or installment payments ordered and made, a court may do any of the following:

***

(b) Enforce the payment of fees and expenses of the guardian *ad litem* through contempt of court proceedings;

(c) Enforce any order regarding the payment of guardian *ad litem* fees and expenses in any other manner authorized by law.

(2) A court shall not delay or dismiss a proceeding solely because of the failure of a party to pay guardian *ad litem* fees and expenses required to be paid by the court.

(3) The inability of a party to pay guardian *ad litem* fees and expenses ordered by a court shall not delay any final entry.

Sup. R. 48.03 Responsibilities of Guardian *ad litem*

(A) General Responsibilities.

The responsibilities of a guardian *ad litem* shall, include, but are not limited to, the following:

(1) Provide the court recommendations of the best interest of the child. Recommendations of the best interest of the child may be inconsistent with the wishes of the child or other parties.

(2) 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 have no *ex parte* communications with the court regarding the merits of the case;

(3) Act with respect and courtesy in the performance of the responsibilities of the guardian *ad litem*;

(4) Attend any hearing relevant to the responsibilities of the guardian *ad litem*;

(5) Upon becoming aware that the recommendations of the guardian *ad litem* differ from the wishes of the child, immediately notify the court in writing with notice to the parties * * *. The court shall take action as it deems necessary.

(6) If necessary, request timely court reviews and judicial intervention in writing with notice to the parties * * *;

(7) If the guardian *ad litem* is an attorney, file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure;

(8) Be available to testify at any relevant hearing. Attorneys who are to serve as both guardian *ad litem* and attorney in any dual appointments shall comply with Rule 3.7 of the Rules of Professional Conduct.

(9) If the guardian *ad litem* is not an attorney, avoid engaging in conduct that constitutes the unauthorized practice of law and be vigilant in performing the duties of the guardian *ad litem*;

(10) If the guardian *ad litem* is not an attorney, request the court to appoint an attorney for the guardian *ad litem* to file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure. The court shall take action as it deems necessary.

(B) Conflicts of Interest.

(1) 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 that might directly or indirectly benefit except from compensation for services as a guardian *ad litem*.

(2) Upon becoming aware of any actual or apparent conflict of interest, a guardian *ad litem* shall immediately notify the court in writing. The court shall take action as it deems necessary.

(C) Satisfaction of Training Requirements.

A guardian *ad litem* shall meet the qualifications and satisfy all pre-service and continuing education requirements of Sup. R. 48.04 and 48.05 and any local court rules governing guardians *ad litem*. A guardian *ad litem* shall do both of the following:

(1) Meet the qualifications for guardians *ad litem* for each court and promptly advise the court of any grounds for disqualification or any issues affecting the ability to serve;

(2) Provide the court documentation indicating compliance with pre-service and continuing educational requirements so the court may maintain the files required pursuant to Sup. R. 48.07. The documentation shall include information detailing the date, location, contents, and credit hours received for any relevant education.

(D) Duties of the Guardian *ad litem*.

Unless specifically relieved by the court, the duties of a guardian *ad litem* shall include, but are not limited to, the following:

(1) Become informed about the facts of the case and contact all relevant persons;

(2) Observe the child with each parent, foster parent, guardian or physical custodian;

(3) Interview the child, if age and developmentally appropriate, where no parent, foster parent, guardian, or physical custodian is present;

(4) Visit the child at the residence or proposed residence of the child in accordance with any standards established by the court;

(5) Ascertain the wishes and concerns of the child;

(6) Interview the parties, foster parents, guardians, physical custodian, and other significant individuals who may have relevant knowledge regarding the issues of the case. The guardian *ad litem* may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present.

(7) Interview relevant school personnel, medical and mental health providers, child protective services workers, and court personnel and obtain copies of relevant records;

(8) Review pleadings and other relevant court documents in the case;

(9) Obtain and review relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case;

(10) Request that the court order psychological evaluations, mental health substance abuse assessments, or other evaluations or tests of the parties as the guardian *ad litem* deems necessary or helpful to the court;

(11) Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

(E) Identification as Guardian *ad litem*.

A guardian *ad litem* shall immediately identify himself or herself as a guardian *ad litem* when contacting individuals and inform the individuals about the role of the guardian *ad litem*, including as an attorney if a dual appointment, the scope of appointment, and that documents and information obtained by the guardian *ad litem* may become part of court proceedings.

(F) Confidentiality.

A guardian *ad litem* shall make no disclosures about a case or investigation, except to the parties and their legal counsel, in reports to the court, or as necessary to perform the duties of a guardian *ad litem*, including as a mandated reporter. The guardian *ad litem* shall maintain the confidential nature of personal identifiers, as defined in Sup. R. 44, and address where there are allegations of domestic violence or risk to the safety of a party or child. Upon application, the court may order disclosure of or access to the information necessary to challenge the truth of the information received from a confidential source. The court may impose conditions necessary to protect witnesses from potential harm.

(G) Timeliness.

A guardian *ad litem* shall perform responsibilities in a prompt and timely manner.

(H) Record-Keeping.

(1) A guardian *ad litem* shall keep accurate records of the time spent, services rendered, and expenses incurred in each case while performing the responsibilities of a guardian *ad litem*.

(2) In allocation of parental rights and responsibilities cases, a guardian *ad litem* shall provide a monthly statement of fees and expenses to all parties.

(3) A guardian *ad litem* shall file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment upon order of the court or upon the conclusion of those responsibilities.

Sup. R. 48.04 Pre-Service Education

(A) Pre-Service Education Required for Appointment.

A guardian *ad litem* shall complete pre-service education provided by the Supreme Court, the
Ohio Court Appointed Special Advocates (CASA) Guardian *ad litem* Association, or with the approval of the appointing court, another provider.

(B) Pre-Service Education Hours and Topics.

(1) Pre-service education for guardians *ad litem* shall be twelve hours.

(2) Of the twelve hours of pre-service education, six hours shall be obtained via a live education program where the guardian *ad litem* is physically present.

(3) The remaining six hours of pre-service education may be satisfied by online or live education, teaching, writing, mentoring, or field-training activities with approval by the appointing court.

(4) Six hours of pre-service education shall include training on all the following topics:

(a) Basic human needs, stages of child development, and the impact of trauma;

(b) Communication skills, including, but not limited to communication with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of a child, sensitivity, building trust, multicultural awareness, diversity, and confidentiality;

(c) Child abuse, neglect, dependency, unruliness, delinquency, and assessing risk and safety;

(d) Family and child issues, including but not limited to family dynamics, substance abuse and its effects, basic psychopathology for adults and children, and domestic violence and its effects, including assessing for lethality and safety;

(e) Legal processes, the role of a guardian *ad litem* in court, available community agencies and resources, methods of service, records checks, the role of a guardian *ad litem* in court, local resources and service practice, report content, mediation, and other types of dispute resolution processes;

(f) Any other topic that concerns the role of the guardian *ad litem* to help determine the best interest of the child.

(C) Current Guardians *ad litem*.

An individual who is currently serving as a guardian *ad litem* on January 1, 2021, shall be deemed compliant with the pre-service education and not be required to complete the twelve
hours of pre-service education.

Sup. R. 48.05 Continuing Education

(A) Continuing Education Hours and Topics.

(1) Continuing education for guardians *ad litem* shall total six hours annually and be provided by the Supreme Court; the Ohio Court Appointed Special Advocates (CASA) Guardian *ad litem* Association; or, with the approval of the appointing court, another provider.

(2) Of the six hours of continuing education, three hours shall be obtained via a live education program where the guardian *ad litem* is physically present.

(3) The remaining three hours of continuing education may be satisfied by online or live education, training, writing, mentoring, or field-training activities as pre-approved by the appointing court.

(4) Continuing education shall consist of advanced education related to topics identified in Sup. R. 48.04.

(B) Failure to Comply.

If a guardian *ad litem* fails to complete six hours of continuing education within any calendar
year, the individual shall not be eligible to serve as a guardian *ad litem* on any new appointments until this continuing education requirement is satisfied. The court shall have the discretion to continue the current guardian *ad litem* appointments.

Sup. R. 48.06 Guardian *ad litem* Reports

(A) General Report Requirements.

(1) 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 affirmatively state that responsibilities have been met and 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 recommendations and in accomplishing the duties required by statute, by court rule, and in the order of appointment from the court.

(2) All reports shall include the following warning: "The guardian *ad litem* report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure or distribution of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration."

(3) Oral and written reports shall address relevant issues, but shall not be considered determinative.

(4) A guardian *ad litem* shall be available to testify at any relevant hearing and may orally supplement the report at the conclusion of the hearing.

(5) A guardian *ad litem* may provide an interim written or oral report at any time.

* * *

(C) Guardian *Ad litem* Reports in Allocation of Parental Rights and Responsibilities Cases.

(1) A guardian *ad litem* in proceedings involving the allocation of parental rights and responsibilities, custody, and visitation shall provide a report to the court, unrepresented parties, and legal counsel not less than seven days before the final hearing date, unless the due date is modified by the court.

(2) 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.

Sup. R. 48.07 Responsibilities of the Court

Each court appointing guardians *ad litem* shall do all of the following:

(A) Maintain a public list of approved guardians *ad litem* while maintaining individual privacy pursuant to Sup. R. 44 through 47;

(B) Establish criteria, which include all requirements of Sup. R. 48 through 48.07, for appointment and removal of guardians *ad litem* and procedures to ensure an equitable distribution of the work load among the guardians *ad litem* on the list. Equitable distribution means a system through which appointments are made in an objectively rational, fair, neutral, and

nondiscriminatory manner and are widely distributed among substantially all persons from the list maintained by the court. The court may consider the complexity of the issues, parties, counsel, and the children involved, as well as the experience, expertise, and demeanor of available guardians *ad litem*.

(C) Coordinate the application and appointment process, keep the files and records required by Sup. R. 48 through 48.07, maintain information regarding training opportunities, and receive written comments and complaints regarding the performance of guardians *ad litem* practicing before that court;

(D) 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, Sup. R. 48 through 48.07 and by local rules for the selection and service of guardians *ad litem*, including a certificate or other satisfactory proof of compliance with training requirements.

(E) Require all applicants to submit a resume or information sheet stating the applicant's training, experience, and expertise demonstrating the ability of the applicant to successfully perform the responsibilities of a guardian *ad litem*;

(F) Review a criminal and civil background check and investigation of information relevant to the fitness of the applicant to serve as a guardian *ad litem*;

(G) Review all guardian *ad litem* reports, written or oral, to ensure that the guardian *ad litem* has performed those responsibilities required by R.C. 2151.281;

(H) Conduct, at least annually, a review of its list to determine that all guardians *ad litem* are in compliance with the training and education requirements of Sup. R. 48 through 48.07 and local rules, have performed satisfactorily on all assigned cases during the preceding calendar year, and are otherwise qualified to serve;

(I) Require all guardians *ad litem* on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with Sup. R. 48.05;

(J) Develop a process or local rule for comments and complaints regarding the performance of guardians *ad litem* practicing before that court that does all of the following:

(1) Designates a person for accepting and considering written comments and complaints;

(2) Provides a copy of the comments and complaints to the guardian *ad litem* who is the subject of the complaint or comment;

(3) Forwards any comments and complaints to the administrative judge of the court for consideration and appropriate action;

(4) Develops a provision for the timely disposition by the court;

(5) Notifies the person making the comment or complaint and the subject guardian *ad litem* of the disposition;

(6) Maintains a written record in the file of the guardian *ad litem* regarding the nature and disposition of any comment or complaint.

Comment:

The above portions of the Rules of Superintendence are incorporated into the Local Rules for ease of access. The ellipses used above (* * *) indicate portions of the Rules of Superintendence not pertinent to the Summit County Domestic Relations Court Local Rules regarding GALs.

48.02 (I)(1)(a) was deleted as this Court does not render lump sum judgments for GAL fees.

34.01 Procedure.

When requested by either party or by the Court, Family Court Services will recommend a guardian *ad litem* ("GAL") to be appointed by the Court. This request for a GAL shall be made no later than the initial pretrial conference date in divorce cases or the initial hearing in legal custody, parentage, or post decree cases, absent good cause shown.

34.02 Qualifications.

An applicant shall complete the pre-service education requirements as set forth in Sup. R. 48.04 prior to submitting an application to this Court. In addition, an applicant shall possess an advanced degree in law, social work, counseling or other related fields and a minimum of three (3) years of experience in practice involving juvenile or domestic relations law. For legal custody cases, the Court shall appoint only attorneys licensed to practice law in the State of Ohio in good standing as Guardians ad Litem.

At the discretion of the Court, in order to be included on the Court's appointment list, candidates shall:

(1) complete a formal application and interview process;

(2) provide the Court with proof of a valid driver's license and current liability insurance;

(3) complete a BCI criminal background check; and

(4) provide three completed reference forms.

Following acceptance, GALs must initially, and annually thereafter, complete two (2) hours of mandatory training by the Summit County Domestic Relations Court in addition to the continuing education requirements set forth in Sup. R. 48.

GALs will be evaluated on an annual basis, through a formal evaluation process to determine their continued inclusion on the Court's list. GALs may be removed from the list at their own request. The Court may, in its discretion, remove any GAL from the list. In the event of such a removal, the Court shall notify the GAL that he or she has been removed from the appointment list.

Comment

Legal custody guardians ad litem are court-appointed and as such are not compensated by the parties. Therefore these guardians ad litem are required to submit an Application for Appointed Counsel Fees which does not permit anyone other than attorneys licensed to practice law in the State of Ohio to be paid.

34.03 Role.

One role of the GAL is to assist the Court in allocating parenting time, with the primary focus being the best interest of the child(ren). GALs will provide a comprehensive assessment of the parenting issues related to the allocation of parental rights and responsibilities. It is expected that the GAL will attend all Court hearings, have a summary available or report if specifically requested, and testify if requested.

34.04 Assessment.

GALs will have full access to Court and Family Court Services records. GALs will also have full access to school, daycare, medical, psychological and personnel records, regarding the child(ren). Confidential information provided to the GAL by counsel should be copied to opposing counsel.

Unless otherwise specified by Sup. R. 48.01 or the Court, the GAL will:

(A) meet with each parent individually;

(B) meet with child alone as often as time permits;

(C) observe each child's interaction with each parent;

(D) explore collateral resources such as grandparents, stepparents, parent's significant others, neighbors, medical and/or mental health providers and school personnel;

(E) review legal and criminal records; and

(F) be able to provide an interim oral report at status hearings;

(G) prepare a written summary at least seven (7) days prior to the settlement conference;

(H) if requested, create a written report at least seven days prior to trial.

34.05 Guardian *ad litem* Summaries and Reports

(A) (1) Summaries.
The attorneys of record and unrepresented parties will be provided a copy of the Guardian ad Litem summary by the GAL. The summary is an abbreviated form of the report that will be provided to counsel and unrepresented parties at least seven days prior to the settlement conference unless otherwise specified by the Court. The summary form is available at www.drcourt.org for GALs to utilize.

(2) Reports. If requested and necessary for trial purposes, the GAL shall prepare a Guardian ad Litem report and provide a copy of the report pursuant to Sup. R. 48.06 to counsel and unrepresented parties.

(3) In lieu of the Sup. R. 48.06 warning, all Guardian ad litem summaries and reports shall contain the following notice with additional warnings:

"NOTICE: This report is being provided to the Court, unrepresented parties, and legal counsel of record. If you are an attorney, you may share its contents with your client. Under NO circumstances are the contents of the report to be shared with the minor child(ren) in any format. Additionally, any other disclosure of the report must be approved *in advance* by the Court. Unauthorized disclosure of the report in any fashion through any means including, but not limited to, copying the report, posting the report or any portion of the report on social media or other mediums, or disclosing all or portions of the report to another person, without prior approval, may be subject to Court action including, but not limited to, a finding of contempt, for which penalties include incarceration and fines."

(B) Once the guardian ad litem report is provided, the GAL is under no obligation to respond to any questions from counsel, parties, or unrepresented parties other than at the time of hearing.

(C) Any written summary or report of the GAL shall be considered as part of "the original papers and exhibits filed with the trial court" for purposes of Appellate Rule 9(A). A party may move the Court to transmit a copy of the report under seal to the Clerk of Courts to be filed as part of the original papers and exhibits if the summary or report has been filed as an exhibit with trial Court.

(D) Guardian ad litem summaries, reports and recommendations contain adult information which is not to be shared with the minor children. Attorneys are expected to use professional discretion in sharing information with their clients.

Comment:

This rule has been amended to align with amended Sup.R. 48.06, and includes an additional notice that a party may be found in contempt of court for improperly sharing the GAL report. New subsection (B) is added to avoid ex parte communication with the GAL after the report has been completed. The sentence added to subsection (C) recognizes confidential nature of the GAL report and the need for a complete record on appeal. The definition of a guardian ad litem summary and timeline for providing the summary is added.

34.06 Fees.

In addition to the requirements set forth in Sup. R. 48.03(H), depending on the type of case in requesting compensation for fees, the guardian ad litem shall:

(A) Legal Custody cases. Court-appointed attorney guardians ad litem shall be compensated at the rate set forth in the Fee Schedule provided on the Court's website at www.drcourt.org in accordance with Summit County Codified Ordinance (SCCO) 113.09 for legal custody cases by submitting a request for payment following the procedures set forth in Loc. R. 13.08(C).

(B) For all other cases, fees for the GAL shall be compensated at the rate set forth in the Fee Schedule provided on the Court's website at www.drcourt.org unless the GAL is serving at a reduced rate. Unless specified otherwise by the Court, fees will be assessed equally between the parties and should be deposited with the Clerk of Court's office by the date set forth in the order. Fees shall not exceed the deposit amount set forth in the Fee Schedule without prior written approval of the Court. Note that a two percent (2%) processing fee is collected by the Clerk of Courts and will be added the fees required to be deposited with the Clerk.

(C) Extraordinary fees. In the event that fees for court-appointed attorney guardian ad litem should exceed the limits set forth in SCCO 113.09 in legal custody cases or the funds on deposit with the Clerk of Courts in all other cases, the GAL shall file a motion for extraordinary fees detailing why the additional time was required on this case. The GAL shall include therewith a detailed listing of all time and expenses expended on the case along with the motion. The GAL shall also provide the court with a proposed judgment entry approving the extraordinary fees. Any award of extraordinary fees are within the sole discretion of the Court and are not guaranteed.

Comment

34.06 has been expanded to differentiate compensation for guardians ad litem on legal custody cases and all other cases. The fee schedule for all GALs will now be posted on the Fee Schedule provided on the Court's website at www.drcourt.org as a generalized term to negate the necessity of amending local rules each time the hourly rate increases. Section (C) Extraordinary Fees was added to set forth the procedure for GALs in making such a request.

34.07 Appointments.

Appointments of GALs will be recommended by the Family Court Services on a rotating basis. Special needs of a particular case, (e.g. child abuse, medical or psychological issues), may be considered in the appointment of a guardian with specialized qualifications or skills; however, every effort will be made to ensure an equitable distribution of cases. A review of case distribution shall be conducted annually. In cases returning to court and requiring a guardian, every effort will be made to ensure the reappointment of the previous guardian to the case, unless otherwise specified by the Court.

34.08 Guardian *ad litem* Removal; Complaint Process.

Pursuant to Sup. R. 48.07(J), should a party or attorney of record have a complaint regarding the performance of a guardians ad litem, the following process shall be utilized:

(1) The Family Court Services ("FCS") Director shall be designated as the person for accepting and considering written comments and complaints;

(2) The FCS Director shall provide a copy of the comment or complaint to the opposing counsel or pro se party and the guardian ad litem who is the subject of the complaint or comment;

(3) The FCS Director or shall forward any comment or complaint to the administrative judge of the Court for consideration and appropriate action;

(4) The matter shall be set for hearing in a timely manner before the judge assigned to the case in order to effectuate the timely disposition by the Court; All parties are to be present at the hearing;

(5) For any motion requesting removal of a Guardian *ad litem*, the Court shall issue an Order;

(6) For any comment or complaint, the parties shall be notified in writing of the disposition of the matter;

(7) The FCS Supervisor shall maintain a written record in the file of the guardian *ad litem* regarding the nature and disposition of any comment or complaint.

34.09 Guardian *ad litem*s to be appointed for Minors or Incompetent Persons.
Whenever a minor or incompetent person has a representative, such as a guardian or other like fiduciary, the representative may sue or defend on behalf of the minor or incompetent person. If a minor or incompetent person does not have a duly appointed representative, the minor may sue by a next friend or defend by a guardian *ad litem*. When a minor or incompetent person is not otherwise represented in an action, the Court shall appoint a guardian *ad litem* or shall make such other order as it deems proper for the protection of such minor or incompetent person.

As to incompetent persons, a hearing shall be set prior to the appointment of a Guardian *ad litem*. All parties, and the proposed guardian *ad litem*, shall appear for the hearing. The incompetent person shall have an opportunity to be heard on the motion for appointment of guardian *ad litem*.

Rule 35. Parenting Coordination.

(A) Definitions

As used in this rule:

(1) "Domestic abuse" means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.
(2) "Domestic violence" has the same meaning as in R.C. 3113.31(A)(1).

(3) "Parenting coordination" means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. "Parenting coordination" is not mediation subject to R.C. Chapter 2710, R.C. 3109.052 or Sup.R. 16 nor arbitration subject to R.C. Chapter 2711 or Sup.R. 15.

(4) "Parenting Coordinator" means an individual appointed by the Court to conduct parenting coordination.

(B) Purpose

This rule allows for the earliest possible resolution of disputes related to parental rights and responsibilities or companionship time orders.

(C) Scope

At any point after a parental rights and responsibilities or companionship time order is filed, the Court may order parenting coordination except to determine the following:

(1) Whether to grant, modify, or terminate a protection order;
(2) The terms and conditions of a protection order;
(3) The penalty for violation of a protection order;
(4) Changes in the designation of the primary residential parent or legal guardian;
(5) Changes in the primary placement of a child.

(D) Appointment

1. The Court may order parenting coordination, sua sponte or upon written or oral motion by one or both parties, when one or more of the following factors are present:

(a) The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;
(b) There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
(c) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
(d) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
(e) One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;
(f) Any other factor as determined by the Court.

2. Prior to appointment, the Court may appoint a parenting coordinator who has the following:
    (a) master's degree or higher, a law degree, or education and experience satisfactory to the Court;
    (b) At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;
    (c) Training that has been approved by the Dispute Resolution Section of the Supreme Court, in the following order:
        (i) At least twelve (12) hours of basic mediation training;
        (ii) At least forty (40) hours of specialized family or divorce mediation training;
        (iii) At least fourteen (14) hours of specialized training in domestic abuse and dispute resolution;
        (iv) At least twelve (12) hours of specialized training in parenting coordination.

3. In addition to the qualifications under Division (D)(2) of this rule, the Court may appoint a parenting coordinator to an abuse, neglect or dependency case provided the parenting coordinator meets both of the following qualifications:
    (i) Significant experience working with family disputes;
    (ii) At least thirty-two (32) hours of specialized child protection training that has been approved by the Dispute Resolution Section of the Supreme Court.
4. To maintain eligibility for appointment, a parenting coordinator shall complete at least three (3) hours per calendar year of continuing education relating to children approved by the Dispute Resolution Section of the Supreme Court.
5. The appointment order shall set forth the following:
    (a) The name of the parenting coordinator and any contact information the Court may choose to include;
    (b) The specific powers and duties of the parenting coordinator;
    (c) The term of the appointment;
    (d) The scope of confidentiality;
    (e) The parties' responsibility for fees and expenses for services rendered by the parenting coordinator;
    (f) Parenting coordination terms and conditions.
6. The parenting coordinator who meets the qualifications in Division (D)(2) and, if applicable, (D)(3) shall be selected using one of the following:
    (a) Use of a court employee;
    (b) Random selection from the Court's roster of parenting coordinators;
    (c) Specific appointment based on the type of case and the qualifications and caseload of the parenting coordinator;
    (d) Parties select a parenting coordinator from the Court roster to be approved by the Court.
7. The Court shall not appoint a parenting coordinator who does not have the qualifications in Division (D)(2) and, if applicable, Division (D)(3) of this rule or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role

to any family member; or attorney for either party. Parties may not waive this conflict.

8. With written consent of the parties, the Court may appoint a mediator to serve as the parenting coordinator with the same family.
9. Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.

(E) Parenting Coordinator Responsibilities

(1) Ability to Perform Duties

A parenting coordinator shall report to the Court any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(2) Compliance with Appointment Order

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the Court pursuant to Division (D) of this rule.

(3) Independence, Objectivity, and Impartiality

A parenting coordinator shall maintain independence; objectivity; and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(4) Conflicts of Interest

A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship 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 parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator. Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the Court and the parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court.

(5) Ex Parte Communications

A parenting coordinator shall not have ex parte communications with the Court regarding substantive matters or issues on the merits of the case.

(6) Legal Advice

A parenting coordinator shall not offer legal advice.

(7) Reporting

(a) A parenting coordinator shall submit a resume to the Court

documenting compliance with Division (D)(2) and, if applicable, Division (D)(3) of this rule; provide an updated resume to the court in the event of any substantive changes; and notify the Court of any changes to name, address, telephone number and, if available, electronic mail address.

(b) On or before January 1st of each year, a parenting coordinator shall report to the Court a list of all continuing education training completed during the previous year pursuant to Division (D)(4) of this rule including the sponsor, title, date and location of each training. A parenting coordinator shall not be eligible for appointment until this requirement is satisfied. The parenting coordinator shall complete three (3) hours of continuing education for each calendar year of deficiency.

(F) Procedures

(1) Screening and Disclosure for Domestic Abuse and Domestic Violence

(a) All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.

All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.

(b) When domestic abuse or domestic violence is alleged, suspected or present, before proceeding, a parenting coordinator shall:

(i) Fully inform the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process and the option to have a support person present at parenting coordination sessions;

(ii) Have procedures in place to provide for the safety of all persons involved in the parenting coordination process;

(iii) Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

(2) Disclosure of Abuse, Neglect and Harm

A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party, to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

(3) Attendance and Participation

(a) Parties shall attend parenting coordination sessions. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.
(b) A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and/or any other individuals designated by the parties.

(4) Referrals to Support Services

A parenting coordinator shall provide information regarding appropriate referrals to resources including legal counsel, counseling, parenting courses/education and other support services for all parties, including, but not limited to, victims and suspected victims of domestic abuse and domestic violence.

(5) Parenting Coordination Agreements, Reports and Decisions

(a) Parties shall sign and abide by agreements reached during a parenting coordination session which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.
(b) Upon request by the Court, the parenting coordinator shall prepare a written report including, but not limited to, the following:
    (i) Dates of parenting coordination session(s);
    (ii) Whether the parenting coordination session(s) occurred or was terminated;
    (iii) Requests to reschedule a parenting coordination session including the name of the requestor and whether the request was approved;
    (iv) Whether an agreement was reached on some, all or none of The issues;
    (v) Who was in attendance at each session; and
    (vi) The date and time of a future parenting coordination session(s).

(c) The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute(s). If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately and remains effective unless ordered otherwise by the Court. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be immediately filed with the Court and include all of the following:
    (i) Case caption, including the case number;
    (ii) Date of the decision;
    (iii) Facts;
    (iv) Reasons supporting the decision;
    (v) The manner in which the decision was provided to the parties; and

(vi) Any other necessary information.

(d) A party may file written objection(s) to a parenting coordinator's decision, with the Court and serve all other parties to the action, within fourteen (14) days of the filing date of the decision. If any party timely files objection(s), any other party may also file objection(s) with the Court and serve all other parties to the action, not later than ten (10) days after the first objection(s) are filed. A hearing may be scheduled, upon request, at the discretion of the Court. A judge or magistrate shall issue a ruling on the objection(s) within thirty (30) days from the date of the last objection filed.

(6) Parenting Coordinator Evaluations and Complaints

(a) A parenting coordinator shall provide participants with the Parenting Coordinator Evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment.

(b) The Court shall complete a review of the parenting coordinator(s) on the Court's roster in January of each year.

(c) A party to a case appointed to parenting coordination may file a complaint regarding the parenting coordinator within one year from the termination of the appointment. The complaint shall be submitted to the Court Administrator, and include all of the following:

(i) Case caption, including the case number;
(ii) The name of the parenting coordinator;
(iii) The name and contact information for the person making the complaint;
(iv) The nature of any alleged misconduct or violation;
(v) The date(s) of the alleged misconduct or violation occurred.

(d) The Court Administrator shall provide a copy of the complaint to the parenting coordinator;

(e) The parenting coordinator has fourteen (14) days from the date of the receipt of the complaint to respond in writing to the Court Administrator.

(f) The Court Administrator shall conduct an investigation into the allegations and shall issue a response within thirty (300 days from the date the complaint was received.

(7) Fees

A parenting coordinator shall be paid $60/hour, unless otherwise ordered by the Court. All fees shall be determined by the Court and included in the appointment order. Fees shall be waived for indigent parties.

(8) Stay of Proceedings

Unless otherwise provided by court order, referral of a case to parenting coordination terminates a case. The Clerk of Court shall not accept for filing any documents while a case is in parenting coordination with the

following exceptions:

(a) A motion to review the parent coordinator decision;
(b) A motion for reallocation of parental rights;
(c) A motion to modify parenting time;

(9) Parties filing the above-listed motions will be required to pay the cost deposit for that motion in order to proceed.

(G) Confidentiality and Privilege

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

(H) Public Access

The files maintained by a parenting coordinator but not filed with a clerk or submitted to a court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

(I) Model Standards

The Court and a parenting coordinator shall comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the Guidelines for Parenting Coordination and this local rule, this local rule shall control.

(J) Court Reporting Requirements

On or before February 1st of each year, the Court shall file with the Dispute Resolution Section of the Supreme Court all of the following:

(a) A copy of this local rule;
(b) A copy of the current roster of parenting coordinators;
(c) A copy of each new or updated resume received by the court from a parenting coordinator during the previous year;
(d) A copy of each list of continuing education training received by the court from each parenting coordinator.

(K) Sanctions

The Court may impose sanctions for any violation of this rule which may include, but not limited to, attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the Court.

RULE 36 COURT DECORUM

At court hearings, all persons shall be properly attired in the courtroom. If the parties are not properly attired, the court may order that the hearing will not go forward. Parties shall not bring children to any hearing.

RULE 37 CONFLICTS OF INTEREST

The court, including all of its judges, magistrates, and employees, shall not accept any gift, favor, or item from any attorney or party.

RULE 38 SPECIAL NEEDS *E.G.*, INTERPRETERS, TRANSLATORS, HEARING ASSISTED DEVICES

The court will make every effort to provide reasonable accommodations for any party, counsel, witness, or member of the public coming to the court who has special needs or needing special arrangements, *e.g.*, interpreter or translator. Parties or their counsel are required to contact the court administrator at (330) 643-2082 seven days prior to the hearing so that appropriate arrangements can be made.

RULE 39 PUBLIC ACCESS TO COURT RECORDS

(A) At the discretion of the Clerk of Courts, certain court records may be made available for electronic viewing via the internet or other means.

(B) The following information shall not be available for public viewing via the internet or other electronic means:

(1) social security numbers of any person;
(2) bank account or credit card numbers;
(3) separation agreements;
(4) shared parenting plans;
(5) Financial affidavits, Health Insurance Affidavits .
(6) Family Court Services referrals;
(7) income tax returns;
(8) third-party pleadings that contain any of the above information;
(9) exhibits attached to pleadings or submitted at hearings;
(10) letters;
(11) pretrial, post-trial, and post-decree briefs, statements, and memoranda;
(12) transcripts;
(13) Qualified Domestic Relations Orders;
(14) Documents to which public access has been restricted pursuant to

division E of Sup.R. 45 or by court order;

(15) Items excluded from the definition of "Case Document" pursuant to Sup.R. 44 or other documents which any Superintendence Rule limits public access; or

(16) other documents and pleadings as ordered by the court not to be made available for electronic viewing.

(C) There shall be no public access (electronic or otherwise) to items excluded from the definition of "Case Document" pursuant to Sup.R. 44 or other documents which any Superintendence Rule limits public access.

RULE 40 ELECTRONIC FILING OF COURT DOCUMENTS

A. DEFINITION OF TERMS:

Clerk Review: A review of electronically filed documents by the Clerk of Courts in accordance with Court rules, policies, procedures and practices. Court Clerks may review the data and documents electronically submitted to ensure compliance with rules, policies, procedures and practices before acceptance and creating a docket entry or new case filing.

CMS (Case Management System): The Clerk of Courts case management system manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.

Court Electronic Record: Any document that the Clerk receives in electronic form, record in its case management system and stores in its document management system. This includes notices and orders created by the Court and/or Clerk, as well as pleadings, other documents and attachments created by practitioners or parties. It does not include physical exhibits brought into the courtroom for the court's or jury's review, which are not susceptible of capture in electronic form.

Document: A filing made in either electronic format or paper form that will become the official record of the Court.

Electronic Filing (E-Filing): The electronic transmission, acceptance and processing of a filing. A single filing consists of data, one or more documents, and/or images.

Electronic Service (E-Service): The electronic transmission of an original document or notice to all other electronically-registered case participants via the electronic filing system.

Original Document: The electronic document received by the Clerk from the case participant/filer.

B. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS

All pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders or other documents, submitted in designated eFile case types shall be filed electronically through the Clerk's authorized electronic filing system. Electronic filing shall be optional for all parties once the Clerk of Courts has systems in place to allow such filings. Effective February 1, 2016, except for filings in Civil Protection Order cases and for specific documents listed in Rule 40 (B)(1), electronic filing shall be mandatory for attorneys. After that date, the Clerk shall not accept or file any document in paper form except those listed below, in cases from parties represented by counsel.

1. Documents exempted from Electronic filing.

   The following documents shall be exempted from electronic filing and shall continue to be filed on paper:

   a. Motions and Judgment entries for court appointed counsel fees.

C. ACTIONS EXEMPT FROM E-FILING PROCESS

All domestic relations cases are designated eFile cases, except for the Civil Protection Order Petitions, which are exempt from the E-Filing process. No electronic filings will be accepted on Civil Protection Order cases.

Petitions for Civil Protection Orders can be filed in the Summit County Clerk of Courts' Office during normal business hours of Monday thru Friday 7:30am to 4:00pm.

D. ELECTRONIC FILING AND SERVICE OF ORDERS AND NOTICES

For designated eFile case types, the Clerk shall serve notices, orders and other documents electronically subject to the provisions of Civ. R.4.

E. OFFICIAL COURT RECORD

Documents that have been electronically filed or documents filed in paper form that have been scanned and uploaded to the Clerk's electronic filing system will constitute the official Court record. Electronically filed papers have the same force and effect as paper records filed by conventional means.

F. FORMAT OF ELECTRONICALLY FILED DOCUMENTS

All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in any other format as the Court may require.

Except for notarized documents or exhibits, a filed pleading shall not be filed as a scanned image document. Such pleadings shall be filed in a PDF format that permits word searches. A filed document shall not contain links to other documents or references in the Court's case management system, unless they are incorporated into the filed document. External links are prohibited.

G. PROPOSED ORDERS

All electronically filed documents shall be filed with the Clerk in PDF format with the exception of proposed orders. A proposed order must be submitted in Word format (.doc\.docx) with reference to the specific motion to which it applies. Proposed orders shall include an approval line on the bottom left side with the electronic signature (see rule 40(I)(1) below) of the attorney or party submitting the proposed order.

1. Proposed orders which include a hearing date must have the date pre-typed into the order. If a hearing date is required and not available when the motion is filed, the applicable motion should be filed, a hearing date obtained from the court, and that hearing date shall be inserted into the proposed order before submitting the order to the Court for signature.
2. Proposed orders which require the signature of BOTH the judge and magistrate shall be submitted through the e-filing system for signature to the magistrate. The magistrate will sign and forward the order to the judge.
3. Proposed Decrees of Dissolution or Uncontested Divorce must be submitted for at least two business days in advance of the upcoming dissolution or uncontested divorce hearing.

H. SIZE OF FILING

Documents shall be limited to ten megabytes (10MB) in size. No combination of PDF files in one transmission may accumulate to more than thirty megabytes (30MB) in size. If a document exceeds 30 MB in size, it may be filed in multiple transactions.

I. SIGNATURES FOR DOCUMENTS FILED ELECTRONICALLY

1. Documents filed electronically with the Clerk that require an attorney's or filing party's signature shall be signed with a conformed signature of "/s/ (name)". The conformed signature on an electronically filed document is deemed to constitute a signature on the document for the purposes of signature requirements imposed by the Ohio Rules of Superintendence, Rules of Civil Procedure and any other law.
   The correct format is as follows:

   s/Attorney Name
   Typed Attorney Name
   Ohio Supreme Court Number
   Attorney for (plaintiff or defendant name)
   Law Firm Name

Address (full address)
Telephone
Email
Fax

a. Multiple Signatures: When a stipulation or other document requires two or more signatures:
   i. The filing party or attorney shall confirm that the content of the document is acceptable to all persons required to sign the document. The filing party will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.
   ii. The filing party then shall file the document electronically, indicating the signatories, e.g., /s/Jane Doe.

b. Judge or Magistrate Signature:

   Electronic documents may be signed by a Judge or Magistrate via a digitized image of his or her signature combined with a digital signature.

   All orders, decrees, judgments and other documents signed in this manner shall have the same force and effect as if the Judge or Magistrate had affixed his or her signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

J. E-FILE TIMESTAMP

Documents filed electronically shall be considered as filed with the Clerk of Courts when the document submission is complete. The Clerk's Electronic E-Filing System will acknowledge date and time on all submissions.

An electronic filing may be submitted to the Clerk twenty-four (24) hours a day, seven (7) days a week. Any document filed after 11:59 p.m. Eastern Standard Time or Eastern Daylight Time shall be deemed to have been filed on the next court day.

The Clerk's electronic filing system is hereby appointed the agent of the Summit County Clerk of Courts for the purpose of electronic filing, receipt, service and retrieval of electronic documents.

Upon receipt of an e-filing, the Clerk's filing system shall issue a confirmation that the filing has been received. The confirmation shall include the date and time of receipt and serve as proof of filing. A temporary case number will be assigned for all new case filings. A filer will receive subsequent notification from the Clerk of Courts that the filing has been accepted or rejected by the Clerk's Office for docketing and filing into the CMS. Each document will receive an electronic stamp that includes the date, time, case number and assigned judge name. In the event the Clerk rejects a submitted document, the document shall not become part of the official court record and the filer may be required to re-file the document to meet necessary filing requirements.

If the electronic filing is not filed with the Clerk because of an error in transmission of document to the Clerk's electronic filing system, the Clerk may, upon satisfactory proof, enter a nunc pro tunc order to the date it was sent electronically.

Any changes to an electronically filed document that may be required by the Clerk's office will be considered amendments to the original filed document, such that the filing date of the original filed document will control for purposes of meeting any filing deadlines.\

K. SERVICE OF ELECTRONICALLY FILED DOCUMENTS

Whenever a document is filed electronically and has been accepted into the Clerk's E-filing system, the system will generate a notification of electronic filing to the filing parties or their designated counsel, the Court and any other party who is a registered user of the electronic filing system. The notification of electronic filing via the Clerk's electronic filing system shall constitute service under Civ. R. 5.

Upon filing the original complaint, cross claim complaint, counterclaim complaint or third party complaint electronically, the filing party shall also file instructions for service electronically. The Clerk shall issue a summons and process the method of service in accordance with local rules and Civ. R. 4.

Service of documents after the complaint shall be considered as valid and effective on all parties and shall have the same legal effect as an original paper document served under former rules. Pro Se parties or attorneys who have not registered in the Clerk's electronic filing system shall be served a paper copy by the filing party and/or the Clerk or Courts in accordance with the applicable Ohio Court Rules.

The copies of complaints used for service will be prepared by the Clerk of Courts Office and will be taxed as costs to the case.

A Certificate of Service on all parties entitled to service is required when a party files a document electronically. The certificate must state the manner in which service was accomplished on each party so entitled.

Service of proposed entries and orders upon all parties that are not registered users of the system and must be served by regular U.S. Mail shall be the responsibility of the filing party, not the Clerk of Courts.

If there is a failure of electronic service on a party, the party to be served may be entitled to an order extending the date for any response or period within which any right, duty or act must be performed.

L. COURTESY COPIES

When documents are filed electronically, courtesy copies will not be required to be given to the Court. However, when documents are not filed electronically, a courtesy copy is required to be provided to the Court.

M. PRO SE (SELF-REPRESENTED) PARTIES

Pro Se Parties will be required to follow all of the electronic filing rules. If a Pro Se Party does not have access to the Clerk's electronic filing system, the filer may submit paper documents to the Clerk of Courts Office during normal business hours of Monday thru Friday 7:30 AM to 4:00 PM. The Clerk will accept paper documents and scan them into the Clerk's Case Management System. If a Pro Se Party does not file electronically, the party will be responsible for service of all documents as stated under Civ. R. 5 and must attach the proper proof of service before filing with the Clerk.

N. MOTION TO PROCEED IN FORMA PAUPERIS

The Clerk's Electronic Filing system will accept a new case for filing without the payment of a filing fee, only if the new case includes a court-approved poverty affidavit. A Motion to Proceed in Forma Pauperis must be prepared with a notarized poverty affidavit stating the party's economic hardship. Also, a proposed order granting the motion must be prepared for the judge to sign and should be submitted for signature at the same time as the motion and affidavit. The filing party must follow all E-filing rules, local Court Rules, Rules of Civil Procedure and Rules of Superintendence.

The approval of the Motion to Proceed in Forma Pauperis only allows the party the ability to initiate a new case without the payment of a filing fee. It does not extinguish the party's obligation to pay the court costs due on the action.

O. PAYMENT OF FILING FEES

Any document and/or court action that requires payment of a Filing Fee will be made by credit card through the Clerk's E-Filing System. The Clerk will not store credit card information at any level of processing. A confirmation receipt will be provided to the filing party upon submission of the action.

The Clerk of Courts will continue to accept payment of Filing Fees from litigants that are not able to use the e-filing system during regular business hours of Monday thru Friday 7:30AM to 4:00 PM.

P. SEALED DOCUMENTS

The Clerk of Courts shall not accept any document to be filed under seal unless there is a previously signed protective order or order authorizing that a document be filed under seal and the order designates a level of access. If a protective order or order authorizing that a document be filed under seal does not include a designated level of access, the filer will be required to file a proposed order designating a specific level of access for the protective order or the order to seal. The Clerk will accept the documents to be filed under seal once an order is approved and filed with the Clerk of Courts.

Parties who attempt to file a sealed document without an approved order may have their document rejected by the Clerk and be forced to re-submit the document pursuant to the procedures outlined in this rule.

Q. TECHNICAL DIFFICULTIES WITH ELECTRONIC FILINGS

If a party is unable to file electronically due to exceptional circumstances, such as power outages or system failures, and, as a result, misses a filing deadline, the party may submit the untimely filed document, accompanied by an affidavit, as a separate document, stating the reason for missing the deadline. The document and affidavit must be filed, either electronically or in person at the Clerk's office, no later than 4:00 P.M. (if filing in person) or 11:59 PM (if filing electronically) of the first day on which the Court is open for business following the original filing deadline.

RULE 41 RECORDS RETENTION

(A) All court records shall be retained according to the record retention schedule set forth in Rule 26 of the Supreme Court Rules of Superintendence.

(B) Family Court Services files will be closed at the time an agreement is put on the record; evaluator has given testimony; or the parties have stipulated to the report. All files will be purged within three years of closing date unless a motion and order are filed to retain the file for a longer period.

RULE 42 SPECIAL PROJECTS FEE

Pursuant to Revised Code section 2303.201(E), the Clerk of Courts may charge, in addition to all other court costs, a special project fee on the filing of each action or proceeding. The purpose of a special project fee is to maintain the efficient operation of the court and the fees acquired shall be used to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services.

RULE 43 COURT SECURITY PLAN

For purposes of ensuring security in court facilities and pursuant to the provisions of the Ohio Court Security Standards adopted by the Supreme Court of Ohio in Rule 9 of the Rules of Superintendence for the Courts of Ohio and Ohio Revised Code Section 311.07, the Court adopts and abides by the security procedures of the Summit County Sheriff's Office by reference herein and incorporates the same in the Court's Local Rules. Any information contained in the plan and any information resulting from a court security review conducted by the Court or the Supreme Court from time to time shall not be a public record.