

**LOCAL RULES**  
**COURT OF DOMESTIC RELATIONS**  
**HAMILTON COUNTY, OHIO**

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## **LOCAL RULES**

### **Title I. Pleadings and Motions; Filings; Entries**

#### ***1.0 Compliance with Ohio Rules of Civil Procedure***

Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with Title III, Ohio Rules of Civil Procedure and Local Rules of the Court of Common Pleas of Hamilton County, Ohio

#### **1.1 Questionnaires**

Attorneys will be required to complete the questionnaire for all divorce and dissolutions filed.

Questionnaires are to be typed and submitted by Plaintiff's attorney and must include complete information for both Plaintiff and Defendant as known.

Questionnaires are to be submitted to the Domestic Relations Docket Office (Room 3-46) the same day the divorce/dissolution is filed.

Any incomplete questionnaire will be returned to the attorney to be completed and resubmitted. The case number must be stamped on all questionnaires by the Clerk of Courts and returned to the Docket Office.

#### **1.2 Continuances**

Any action scheduled for hearing before a Judge shall only be continued for good cause shown by appropriate entry.

#### **1.3 Ohio Attorney**

No action in the Court of Common Pleas, Division of Domestic Relations for divorce, legal separation, annulment or dissolution of marriage, shall be filed or tried by an attorney not admitted to practice in the State of Ohio, unless there is co-counsel who is admitted to practice in Ohio.

#### **1.4 Continuances and Dismissals**

Any matter scheduled for hearing in which the moving party does not appear and for which no continuance had been previously granted, shall be subject to dismissal.

#### **1.5 Post-Decree Motions and Filings – Amended 01-17-2012**

On the filing of any post-decree motion, except for those listed herein below, the party filing the motion must pay a filing fee of \$125.00, regardless of any custody or child support issues.

The Court of Domestic Relations will exempt the following motions from payment of a filing fee:

- Motion for Continuance
- Motion for *In Camera* Interview
- Motion to Mitigate
- Motion to Set Aside Magistrate's Order
- Motion to Withdraw as Counsel

If a party asserts that they are indigent and unable to pay the \$125.00 filing fee, a poverty affidavit will be required at the time of the filing. The court will undertake a further review of the issue of costs at the hearing on the motion and make a final determination regarding payment.

A filing fee will not be required for any pre-decree motions or pre- or post- decree Objections to Magistrate's Decisions.

### **1.6 Court Filings – Amended 2-7-2000**

All documents to be filed of record in a Domestic Relations Court case (e.g. all pleadings, motions, notices of hearing, memoranda, trial briefs, findings of fact, etc.) must be presented to and acknowledged by the Domestic Relations Court Docket Office prior to being presented to the Hamilton County Clerk of Courts' Office for filing. Sufficient legible copies of documents to be filed must accompany the originals so as to allow the Domestic Relations Court Docket Office to retain one (1) copy of all documents to be filed; to allow the Hamilton County Clerk of Court's Office to retain, not only the originals, but also the number of copies it requires for service and other purposes; and for delivery of a copy of certain documents to the assigned Judge or Magistrate as required below.

All motions to be heard by either a Judge or a Magistrate must first be set for hearing by the Domestic Relations Court Docket Office prior to being presented to the Hamilton County Clerk of Courts Office for filing. Written notice of the date, time and place of any hearing on a motion, and sufficient copies of such notice, must then be filed with the Clerk of Court's Office and served along with the motion itself.

Immediately after filing with the Clerk of Court's Office, a filed stamped copy of any written memorandum, trial brief, final argument, request for findings of fact and conclusions of law, etc., which is to be considered by a Judge or Magistrate in resolving any issue in a case shall be submitted to that Judge or Magistrate by delivering the copy to the bailiff or constable for the Judge, or by leaving the copy in the Magistrate's mail box in room 2-100.

### **1.7 Classification and Notification Forms**

No complaint in a domestic relations case shall be accepted for filing unless accompanied by a completed classification form provided by the Domestic Relations Docket Office in Room 3-46. No other pleading whereby an attorney makes his or her first appearance in a domestic relations case shall be accepted for filing unless accompanied by a completed **notification** form. The Clerk of Courts shall furnish such forms in Room 3-47.

### **1.8 Income and Expense Statement**

An income and expense statement shall be filed and served on opposing party along with original pleadings or no later than 7 days prior to the date of the hearing. Upon failure of either party to submit such statement, the Magistrate may render a decision on the evidence presented, or order the matter reset and order appropriate attorney's fee.

### **1.9 Decree to Contain Specific Information**

A decree will not be accepted unless it sets out specifically the amount of support payment per child, per month, spousal support, the exact date such payment is to commence and a statement that payment shall be made through the Child Support Enforcement Agency with an appropriate withholding order and medical forms attached.

In addition, the amount of arrearage, if any, as of a date certain shall be included, with reference to the mode of payment of such arrearage.

### **1.10 Filing; Time Limitations**

Within seventy-five (75) days from the date of service, the Plaintiff must file one of the following or the case will be subject to dismissal without prejudice on the seventy-sixth (76) day:

1. A "Request for Merit Setting" entry (prepared entry obtained in Domestic Relations Docket Office (Room 3-46).
2. A property statement which contains scheduling conference date.
3. A request for custody investigation and payment of the appropriate fee.

### **1.11 Entry of Dismissal**

All Entries of Dismissal, in which child support, spousal support or alimony are involved, shall incorporate the fact that the support obligation has terminated, the support account closed and arrearage reduced to zero. The original Entry shall be left with the Court Secretary.

### **1.12 Family File Number**

The Family File Number must be on all motions other than those filed with the original complaint before a date for a hearing on the Judges' Docket or Magistrates' Docket will be assigned. The Family File Number may be obtained from the File Room (Room 2-124)

### **1.13 Agreed Entries- Amended 8-24-07**

#### **A. Reducing Support or Arrearage**

Agreed Entries to reduce or terminate child support payments or to reduce or erase arrearages are not accepted. A filed motion, with proper service to the Hamilton County Child Support Enforcement Agency, followed by a hearing is required.

An exception to the above will be made only in cases where the party against whom a reduction of support or arrearage is sought is represented by counsel, and an entry is presented, signed by all parties and counsel, setting forth the factual basis for such reduction and the fact that the party against whom the reduction was made agreed to the reduction voluntarily and with the advice and consent of counsel.

#### **B. Change of Residential Parent**

Agreed entries changing the residential parent are not accepted. A filed motion, with proper service to the Hamilton County Child Support Enforcement Agency, followed by a hearing is required.

An exception to the above will be made only in cases where the party losing residential parent status is represented by counsel, and an entry is presented, signed by all parties and counsel, setting forth the agreement regarding the change in status and the effect thereon to child support payments, medical and dental insurance coverage and status of tax exemptions.

#### **C. Shared Parenting Plans**

Minor changes to Shared Parenting Plans are exempted.

## D. Generally

Agreed entries shall bear the signature of all parties and counsel.

In cases where a party is not represented by counsel and an Agreed Entry purports to deprive such party of a right or otherwise operates to the potential detriment of such party, a hearing on the merits of such matters shall be conducted by the Court before such entry shall be accepted and journalized by the Court.

When applicable, requisite income and expense forms must accompany all Agreed Entries presented to the Court.

### **1.14 Service; Pleadings Invoking Continuing Jurisdiction**

Pleadings invoking the continuing jurisdiction of the Court pursuant to Ohio Rules of Civil Procedure 75(J) shall be served according to the provisions regarding service of process in Rule 4 to 4.6, Ohio Rules of Civil Procedure. Responsive pleadings may be served upon the attorney of record in the proceedings pursuant to Rule 5(B), Ohio Rules of Civil Procedure.

### **1.15 Voluntary Dismissal; Stipulation or Notice of**

- A. Stipulations or notices of voluntary dismissal of a Domestic Court action shall be governed by the provisions of Rule 41, Ohio Rules of Civil Procedure.
- B. Before such stipulations or notices can be accepted by the Clerk of Courts, a copy thereof must be filed with the Domestic Relations Court, and the original stipulation or notice must bear the endorsement of the Domestic Relations Court demonstrating that a copy thereof was filed with the Domestic Relations Docket Office (Room 3-46)

### **1.16 Ex Parte Orders – Amended 3-18-08**

No ex parte applications, orders, motions, or entries shall be submitted unless expressly authorized by law.

An expedited hearing may be requested in extraordinary circumstances. The moving party will be required to present their motion and attached affidavit outlining the need for an expedited hearing to the assigned magistrate for review. In the absence of the assigned magistrate, the moving party shall present their motion and attached affidavit to the Administrative Magistrate for review. If an expedited hearing is approved, the moving party will be required to provide notice to the non-moving party in accordance with Civ. R. 6(D) and to perfect service of their motion in accordance with Civ. R. 4.3(B).

### **1.17 Merit Hearing Settings**

Merit hearings will not be scheduled without the filing of a “Request for Merit Setting” entry form 9.1 (available in Room 3-46). This states that all matters pertaining to alimony, support, parenting and division of property have been resolved. This entry is submitted to the Docket Office (Room 3-46) who will then schedule a hearing. Decrees must be presented to the Court at the time of the merit hearing. The Request for Merit Setting” entry will not be necessary for Dissolutions filed.

### **1.18 Motion for Modification, Enforcement or Termination of Support Order to be Served on Child Support Enforcement Agency – Amended 8-24-07**

Pursuant to O.R.C. §3121.25, any party filing a motion for modification, enforcement or termination of a support order, shall serve a copy thereof on the Child Support Enforcement Agency, 630 Main Street, Cincinnati, Ohio.

### **1.19 Identification Requirement**

Initial filing documents presented to the Domestic Relations Docket Office shall include a legible copy of a driver's license or a State of Ohio Identification card. Copies of either will be acceptable.

### **1.20 Interest on Support Arrearage**

“Where interest on a support arrearage is an issue, the motion or other pleading shall include the following information:

1. The date(s) of each court order fixing or modifying the sum(s) to be paid;
2. The total claimed delinquency, without interest; and
3. The amount of interest being requested and the calculations relied upon in support of the claim. Counsel shall oversee these calculations so that he/she can verify the reasonable accuracy of the figures.

Respondents who contest any of the figures proposed by the movant shall file a responsive pleading 28 days prior to the hearing date. The pleading shall address the factors listed in (1-3) and shall state with specificity the documents relied upon and the reasons for the disparity in the figures, if known.”

### **1.21 Title IV-D Requirement**

When filing a Complaint for Divorce and/or Petition for Dissolution and child(ren) are involved, a IV-D Application MUST accompany the filing.

In addition, when filing a Post-Decree Motion involving health care or support, a IV-D Application MUST accompany the motion.

### **1.22 Indigency Proceedings**

#### **A. Poverty Affidavits**

The deposit or costs shall be considered met if a party files an Affidavit of Poverty swearing, in good faith, that the party does not have sufficient funds at present to pay the deposit and there is a certification by the attorney, if any, that no attorney fees have been paid. **The filing of a Poverty Affidavit does not relieve a party from liability for court costs.** Nothing herein shall be construed to prevent the Court from assessing costs to the other party.

#### **B. 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 court costs, the Court may order that party to pay the court costs within a reasonable period of time commensurate with the circumstances. Additionally, if it is determined by the Court that there was an intent by the party or the attorney to misrepresent the facts put forth in the affidavit in any way, sanctions may be levied by the Court.

### **1.23 Termination of Inactive Cases**

An inactive case is a case which has been on the docket for six months and which (1) has not been tried, (2) is not awaiting trial assignment, and (3) is not stayed by order of the Judge to whom the case is assigned. Inactive cases shall be set for hearing to be tried or dismissed or for report after written notice to counsel of record or to unrepresented parties.

### **1.24 Pregnancy Disclosure and Disputed Parentage - Amended 1/01/2011**

In actions for divorce, dissolution of marriage, annulment and legal separation:

(1) Where the wife is pregnant or either party asserts that a child born during the marriage is not the husband's child, the initial pleading shall set forth the husband's paternity status in relation to the child;

(2) If a pregnancy or disputed paternity status has not been disclosed in the initial pleadings, an amended pleading shall be filed setting forth the husband's paternity status in relation to the child;

(3) If either party denies the husband's paternity, the Court shall proceed, pursuant to ORC Chapter 3111.10, to determine if the parent and child relationship exists between the husband and the child, and then shall proceed to hear and determine all aspects of the case.

### **1.25 Motion for Contempt for Failure to Reimburse Medical Costs – Effective 5-1-06**

- A. A party requesting reimbursement or payment of medical costs shall deliver appropriate documentation of such costs to the other party or parties by hand delivery, certified mail, regular mail, fax or e-mail. If a party delivers the documentation by hand, the receiving party shall sign a document acknowledging receipt. No parent shall deliver medical bills to the other parent through a minor child.
- B. A Movant who requests a finding of contempt for a failure to reimburse medical costs shall completely fill out and attach to the motion the Medical Expense Sheet (Form # 1.25).
- C. Actual copies of the medical bills and/or Explanation of Benefits forms shall not be attached to the motion, but may be presented as exhibits at the hearing if not otherwise stipulated into evidence.

### **1.26 Mandatory Disclosure Order – New Rule, Effective 1-02-08 – Amended 10-1-09**

#### **(A) Mandatory Disclosure Order**

In every new action for divorce, legal separation or annulment, the plaintiff shall obtain a copy of the Administrative Judge's Order Re: Mandatory Disclosure Pursuant to Local Rule 1.26 (Form No. DR 1.26). The Order shall be served upon the defendant along with the complaint and supplemental documents. Within 45 days of service on the defendant of the Complaint For Divorce, Legal Separation or Annulment and Mandatory Disclosure Order, each party shall disclose to the other all of the following information and documents that is in his or her custody, possession or control:

- (1) All real estate deeds and vehicle titles;
- (2) The most recently issued statements on all bank accounts, annuities, stocks, and bonds;

- (3) The most recently issues statements regarding pensions, profit sharing plans, retirement benefits, and IRA's, including the most recent summary plan description;
- (4) All life insurance policies in force now or within the last six months, including the most recent cash value statements;
- (5) The last three years' income tax returns;
- (6) Proof of current income from all sources;
- (7) Health, dental and vision insurance coverage available along with ALL plan options and costs (i.e. single, family, etc.);
- (8) All COBRA benefits to which either party may be entitled, including cost estimates;
- (9) Child care expenses;
- (10) The most recently issued statements for all liabilities including, but not limited to, mortgages, lines of credit, loans, and credit card accounts;
- (11) Completed Property Statement (Form No. DR 4.1);
- (12) Completed Affidavit of Income, Expenses & Financial Disclosure (Form No. DR 7.3).

**(B) Manner of Disclosure**

The disclosures referred to in paragraph (A) shall be made by providing copies of documents in one of the following manners:

- (1) Electronic e-mail to the other party's attorney;
- (2) Facsimile to the other party's attorney;
- (3) Mail to the other party's attorney; or
- (4) Hand delivery to the other party's attorney.

If a party is unrepresented, this disclosure shall be as provided herein to the party.

**(C) Extension of Time**

For good cause shown, a motion or an agreed entry may be filed to modify the Mandatory Disclosure Order or to extend the time to disclose the foregoing information and documents.

**(D) Failure to Comply with Disclosure Order**

Failure to comply with the Mandatory Disclosure Order may result in sanctions, including, but not limited to, the following:

- (1) A finding of contempt;
- (2) Award of attorney fees;
- (3) Dismissal of claims; and
- (4) Restrictions upon the submission of evidence.

**1.27 Interpretive Services – Revised Rule, Effective 3-28-2011**

When interpretive services are needed, the attorney or party requesting an interpreter shall complete Form DR 1.7 (Request for Interpreter) and submit it to Deanna Rohe of the Court (Fax - (513) 946-9070) no later than ten days before the scheduled hearing. The Court will arrange for an appropriate interpreter to be present for the hearing. It is the responsibility of the requesting party to notify Deanna Rohe (513) 946-9139, immediately, if there is any change in the date or time of the hearing.

## **1.28 Special Projects' Fee – New Rule, Effective 10-01-08**

This Court has determined that, for the efficient operation of the Court, additional funds are necessary to acquire and pay for special projects of the Court.

Pursuant to ORC 2303.201(E)(1), a special project fee shall be collected by the Clerk of Courts upon the initial filing of a Divorce, Legal Separation, Annulment or Dissolution, and for post decree motions.

All moneys collected by the Clerk of Courts under this rule shall be paid to the Hamilton County Treasurer, to be disbursed upon order of this Court.

## ***TITLE II : Parenting Allocations***

### **2.0 Divorce Cases - Pre-Decree**

#### **A. Contested Parenting**

##### **1. Allocation of Parental Rights and Responsibilities**

In cases where both parties request to be the residential parent and legal custodian of the minor child(ren), the Court, pursuant to O.R.C. §3109.04(a)(1), shall allocate the parental rights and responsibilities to one of the parents and designate that parent the residential parent and legal custodian of the minor children. The Court shall divide between the parents the other rights and responsibilities including, but not limited to, support and the right to have continuing contact with the child(ren).

(A) Full Investigations - Full investigations will be ordered where the child(ren) at issue is/are under the age of 12, or where there are children of mixed ages and at least one child is under 12. See Appendix A.

An investigation shall be ordered as set forth in Appendix A, and the matter shall be referred to an assigned Parenting Specialist. Either party that proposed shared parenting shall submit a proposed Shared Parenting Plan to the Parenting Specialist at the commencement of the investigation.

The Parenting Specialist shall schedule a pre-trial conference before the Judge. The Parenting Specialist also shall issue a report which will be mailed to the attorneys and/or the parties if unrepresented. Psychologicals and other confidential material will not be mailed but may be reviewed by appointment with the Parenting Specialist. The parties may, at any time prior to trial, agree to mediation at the pre-trial conference.

If the matter remains contested, the Judge shall conduct a trial and designate one of the parties the residential parent and legal custodian.

(B) Modified Investigations - Modified investigations shall be ordered where all the child(ren) at issue are 12 years or older.

The Parenting Specialist shall conduct a modified investigation, set the matter for a pre-trial conference before the Judge and issue a report which will be mailed to the attorneys and/or the unrepresented party.

If the Parenting Specialist believes that because of extraordinary circumstances a Full Investigation is warranted, the report may request a Full Investigation be initiated. Either party may also request a Full Investigation at the pre-trial conference.

If a Full Investigation is consequently ordered by the Judge, an additional \$250.00 must be deposited. The matter goes back to the Parenting Specialist for reactivation of the investigation after the Attorney brings a copy (or original) Entry Ordering (Full) Investigation stamped "Costs Paid" to the Docket Office (Room 03-46). No Request for Services form is needed in this instance. The matter is then set for another pre-trial conference following the Full Investigation.

## 2. Shared Parenting

(a) Applicable Law §3109.04

(b) Procedures -

Shared Parenting Plans can provide a variety of issues to be litigated:

- (1) If the issues are strictly financial or involve issues for which no investigation is necessary, the Magistrate shall keep the case and conduct the trial issuing recommendations in the form of a Magistrate's Decision or Magistrate's Order. The Parenting Specialist will not be involved.
- (2) If the issues involve substantial amounts of contested parenting time, the Magistrate may refer the case to a Parenting Specialist for a Full or Modified Investigation. The parties must submit their respective Shared Parenting Plans to the Specialist at the commencement of the investigation. The investigation shall be initiated in accordance with the investigation procedures contained herein. The Parenting Specialist will assess the possibility of mediation with the parties. If mediation is not possible or is unsuccessful, the Parenting Specialist will conduct a Full or Modified Investigation, set the matter for pre-trial before the assigned Judge and issue a report which will be mailed to the attorneys and/or the unrepresented party. It is expected that attorneys will make a good faith effort to settle the issues prior to pre-trial. If settlement is reached, the attorneys shall present the agreed Shared Parenting Plan to the Magistrate and the pre-trial conference must be canceled. The Shared Parenting Plan must recite the Code Section under which the Plan is submitted.
- (3) If the matter remains unresolved, it would then be scheduled before the assigned Judge for Pre-Trial and Trial.

As the result of the Trial, the Judge may:

- (a) Grant shared parenting and adopt one of the submitted plans.
- (b) Grant shared parenting conditioned upon modifications in one or both of the plans.

- (c) Deny shared parenting on the basis that shared parenting is not in the best interest of the child(ren) and designate one of the parents as the residential parent and legal custodian with visitation to the other parent.

Findings of Fact/Conclusions of Law are required. The Judge may require the attorneys to submit proposed findings/conclusions.

- (4) If an investigation has been partially completed and a request for shared parenting is made, the original plan must be filed with the Clerk of Courts (Room 03-47) and a copy delivered to the assigned Parenting Specialist. If the matter previously has been set before the assigned Judge for Pre-Trial but the report not yet issued, the Parenting Specialist will consider the plan in evaluating the case, and the Judge will retain the case.
- (5) Pending cases for those matters in which the Court has entered a final parenting (custody) order for inclusion in a decree, the Court shall not entertain a motion for shared parenting pre-decree. This does not include existing 75(M) temporary orders for custody.

#### (c) Shared Parenting Plans

Shared Parenting Plans must contain the following information:

- (1) Allocation of parenting time, including holidays.
- (2) Designation of child support to be paid. The shared parenting worksheet must be attached **EVEN IF NO CHILD SUPPORT IS ORDERED**. If no child support is ordered, the Plan must recite the reasons why no support is to be paid. Child support orders must be per month per child orders and they must be accompanied by the appropriate Withholding Order. Withholding Orders must conform to the pay cycle of the Obligor (i.e. weekly, bi-weekly, semi-monthly, monthly).
- (3) Designation of the appropriate health care order and the Order itself.
- (4) Provisions for notice of relocation, access to all records, school activities, and day care centers or a statement as to their exclusion or modification.
- (5) Miscellaneous provisions regarding schooling, religious training, discipline, decision making, transportation, mediation, tax exemption, non-removal of children from jurisdiction, which parent has responsibility for ordinary non-emergency health care decisions.
- (6) Any reference to visitation must be worded "Shared Parenting Time."

Every agreed Shared Parenting Plan must also contain:

- (a) Language to meet the statutory requirements regarding domestic violence, child abuse, etc.
- (b) Appropriate waivers of findings of fact/conclusions of law.
- (c) A statement as to the code section under which the plan is filed.

## **B. Agreed Entries**

## 1. Allocation of Parental Rights and Responsibilities

In cases where the parties are in agreement as to which parent is to be designated the residential parent and legal custodian of the child(ren), the Agreed Entry is to be filed with the Court. No investigation shall be required, and no court hearing before the assigned Magistrate is necessary. The Agreed Entry must contain a specific schedule of Parenting Time. "Reasonable Parenting Time" as a sole order is not permissible. If there is no parenting time designated in the Agreed Entry, the Entry must contain a waiver of findings of fact and conclusions of law as set forth in O.R.C. §3109.051 and a statement that a parenting time order would not be in the best interest of the child(ren).

If the Court's Standard Parenting Order is not utilized, provision must be made for the following:

- (a) Notice of intent to relocate
- (b) Access to all records of the child
- (c) Access to school activities

Unless the visiting parent has been convicted of domestic violence, child abuse, or any crime of violence against a family member, the agreement must state specifically why any of the above requirements are not included in the agreement or if the terms are modified, the reason therefore, as well as a waiver of findings of fact/conclusions of law pursuant to O.R.C. §3109.051.

## 2. Shared Parenting Plans

Parties must request shared parenting in a pleading or a motion filed with the Court. The original Shared Parenting Plan must be submitted to the assigned Magistrate.

There is no court requirement that an investigation or a meeting with a Family Counselor or Parenting Specialist be conducted.

Once a plan has been submitted to the Court, the Magistrate will review the Plan. If the Plan is not approved, the Magistrate will notify counsel by telephone or letter. If the Plan is approved, counsel may pick up the plan in the Magistrate's secretarial areas (Room 02-100).

The original Shared Parenting Plan and a Shared Parenting Decree must be filed with the Decree of Divorce. If a Plan is modified subsequent to approval by the Magistrate, the new Plan must be approved by the Magistrate prior to the Court hearing on the divorce. After the Plan has been approved by the Magistrate, the Judge must approve/adopt the Plan at the final merits hearing. Please note: the assigned Judge may also require submission of the Plan prior to the final merits hearing.

See Title 2.0(A)(2)© for Shared Parenting Plan language requirements.

### C. Uncontested Parenting: Only One Party Makes Appearance

In uncontested parenting cases where only one party appears, the Magistrate shall allocate parental rights by making one party the residential parent and legal custodian. The Magistrate shall award specific parenting time rights to the other party.

If no visitation is ordered, the Magistrate must issue findings of fact and conclusions of law and a determination that parenting time would not be in the best interest of the minor child(ren).

The Magistrate must make provision for:

1. Notice of intent to relocate
2. Access to records
3. Access to day care facilities
4. Access to school activities

Unless the non-residential parent has been convicted of domestic violence, child abuse or any violent crime against a family member, the Decision or Order must specifically state why any of the above requirements are not recommended or, if the terms are modified, the reason therefore.

NOTE: A 75(N) temporary order allocating parental rights and responsibilities is not sufficient for inclusion in a final decree of divorce. A final order must be obtained. In appropriate cases, the scheduling conference may be used as the final property/parenting hearing.

## **2.1 Dissolution Cases - Pre-Decree**

### **A. Allocation of Parental Rights and Responsibilities**

A Petition for Dissolution, Separation Agreement and other requisite documents must be filed with the Clerk of Courts (Room 03-47) after obtaining stamped approval by the Docket Office (Room 03-46).

The Separation Agreement must designate which parent is to be the residential parent and legal custodian of the minor child(ren). The Separation Agreement also must set forth a specific schedule of parenting time for the parent who is not the residential parent. "Reasonable parenting time" as the sole order shall not be permitted pursuant to O.R.C. §3113.215©.

There is no requirement for a Court investigation, a meeting with a Counseling Specialist or Parenting Specialist, or review by a Magistrate in this instance.

If there is to be no parenting time, the Separation Agreement must contain a waiver of findings of fact and conclusions of law pursuant to O.R.C. §3109.051, and a statement must be made that a parenting time order would not be in the best interest of the child(ren).

If the Court's standard order is not utilized, provision must be made for the following:

1. Notice of intent to relocate
2. Access to all records of the child
3. Access to day care facilities
4. Access to school activities

Unless the visiting parent has been convicted of domestic violence, child abuse or any crime of violence against a family member, the Separation Agreement must state specifically why any of the above requirements are not included in the agreement or, if the terms are modified, the reason therefore, as well as a waiver of findings of fact/conclusions of law pursuant to O.R.C. §3109.051.

## B. Shared Parenting Plans

After approval by the Docket Office (Room 03-46), a copy of the Shared Parenting Plan is to be filed with the original Petition for Dissolution and Separation Agreement at the Clerk of Court's Office (Room 03-47). The original Shared Parenting Plan must be left with the Docket Office (Room 03-46). No investigation or meeting with Counseling Specialist is necessary nor is a hearing before the assigned Magistrate necessary. The Docket Office will forward the plan to the assigned Magistrate upon assignment of the case. The Magistrate will review the Plan. If the Plan is not approved, the Magistrate will notify counsel by telephone or mail. If the Plan is approved, counsel may pick up the Plan in the Magistrate's secretarial area (Room 02-100).

The original Shared Parenting Plan must be filed with the Decree of Dissolution.

If the Plan is modified subsequent to approval by the Magistrate, the new Plan must be approved by the Magistrate prior to the Court hearing on the dissolution.

See Title 2.0(A)(2)© for Shared Parenting Plan language requirements.

The Judge shall approve/adopt the Shared Parenting Plan at the final merits hearing.

## 2.2 Post Decree Cases

### A. Agreed Changes

Some Agreed Entries will require a hearing before the assigned Magistrate; others will not. The rule is as follows: If a party who is giving up a right is represented by an attorney, no hearing is necessary. If that party is not represented by an attorney, a hearing is required.

Any agreed change from residential parent to shared parenting requires that a Decree of Shared Parenting be filed with the Plan.

Every Agreed Entry changing the parental status of a child must be accompanied by a child support worksheet - even if no support is ordered. The worksheet must state the reasons why the parties are deviating from the worksheet.

The assigned Magistrate reserves the right to refer an agreed Shared Parenting arrangement to a Parenting Specialist for an assessment prior to approval of any agreed plan.

Note: Prior Withholding Orders may need to be terminated or revised. Effective dates of new orders and arrearage issues must be addressed.

### B. Contested Changes

1. Applicable Law - § 3109.04(E)(1)(a)
2. Allocation of Parental Rights and Responsibilities

When there is no agreement, a Motion to reallocate the parental rights and responsibilities of a child or children will require a Determination Hearing before the assigned Judge

The Judge then may:

- (1) Dismiss the motion,
- (2) Refer the case to mediation, if appropriate, or
- (3) Order an investigation.

Initially, the Motion, §3127.23 Affidavit and an Affidavit in support of the Motion signed by the moving party must be filed. If it appears there may be a change of circumstances which may affect the best interests of the child, the Judge will order the appropriate investigation: if the child or children involved are under 12 years of age, a Full Investigation is necessary; if the child or all children involved are over 12 years of age, a Modified Investigation is necessary.

In order to initiate the investigation, the moving attorney must pay the appropriate investigation fee with the Clerk of Courts (Room 03-47). The attorney then must present the Entry Ordering Investigation (stamped "Costs Paid" by the Clerk of Courts), a completed Parenting Department Request for Services Form (Form 2.4) and a proposed Shared Parenting Plan (if appropriate Form 2.2) to the Domestic Relations Docket Office (Room 03-46).

Cases will be investigated by a Parenting Specialist. Shared parenting **MUST** be submitted to the Parenting Specialist at the commencement of the investigation. The Parenting Specialist will make recommendations regarding the suitability of shared parenting and will submit a proposed plan or the Parenting Specialist will make a recommendation that one parent be named the residential parent.

## **2.3 Parenting Specialist Investigation Procedures/Costs**

### **A. Costs**

Cost for investigation services include \$350.00 for a Full Investigation and \$100.00 for a Modified Investigation.

See Appendix A and Title 2.0(A)(1) for further detail.

When assigned a case, the Parenting Specialist will meet with the parties and evaluate the possibility of mediation and referral or settlement. If mediation is ordered, the Parenting Specialist will stay the investigation up to ninety (90) days.

If the parties have advanced \$350.00 for a Full Investigation, agree to mediation at that first meeting with the specialist, and in fact engage in mediation and resolve the issues prior to any investigation being undertaken, the sum of \$250.00 will be refunded to the party depositing the fee. (The Parenting Specialist shall stay any investigation for up to one week upon the request of a party to discuss mediation with his or her attorney.) Otherwise, if the parties have been seen at least once by the Parenting Specialist, no refund of the investigation fee will be available. The \$100.00 fee for a Modified Investigation is non-refundable.

In order to receive the appropriate refund, the attorney must prepare an entry. This entry must include the amount of the refund, which party is to receive the refund and full names and addresses of all involved parties.

Please note: All requests for a refund must first receive authorization from the Parenting Specialist's Supervisor.

## B. Procedure

To initiate the investigation, take the completed Entry Ordering Investigation (Form No. 2.5) to the office of the Clerk of Courts (Room 03-47), deposit the appropriate fee and have Entry stamped "Costs Paid". Take the Entry and a completed Request for Services form (Form 2.4) to the Docket Office (Room 03-46) to initiate the parenting investigation. The Docket Office will file the original Entry and forward the Request for Services form to the Parenting Department to initiate the investigation.

As part of the investigative process, the Parenting Specialist will interview the child(ren) if appropriate and beneficial to the conduct of the investigation - THIS DOES NOT OBVIATE THE REQUIREMENT THAT THE JUDGE OR MAGISTRATE PERSONALLY INTERVIEW THE CHILD IF THAT REQUEST IS MADE OR IF THE COURT OTHERWISE DETERMINES THAT AN INTERVIEW WOULD BE APPROPRIATE.

Any request that the Court interview a child and any request for the appointment of a Guardian must be filed no later than the Pre-Trial date or as otherwise extended by the Judge or Magistrate.

Parenting investigations may be obtained by the following:

### 1. Entry Ordering Investigation

- (a) PRE-DECREE CASES - Attorneys may initiate parenting (custody) investigations only by Agreed Entry, otherwise, parenting investigations must be approved by the Magistrate. An investigation may be ordered by: 75(N) Order, Scheduling Conference Order, Magistrate's Decision or Order, or Agreed Entry of counsel at any time, but subject to the limitations imposed by the Magistrate at the Scheduling Conference.
- (b) POST-DECREE CASES - Post-Decree investigations may only be approved by the assigned Judge. See Title 2.2(B)(2) for further details.

### 2. 75(N) Orders Ordering Investigation

The attorney requesting the investigation must take the Entry Ordering Investigation to the Clerk of Courts, advance the costs, and have the Entry stamped "Costs Paid". Then return the Entry and a completed Request for Services form (Form No. 2.4) to the Docket Office (Room 03-46). The Docket Office then will forward the Request for Services form to the Parenting Department to initiate the investigation.

### 3. Magistrate's Decisions

The Magistrate shall attach an Entry Ordering Investigation (Form No. 2.5) to the Decision. Fifteen (15) days after issuance of the Decision, if no Objections are filed, the assigned party or attorney must take a copy of the Entry to the Clerk of Courts, advance the costs, and have the Entry stamped "Costs Paid". Then return the Entry and a completed Request for Services

form (Form No. 2.4) to the Docket Office (Room 03-46). The Docket Office then will forward the Request for Services form to the Parenting Department to initiate the investigation.

#### 4. Scheduling Conference/Pre-Trials

Requests for investigations are to be processed either as an Agreed Entry or a Magistrate's Decision or Order. Attorneys are instructed to be prepared to discuss the status of parenting issues at the scheduling conference. No motion requesting investigation needs to be filed. It is the responsibility of the Magistrate to set deadlines at the scheduling conference.

If the parties are unsure as to whether an investigation will be needed, the Magistrate may set the matter for another Scheduling Conference/Pre-Trial or may require that an investigation commence by a specified date. The Magistrate shall complete and attach the Entry Ordering Investigation to the Agreed Entry/Order and may add a deadline to the face of the Entry. Any original Entry setting a deadline must be filed by the Magistrate with the Clerk of courts. Attorneys who choose to initiate the pre-authorized investigation must take a copy of the Entry to the Clerk of Courts to be stamped "Costs Paid" and process in the same fashion as set forth above in Subsection 3.

#### C. Time Limitations in Requesting Custody Investigations

At the time of the first Scheduling Conference in a divorce case, the parties will be asked to enter into a stipulation as to whether they have agreed on residential parenting rights or shared parenting. If a stipulation cannot be entered, the Court will issue an order for a deadline for filing a Motion for residential parenting rights and/or shared parenting and an request for investigation and the Court costs. The deadline will generally be fourteen (14) days from the date of the Scheduling Conference unless the Court orders a longer time period. If temporary custody has been granted to one parent and the other parent does not comply with the Court's deadline in the filing of a Motion for residential parenting rights or shared parenting, that parent will be prohibited from later seeking such parenting rights unless the Court finds that a change of circumstances has occurred during the pendency of the divorce which would warrant a delayed request for parenting rights.

### **2.4 Procedures for Parenting Time Evaluation/Counseling**

Both pre- and post-decree parenting time issues will be handled by the Court's Family Counseling Service (Room 02-68). There is no charge for these services. The exception to this rule occurs when custody is disputed and a custody investigation is in progress or has been ordered in the Parenting Department. In these cases, the assigned Parenting Specialist will simultaneously evaluate the case for custody and parenting time issues. All parenting time issues in these cases will continue to be handled by the Parenting Department until the custody issues are legally resolved.

Unless ordered by the Court, participation in this process is voluntary. Mandatory participation may be accomplished by agreed entry or by motion and hearing before the Judge/Magistrate before whom the parenting time issues are pending.

#### A. Parenting Time Procedures

To activate the referral, complete the Request for Parenting Time Consultation form (Form No. 42.25). Take the completed form to Family Counseling Service (Room 02-68). An appointment will be scheduled immediately and attorneys shall be notified of the scheduled

time. If both attorneys are not present, it will be the responsibility of the attorney scheduling the matter to notify the other attorney or party if the party is not represented.

Mediation will be explored and a referral made if appropriate. Additional meetings will be discretionary with the Court's Counseling Specialist.

The Counseling Specialist will issue a report to the Court and send a copy of the report to each attorney. When one or both parties are not represented, notification will be sent to counsel (if any) and the non-represented party/parties informing them that they may pick up their copy of the report at the Family Counseling Department in Room 02-68.

It will be the responsibility of the attorney or party to re-docket the matter for hearing if necessary or to prepare and present an Agreed Entry if appropriate.

#### **B. Informal Requests for Parenting Time Assistance**

The Family Counseling Department (Room 02-68) will handle all phone calls and walk-in requests for assistance with parenting time problems for those cases where there are no pending parenting time motions before the Court. These requests would normally originate from the concerned party (or parties). Letters may be mailed to the other party requesting that they call the Family Counseling Department to discuss the complaint and when agreed, counseling sessions may be scheduled to attempt to resolve the dispute. All contacts with the Family Counseling Department will be documented in the Court's Family File.

### **2.5 Standard Parenting Order**

O.R.C. §3109.05(F)(2) requires the Court to adopt standard parenting time guidelines. The Court shall have the discretion to deviate from the guidelines set forth in the Standard Parenting Order (Form No. 2.7) as circumstances dictate.

### **2.6 Conciliation – Amendment effective 11-17-99**

Conciliation efforts shall only be initiated and entertained upon motion made pursuant to and in accordance with the provisions of O.R.C. Section 3105.091. When conciliation is initiated upon the motion of a party, the other party may file and serve a written memorandum in opposition to the motion within ten (10) days from the date the memorandum in support of the motion and proof of service thereof was served. No reply memorandum in support of the motion will be permitted. Pursuant to Civ. R. 7(B)(2), motions for conciliation will be submitted and determined without oral hearing.

### **2.7 Notice of Relocation – Amendment effective 3-01-10**

The residential parent shall notify the Court of any intent to relocate by completing Court Form 2.8 ("Notice of Intent to Relocate") and submitting it to the Court's Docket Office. If a Shared Parenting Plan is in effect, each parent must notify the Court of any intent to relocate by completing Court Form 2.8 and submitting it to the Docket Office. The Docket Office shall file the original Notice of Intent to Relocate with the Clerk of Court's Office, and shall send a copy to the non-relocating parent and to the Hamilton County Child Support Enforcement Agency.

Neither parent may remove the child(ren) from, and establish residence outside of the area specified in the Parenting Time Order, Decree or Shared Parenting Plan without court permission. Approval may be granted through an order from this Court, or an agreed entry

signed by both parents (and each parent's attorney, if applicable) and approved by the Court, granting permission for such removal and relocation of the child(ren). In the absence of an agreed entry, the parent desiring to relocate must complete Court Form 2.8 ("Notice of Intent to Relocate") **AND** file a Motion requesting a hearing on the issue of securing court permission to relocate. The Docket Office will schedule a hearing before the assigned Judge.

If the non-relocating parent wishes to contest the relocation, he or she must file a motion to bring the matter before the Court for consideration. The Docket Office will schedule a hearing before the assigned Magistrate.

In accordance with Ohio Revised Code Section 3109.051(G), the relocating parent may request a hearing on the issue of prohibiting notification of the new address to the other parent (see page 2 of Form 2.8). When such a hearing is requested, the relocating parent should only list an address for him/herself where notification of the hearing date can be sent. The Docket Office will schedule a hearing before the assigned Magistrate.

## **2.8 Mediation**

### Introduction

The Hamilton County Domestic Relations Court adopts Local Rule 2.8 effective January 1, 2007. Through Rule 2.8 the Hamilton County Domestic Relations Court incorporates by reference the R.C. 2710 "Uniform Mediation Act" (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

#### (A) Purpose -

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Domestic Relations cases through the use of mediation. To accomplish this goal, the Court's Mediation Services Program is established.

#### (B) Case Selection

(1) Referral Process for Private Mediation - The court, on its own motion, or on the motion of any of the parties may refer disputed issues to mediation in whole or in part. The parties and/or counsel are responsible for selecting a mediator from the court's list of approved mediators and scheduling the initial mediation appointment. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to exist or that have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve two or more persons whose attendance is required by the referral order.

(a) Referral Process for Court Mediation Services - The court, on its own motion, or on the motion of any of the parties may order the parties to mediate disputed parenting issues through the Court's Mediation Services Program. All parties and counsel shall advise the assigned judge and/or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the referral to mediation order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

- (2) Eligibility of Cases - The Court's Mediation Services Program shall determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) it deems inappropriate for mediation.
- (3) Mediator Selection and Assignment – Any of the following methods may be used to determine the mediator for the case:
  - (a) The court may randomly assign a mediator to the case from the court's roster of approved mediators.
  - (b) The court may specifically appoint a mediator taking into consideration the qualifications, skills, expertise, and caseload of the mediator, in addition to the type, complexity and requirements of the case.
  - (c) The parties may select a mediator from the court roster.

(C) Procedures for Court Mediation Services

- (1) All mediation sessions conducted by the Court's Mediation Services Program shall take place at the Hamilton County Domestic Relations Court (800 Broadway, Cincinnati, Ohio 45202) during regular business hours (8:00 AM to 4:00 PM, Monday through Friday). Court personnel shall assign the mediator and set the date and time for the first mediation appointment through a "Mediation Appointment Letter". A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to, further screening. A mediator may schedule mutually acceptable multiple mediation sessions.
- (2) The court shall utilize procedures for all cases that will:
  - Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
  - Screen for domestic violence both before and during mediation.
  - Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence. A brochure is displayed in public areas, which is available to mediators and other staff to distribute to clients as appropriate. The brochure includes: 1) local attorney referral contact information, 3) information regarding Children Services and 2) resource information for local domestic violence prevention, counseling, substance abuse and mental health services.

Prohibit the use of mediation in any of the following:

- In determining whether to grant, modify or terminate a protection order;
- As an alternative to the prosecution or adjudication of domestic violence;
- In determining the terms and conditions of a protection order; and
- In determining the penalty for violation of a protection order.

- Nothing in this division of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.
- (3) Mediation of allocation of parental rights and responsibilities or the care of, or parenting time with, minor children shall abide by all provisions set forth in (C)(2) of this rule. Mediation may then proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in “Qualifications” section (D) of this rule and all of the following conditions are satisfied:
- The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions
  - The parties have the capacity to mediate without fear of coercion or control.
  - Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation. The Court requires court personnel to meet on a regular basis to discuss safety enhancement issues that pertain to mediation including, but not limited to: building entry and exits, magnetometers, security personnel available during mediation sessions, room location and emergency contact information.
  - Procedures are in place for the mediator to terminate mediation if he or she believes there is a continued threat of domestic violence or coercion between the parties. The Court requires all mediators to whom it refers cases to use established procedures to terminate mediation if the mediator believes there is a continued threat of domestic violence or coercion between the parties. Each party must be informed of the termination of the mediation, safety planning and next steps separately in caucus.
  - Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.
- (4) Confidentiality/Privilege - All mediation communications related to or made during the mediation process are subject to and governed by the “Uniform Mediation Act” (UMA) R.C. 2710.01 to 2710.10, R.C. 3109.052, the Rules of Evidence and any other pertinent judicial rule(s). 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) attend a subsequent session, their signatures 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 Court Mediation Services Program.
- (5) Mediator Conflicts of Interest - 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 from the list of qualified Mediators that is

maintained by the Court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

- (6) Termination - If the assigned Mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.
- (7) 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.
- (8) Continuances - It is the policy of this court to determine matters in a timely fashion. Continuances of scheduled mediations shall be granted only for good cause shown. The mediator or the judge or the magistrate who referred the case for mediation may reset the mediation appointment. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance.
- (9) Mediator Report - At the conclusion of the mediation, the mediator shall inform the court of the status of the mediation including all of the following:
  - Whether the mediation occurred or was terminated;
  - Whether an agreement was reached on some, all or none of the issues; and
  - Attendance of the parties.

#### (D) Qualifications

- (1) General Qualifications and Training - A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or parenting time with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:
  - (a) Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the division, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.
  - (b) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.
  - (c) After completing the above training, complete at least forty hours of specialized family or divorce mediation training that has been approved by the Dispute Resolution Section of the Supreme Court.
- (2) Specific Qualifications and Training: Domestic Abuse - A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute

Resolution Section. A mediator who has not completed this specialized training may mediate cases only if he/she co-mediate with a mediator who has completed the specialized training.

- (3) Additional Qualifications – A mediator employed by the court or to whom the court makes referrals for mediation of any case shall comply with the following:
  - (a) Possess a practitioner membership in the Academy of Family Mediators OR complete 20 hours of internship supervised by a member of the Academy of Family Mediators.
  - (b) Adhere to the ethical guidelines set by the Academy of Family Mediators.
  - (c) Maintain appropriate liability insurance in the amount of \$300,000 in coverage.
- (4) List of Qualified Mediators
  - (a) The Court Administrator maintains a list of qualified Mediators and shall distribute that list to all judges and magistrates of the court.
  - (b) The court shall review applications of persons seeking to be added to the list of qualified mediators in accordance with the procedures adopted by the judges of the court.
- (E) Fees and Costs - The parties may agree to the allocation of the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally or as allocated otherwise by order of the court. The court may waive costs for the parties. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party. Mediation services provided by the Court's Mediation Services Program shall not commence until any applicable fees or costs are paid to the Clerk of Court.
- (F) Sanctions - If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions including, but not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions.
- (G) Model Standards - Mediators providing services for the court shall comply with the Model Standards of Practice for Family and Divorce Mediation, and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set forth in Rule 16 of the Supreme Court of Ohio Rules Superintendence for the Courts of Ohio.

## **TITLE II : Parenting Allocations**

### *2.9 Mandatory Parenting Education Class – Amended 6-1-09*

#### **A. Mandatory Parenting Education Class; Order; Informational Brochure**

Pursuant to O.R.C. 3109.053, in any action for divorce, dissolution of marriage, legal separation, or annulment, filed on or after March 1, 1999, in which there are any minor children of the marriage, the parties shall successfully complete a Court-approved, one-session parenting education class

entitled "Helping Your Children Cope With Divorce." In each divorce, legal separation, or annulment action, the Court will issue and serve upon both parties an Order requiring both parties to register for, pay for and attend the class, and will include with the Order a registration form for the class, and a list of class locations. The class shall focus on the minor children whose parents are terminating their marriage and/or legally separating. Emphasis will be on recognizing and coping effectively with the negative effects that termination of marriage and legal separation have on children, while stressing to the parties the importance of communication and cooperation for the sake of their children.

#### B. Time Limits for Completion of the Class

For Plaintiffs in actions of divorce, legal separation and annulment, successful completion of the class shall occur within forty-two (42) days of the filing of the action; for defendants in actions for divorce, legal separation and annulment, successful completion of the class shall occur within forty-two (42) days of completion of service of process.

Both petitioners in actions for dissolution of marriage shall provide proof of attendance at the time of the filing of the petition for dissolution.

#### C. Registration and Payment of Cost for the Class

Each party shall be responsible for his/her prompt registration and payment of the cost for the class.

#### D. Waiver of Class Attendance Requirement

Attendance and successful completion of the class may only be waived by the Court on a case-by-case basis for good cause shown. The age of the minor child(ren) will not be considered good cause for such waiver.

#### E. Proof of Attendance

Upon attending and successfully completing the class, each participant shall receive a certificate of attendance and completion.

#### F. Failure to Attend

With regard to any party who has not successfully completed the class within the time limits set forth in section B above, the Court may do, or may refuse to do, any of the following: 1) allocate or modify parental rights and responsibilities, pre or post decree; 2) grant shared parenting; 3) grant, modify and/or enforce parenting time; 4) in the case of a plaintiff or a counter claimant, dismiss the complaint or the counterclaim. In cases of willful failure to complete or delay in completing the class, the Court may also elect to take such other additional actions as it deems appropriate, including, but not limited to, actions for contempt. Notwithstanding the foregoing, no action shall be delayed by the non-filing or non-moving party's failure to complete or delay in completing the class.

## G. Evaluation

Each participant in the class shall complete an evaluation form regarding the class prior to receiving the certificate mentioned in section E above.

## H Additional Education

When it appears to be in the best interests of the minor child(ren), the Court may order appropriate additional parenting education for either party.

### ***Title III: Rule 75(N) Procedure***

#### ***3.0 Motion and affidavit for temporary parenting orders, support, parenting time, spousal support shall be filed in all cases pursuant to Ohio Rules of Civil Procedure 75(N)***

75(N) Order packets available in the Docket Office (Room 3-46), contain the following:

1. Motion and Affidavit for Temporary Order Without Oral Hearing (Form No. 3.2)
2. Affidavit of Income, Expenses and Financial Disclosure (Form No. 7.3)
3. Affidavit in Compliance with O.R.C. §3127.23 (Form No. 2.1)
4. Group Health Insurance Affidavit (Form No. 7.16)
5. Support Worksheets (Form No. 7.5 or 7.6)
6. Mediation Assessment Form (Form No. 22.1)
7. Data Form (CDR 4905)
8. Notice of Service Form (form No. 3.4)
9. IV-D Application (ODHS 7076).

#### 3.1 Mandatory Use

The 75(N) procedure must be used in conjunction with the filing of a complaint, answer and/or counterclaim, or other responsive pleading. At other times an amended pleading must be filed. Leave to amend to include 75(N) relief will be granted automatically by the Court with *no action required by counsel* to secure such permission provided that the 75(N) relief is the only additional relief requested.

COUNTER MOTION AND AFFIDAVIT - The opposing party shall have 14 days from the date of service within which to file a counter motion and the appropriate affidavits. The originals shall be filed with the Clerk of Courts in Room 3-47 AND a time-stamped copy delivered to the Docket Office in Room 3-46. Service shall be obtained upon the other party/counsel as required by law.

#### 3.2 Temporary Expenses

An allocation of temporary parental rights and responsibilities and support shall not be granted when the parties remain in the same household. In accordance with the request in the 75(N) order or upon motion and hearing, the Magistrate may order or recommend payment of household expenses.

#### 3.3 Implementation

It is the responsibility of counsel to verify service on the opposing party. No order will be entered before 14 days have elapsed after completion of service. No sooner than 15 days after service, or upon filing of a Counter Affidavit, whichever occurs first, completed original Forms No. 3.4 - and CDR 4905 if support is required must be submitted to the

Docket Office in Room 3-46. Either party may submit the forms. **Only the filing of these forms will activate the 75(N) Order.** The assigned Magistrate will then make the appropriate order (without oral hearing) which will be mailed to the parties/counsel as necessary. The Court will establish the support account and process the Wage Withholding Order.

### 3.4 Motion for Specific Ongoing Expenses

In cases where the parties continue to reside together at the time of a hearing on a motion for custody and support pendente lite, the matter will be treated as a motion to determine and fix the payment of specific ongoing expenses, and no temporary custody or support order shall issue so long as the parties continue to cohabit.

## **Title IV: Scheduling and Pre-Trial Conference**

### 4.0 Procedure

Scheduling conferences shall be set on property issues at the time of the filing of the complaint. In lieu thereof, counsel for the parties may submit, 14 days prior to the scheduled conference date, a Magistrate's Order (Form 4.2) reflecting the general nature of issues to be litigated, stipulations of fact and status of discovery, with limitations on discovery as appropriate.

No asset or minimal asset cases may be adjudicated at the scheduling conference pursuant to the ordinary rules of procedure. Matters requiring additional preliminary review may be set for formal pre-trial at a later time.

Trial counsel for the parties shall be present at all scheduling conferences thereafter as deemed appropriate. Failure of counsel to appear at scheduling or other pre-trial conference may result in sanctions or dismissal as appropriate. In the event the parties are unable to agree as to discovery scope or time limitation, the Magistrate shall submit recommendations thereon in the form of a Decision or Order.

## **Title V: Registration of a Foreign Decree Pursuant to the Uniform Child Custody Jurisdiction Act – ~~REPEALED 1-14-08~~**

## **Title VI: Registration, Modification and Enforcement of Foreign Support Orders, and Contests Thereof**

### 6.0 Governing Law

All proceedings to register, modify and enforce a foreign support order, or to contest the validity, modification or enforcement of a foreign support order, shall be governed by, and shall proceed in accordance with, ORC Chapter 3115 (the Uniform Interstate Family Support Act), subject to the limits of jurisdiction outlined in ORC § 2301.03(B)(2).

### 6.1 Procedure for Registration of Foreign Support Order

Pursuant to ORC 3115.40, the filing of a certified copy of a foreign support order, and of copies of all the other documents and information enumerated in ORC 3115.39, with the Hamilton County Clerk of Courts constitutes registration of the foreign support order. The aforementioned items shall first be submitted to the Domestic Relations Court Docket Office for review. Following this review, the party requesting registration shall file the order, documents and information with the Clerk of Courts' Domestic Relations Division office at 800 Broadway, Cincinnati, Ohio.

## **Title VII: Child Support Withholding Orders**

### 7.0 Scope

The rules regarding Child Support Withholding Orders apply to all proceedings in the Court wherein the child(ren) is/are under the age of 18 or other dependent child(ren) of the parties.

### 7.1 Information Required – Amended 8-5-99

1. The date of birth of the obligor.
2. The social security number of the obligor
3. Order must be expressed in a monthly amount
4. Order must be “per child”
5. Order must be payable through the Child Support Enforcement Agency
6. The effective date
7. The order plus a 2% processing fee
8. Order must be accompanied by the following:
  - a. The appropriate worksheet, i.e. residential parent or shared parenting (Form No. 7.5) or split parental rights and responsibilities (Form No. 7.6)
  - b. HCDHS 4047 Notice to Income Provider and ODHS 4048 Addendum Withholding Notice OR an Unemployment Notice Order (Form No. 7.10)
  - c. A Data Form (CDR 4905)
  - d. A IV-D Application or copy thereof (Form ODHS 7076)
9. Mandated language:
  - a. O.R.C. §3113.21(A): All child support and spousal support by this order shall be withheld or deducted from the wages or assets of the obligor under the order in accordance with Section 3113.21 of the Revised Code and shall be forwarded to the obligee under the order in accordance with Sections 3113.21 to 3113.214 of the Revised Code. The specific withholding or deduction requirements or other appropriate requirements to be used to collect the support be set forth in and determined by reference to the notices that are mailed by the Court or Child Support Enforcement Agency in accordance with Divisions (A)(2) and (D) of Section 3113.21 of the Revised Code or Court Orders that are issued and sent out in accordance with Division (D)(6), (D)(7), or (H) of Section 3113.21 of the Revised Code, and shall be determined without the need for any amendment to the support order. Those notices and court orders, plus the notices provided by the court or agency that require the person who is required to pay support to notify the Child Support Enforcement Agency of any changes in their employment status or any other change in the status of their assets, are final and enforceable by the Court.
  - b. If termination of support:

In entries involving the termination of support and entries involving the reduction or elimination of a child support arrearage, the following statement shall be included:

“No Federal or State Aid is involved and, if there is Federal or State Aid involved, this entry shall not operate as a bar to any government agency collecting funds due”.

## 7.2 Forms

Forms relevant to Child Support Withholding Orders are available in the Domestic Relations Docket Office (Room 3-46). Forms relevant to child support are:

<b>Form No.</b>	<b>Title</b>
7.1	Waiver of Financial Disclosure Affidavit
7.2	Financial Disclosure Affidavit
7.3	Affidavit of Income, Expenses and Financial Disclosure
7.5	Support Worksheet - Residential Parent or Shared Parenting
7.6	Support Worksheet - Split Parental Rights
7.10	Unemployment/Notice Order
7.14	Agreed Entry - Residential Parent
7.15	Agreed Entry - Shared Parenting
HCDHS 4047	Notice to Income Provider to Withhold Obligor Income/Assets
CDR 4905	Data Form
ODHS	Addendum Withholding Notice
ODHS	Title IV-D Application

## **TITLE VIII: Magistrate's Proceedings (Effective Date 11/1/2011)**

### ***8.0 Court's Action on Magistrate's Decisions***

The Court's action regarding magistrate's decisions shall be governed by Civil Rule 53(D)(4).

### ***8.1. Objections to the Magistrate's Decisions***

- A. ***Form.*** An objection to the magistrate's decision pursuant to Civil Rule 53 shall be in writing and filed with the Clerk.
- B. ***Content.*** Objections shall be specific and state with particularity the grounds for objection. Any objection to a finding of fact within the magistrate's decision shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact.
- C. ***Time.*** A timely objection to a magistrate's decision is filed within fourteen days of the date the magistrate's decision is filed. If any party timely files objections, any other party may also file objections no later than ten days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law pursuant to Civil Rule 52, the time for filing objections begins to run when the magistrate files an amended decision including findings of fact and conclusions of law. Written objections shall first be submitted to the Domestic Relations Docket Office (Room 3-46) and then filed at the Clerk of Courts Office (800 Broadway, 3<sup>rd</sup> floor).
- D. ***Hearing on Objections*** – Upon request by either party, at the time of filing or within ten days thereafter, the Court may schedule a hearing that shall be limited to fifteen minutes, per side, unless otherwise ordered by the Court. Every effort must be made to coordinate the hearing date with opposing party or counsel. The Court may sua sponte determine that a hearing is unnecessary and will send a notice to the parties if a hearing is cancelled for that reason.

- E. **Service of Objections.** A copy of the objections shall be served on opposing counsel, the opposing party, or other interested parties, as appropriate. The notice shall include the date, time and room number for any scheduled hearing on the objections.
- F. **Supplemental Objections.** If a transcript of the proceeding has been timely ordered, a party may supplement the objections with leave of court in accordance with Civil Rule 53(D)(3)(b)(iii).
- G. **Transcript Request Procedure.** If a transcript is requested pursuant to Civil Rule 53, the objection shall state that a full or partial transcript has been ordered. The objecting party shall complete a Request for Transcription (DR Form 8.30) and present the form to the Decree office on the same day as the filing of objections. Failure to do so may cause the Court to rule on the objections as if no transcript has been ordered. The party filing an objection has an affirmative duty to ensure that the transcript is prepared and delivered to the Court, by having the transcript filed with the Clerk of Courts or causing the transcript to be filed with the Clerk of Courts. Transcripts not received within **thirty** days from the filing of objections will not be considered, unless an extension of time to file the transcript has been requested in writing and granted in writing.
- H. **Payment of Transcript Costs.** Unless otherwise ordered by the Court, the party ordering the transcript shall be responsible for the fees associated with the securing of the transcript.

## **8.2. Motion to Set Aside Magistrate's Orders**

- A. **Form.** A motion to set aside the order of a magistrate pursuant to Civil Rule 53 shall be in writing and filed with the Clerk.
- B. **Content.** The motion shall be specific and state with particularity the grounds for setting aside the pretrial order. Any motion contesting a finding of fact within the order shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact.
- C. **Time.** A timely motion to set aside a magistrate's order is filed within ten days of the filing of the magistrate's order. The motion shall first be submitted to the Domestic Relations Docket Office (Room 3-46) before filing at the Clerk of Courts Office (800 Broadway, 3<sup>rd</sup> floor).
- D. **Hearing on Motion to Set Aside Order.** Upon request by either party, at the time of filing or within ten days thereafter, the Court may schedule a hearing that shall be limited to fifteen minutes, per side, unless otherwise ordered by the Court. Every effort must be made to coordinate the hearing date with opposing party or counsel. The Court may sua sponte determine that a hearing is unnecessary and will send a notice to the parties if a hearing is cancelled for that reason.
- E. **Service of Motion to Set Aside Order.** A copy of the motion shall be served on opposing counsel, the opposing party, or other interested parties, as appropriate. The notice shall include the date, time and room number for any scheduled hearing on the motion.
- F. **Transcript Request Procedure.** If a transcript is requested pursuant to Civil Rule 53, the motion shall state that a full or partial transcript has been ordered. The party shall complete a Request for Transcription (DR Form 8.30) and present the form to the Decree office on the same day as the filing of the motion to set aside. Failure to do so may cause the Court to rule on the motion as if no transcript has been ordered. The party filing the motion has an affirmative duty to ensure that the transcript is prepared and delivered to the Court, by having the transcript filed with the Clerk of Courts or causing the transcript to be filed with the Clerk of Courts. Transcripts not received within **thirty** days from the

filing of the motion to set aside will not be considered, unless an extension of time to file the transcript has been requested in writing and granted in writing.

- G. ***Payment of Transcript Costs.*** Unless otherwise ordered by the Court, the party ordering the transcript shall be responsible for the fees associated with the securing of the transcript.

### ***8.3. Request for Findings of Fact and Conclusions of Law***

A request for findings of fact and conclusions of law must be filed within seven days of the date of the filing of the magistrate's decision pursuant to Civil Rule 53(D)(3)(a)(ii). Upon the filing of a request for findings of fact and conclusions of law, the time for filing objections is automatically stayed. Objections may then be filed within fourteen days of the date of the filing of the amended magistrate's decision with findings of fact and conclusions of law.

### ***8.4 Record of Proceedings***

A digital recording will be made of hearings before a judge or magistrate. A copy of the digital recording is available upon request and receipt of payment. Prior hearings that were audio-electronically recorded may be available if a Tape Preservation Request form was filed with the court within thirty days of the filing of the Magistrate's Decision or Order.

## **Title IX: Merit Hearings**

### ***9.0 Hearing Date***

A final merits hearing will not be scheduled until all issues concerning property division, allocation of parental rights and responsibilities and support have been resolved either by agreement or by court order. A Request for Merit Setting entry (Form 9.1) must be filed with the Domestic Relations Docket Office (Room 3-46) prior to the date being set for the final merits hearing.

#### **9.1 Decree – Amended 11-21-96**

Counsel shall have prepared a decree of divorce or dissolution together with all necessary forms; withholding order, medical forms and support worksheets. Said decree shall be "costed out" with the Clerk of Courts **before** the final merits hearing then filed with the decree specialist.

#### **9.2 Entry of Dismissal for Divorce, Legal Separation, Annulment or other Final Entry**

In cases where defendant is not represented by counsel, plaintiff must serve a copy of an Entry of Dismissal for Divorce, Legal Separation, Annulment or other final entry on defendant by regular mail addressed to defendant's last known address.

## **Title X: Guardians Ad Litem**

### **10.0 Applicability**

This rule shall apply in all domestic relations cases where the court appoints a guardian ad litem to protect and act in the best interest of a child.

## 10.1 Definitions

For purposes of this rule:

- (1) “Guardian ad litem” means an individual appointed to assist a court in its determination of a child’s best interest.
- (2) “Child means:
  - (a) A person under eighteen years of age, or
  - (b) 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 section 2151.011(B)(5) or section 2152.02(C) of the Ohio Revised Code.
  - (c) A child under O.R.C. 3109.04 or a disabled child under O.R.C. 3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.

## 10.2 Appointment of Guardian Ad Litem

Upon motion of the court or either party, the court may appoint a guardian ad litem to protect the best interest of the child and shall appoint a guardian when required under O.R.C. 3109.04(B)(2)(a).

### A. Qualifications

- (1) The guardian ad litem shall be an attorney admitted to practice in Ohio who is a member in good standing of the Ohio Bar.
- (2) At least fifty percent (50%) of the attorney’s practice during the last two years shall be in the area(s) of domestic relations and/or juvenile law.
- (3) The attorney must successfully complete a minimum of six hours of pre-service training. The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio.
- (4) Thereafter, the attorney must successfully complete three hours of specific training per year for continued appointment. The three hour continuing education course must be provided by the Supreme Court of Ohio.
- (5) Upon completion of the required pre-service training, an attorney seeking to serve as a guardian ad litem shall submit to the court the Application For The Guardian Ad Litem Appointment List (Form DR 10.1). The application shall be accompanied by a resume stating the applicant’s training, experience and expertise demonstrating the applicant’s ability to successfully perform the duties and responsibilities of the guardian ad litem, a copy of the applicant’s criminal background check, the applicant’s Background Disclosure Statement (Form DR 10.1A) and proof of malpractice insurance.

- (6) The guarding ad litem must certify annually that they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with section A (4) of this rule.
- (7) If the court appoints a guardian ad litem on a case for which the guardian ad litem was paid, the guardian must agree to accept at least one pro bono assignment per year. If a guardian ad litem refuses the court's assignment of one pro bono case a year, the court may remove the attorney from the list of eligible guardians ad litem.

### **10.3 Procedure of Appointment**

The court shall appoint guardians ad litem from a public list of eligible candidates (preserving individual privacy) as maintained by the court so that the workload is equitably distributed among the eligible candidates.

If a party to the case objects to the appointment of a particular guardian ad litem, the party shall file a motion supported by affidavit that states the objection with specificity. The court will conduct a hearing.

Whenever feasible, the same guardian ad litem shall be reappointed for a specific child in any subsequent case in any court relating to the best interest of the child.

### **10.4 Order of Appointment**

In appointing a guardian ad litem under Rule 48 of the Ohio Rules of Superintendence, the Domestic Relations Court shall enter an Order of Appointment (DR 10.5) that shall include:

- (1) A statement regarding whether a person is being appointed as a guardian ad litem only or as a guardian ad litem and attorney for the child.
- (2) A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case or by court rule.
- (3) A statement that the guardian ad litem shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case.
- (4) Provisions for fees and expenses.

### **10.5 Fees and Payments**

- (1) Compensation shall be at the rate of one hundred and seventy-five dollars (\$175.00) per hour for both in-court and out-of-court billable time unless otherwise agreed. The compensation may not exceed Three Thousand Five Hundred Dollars (\$3,500.00). Fees in excess of \$3,500.00 shall be considered by the court upon the filing of a motion and affidavit.
- (2) The court may order the payment of a minimum deposit of One Thousand, Seven Hundred Fifty Dollars (\$1,750.00) with the Clerk of Courts, to be used to pay for guardian ad litem services.

- (3) Guardians ad litem shall submit monthly billing to counsel and/or pro se litigants. No sooner than fifteen (15) days of the service of the monthly billing, the guardian ad litem shall submit an entry (DR 10.7) for the release of funds for payment for the bill sent by the guardian ad litem unless there is a motion in opposition filed by either party. The entry submitted by the guardian ad litem shall state the date on which the bill was served and the entry shall be signed by the guardian ad litem accordingly.

## **10.6 Annual Review of Guardians Ad Litem**

The court will review its list of guardians ad litem annually to determine that all persons on the list are in compliance with the training and education requirements of the Ohio Supreme Court. The court will also conduct an annual review of the performance of each guardian ad litem on assigned cases during the preceding calendar year.

## **10.7 Responsibilities of the Court**

In order to ensure that only qualified individuals perform the duties of guardians ad litem and that the requirements of Rule 48 of the Ohio Rules of Superintendence are met, the following shall apply:

- (1) The Guardian Ad Litem Coordinator shall coordinate the application and appointment process for guardians ad litem.
- (2) The Guardian Ad Litem Coordinator shall maintain files for all applicants and for individuals approved for appointment as guardians ad litem with the court. The files shall contain all records and information required by Rule 48 of the Ohio Rules of Superintendence, and by these local rules, for the selection and service of guardians ad litem including a certificate or other satisfactory proof of compliance with training requirements.
- (3) The court shall conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a guardian ad litem.
- (4) The court shall require all individuals on the guardian ad litem list to certify annually that they are unaware of any circumstances that would disqualify them from serving as a guardian ad litem and shall report the training they have attended to comply with section 10.2 A(3) and (4) of this rule.
- (5) The Court Administrator shall accept and consider written comments and complaints regarding the performance of guardians ad litem practicing before the court. A copy of comments and complaints submitted to the Court Administrator shall be provided to the guardian ad litem who is the subject of the complaint or comment. The Court Administrator may forward any comments and complaints to the Administrative Judge for consideration and appropriate action. Dispositions by the court shall be made promptly. The court shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

## **10.8 Reports of Guardians Ad Litem**

A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment (DR 10.5).

In domestic relations proceedings involving the allocation of parental rights and responsibilities, the final report shall be submitted to the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the final report shall be provided to the court at the hearing. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

Unless otherwise agreed by the parties and approved by the court, the report of the guardian ad litem shall not be entered into direct evidence absent testimony by the guardian ad litem. The parties may cross-examine the guardian ad litem concerning the contents of the report and the basis for the guardian ad litem's recommendations. The report of the guardian shall not be filed with the Clerk of Courts.

## **10.9 Responsibilities of a Guardian Ad Litem**

In order to provide the court with relevant information and an informed recommendation regarding the child's best interest, a guardian ad litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.

- (1) A guardian ad litem shall represent the best interest of the child for whom the guardian is appointed. Representation of best interest may be inconsistent with the wishes of the child whose interest the guardian ad litem represents.
- (2) A guardian ad litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and shall have no ex parte communications with the court regarding the merits of the case.
- (3) A guardian ad litem is an officer of the court and shall act with respect and courtesy to the parties at all times.
- (4) A guardian ad litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.
- (5) A guardian ad litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.
- (6) When a court appoints an attorney to serve as both the guardian ad litem and attorney for a child, the attorney shall advocate for the child's best interest and the child's wishes in accord with the Rules of Professional Conduct. Attorneys who are to serve as both

guardian ad litem and attorney should be aware of Rule 3.7 of the Rules of Professional Conduct and act accordingly.

- (7) When a guardian ad litem determines that a conflict exists between the child's best interest and the child's wishes, the guardian ad litem shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.
- (8) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations from which the guardian ad litem might benefit, directly or indirectly, except for compensation for services as a guardian ad litem.
- (9) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately take action to resolve the conflict, shall advise the court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary. Because a conflict of interest may arise at any time, a guardian ad litem has an ongoing duty to comply with this division.
- (10) Unless expected by statute, by court rule consistent with this rule, or by order of court pursuant to this rule, a guardian ad litem shall meet the qualifications and satisfy all training and continuing education requirements under this rule and under any local court rules governing guardians ad litem. A guardian ad litem shall meet the qualifications for guardians ad litem for each county where the guardian ad litem serves and shall promptly advise each court of any grounds for disqualification or unavailability to serve.
- (11) A guardian ad litem shall be responsible for providing the court or its designee with a statement indicating compliance with all initial and continuing educational and training requirements so the court may maintain the files required in section 10.7 (2) of this rule. The compliance statement shall include information detailing the date, location, contents and credit hours received for any relevant training course.
- (12) A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:
  - (a) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;
  - (b) Visit the child at his or her residence in accordance with any standards established by the court in which the guardian ad litem is appointed;
  - (c) Ascertain the wishes of the child;
  - (d) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;

- (e) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;
  - (f) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;
  - (g) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;
  - (h) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court; and
  - (i) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.
- (13) A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the guardian ad litem's role and that documents and information obtained may become part of court proceedings.
- (14) As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Rule 44 of the Ohio Rules of Superintendence, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A guardian ad litem may recommend that the court restrict access to the report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed in accordance with Rule 45 of the Ohio Rules of Superintendence. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure of or access to the information that addresses the need to challenge the truth of the information received from the confidential source.
- (15) A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney guardian ad litem may request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.
- (16) A guardian ad litem who is to be paid by the court or a party, shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment.

## **Title XI: Real Estate Appraisal**

### **11.0 Court Appointment of Real Estate Appraisers – Amended 9-01-06**

The Court has established a panel of qualified real estate appraisers. Their service can be obtained through the Docket Office (Room 3-46). An appointee will be paid Three Hundred(\$300.00) Dollars for appraising a single family residence. The appraisal of a two-family is Four Hundred (\$400.00) Dollars. The cost for appraising other structures will be

determined by the appraiser. An additional cost of Fifty (\$50.00) Dollars per hour for time entailed in a deposition and Two hundred (\$200.00) Dollars for each Court appearance, will also be paid. Such fees will be paid to the Clerk of Courts prior to the appointment of the appraiser.

## **Title XII: Soldiers' and Sailors' Relief Act**

### 12.0 Soldiers' and Sailors Relief Act

In any action or proceeding commenced in this Court governed by Soldiers' and Sailors' Relief Act of 1940, 50 USC 501, et. seq. as amended, the Court may appoint an attorney to represent the defendant to protect his/her interest, and may set a fee.

### 12.1 Service of Summons on Military Personnel

- A. Obtain a waiver of the Soldiers' and Sailors' Relief Act from the Veterans Service commission at 230 E. Ninth Street. , Rm 1100. Send same to the person sought to be served together with a cover letter explaining the waiver and requesting signature.
- B. When a party sought to be served fails or refuses to sign and return the waiver, file a motion with the Court requesting that an attorney be appointed by the Court to represent the party in the service. Upon appointment, the attorney appointed shall contact his/her client and proceed on whatever basis is thereby arranged.

## **Title XIII: Body Attachments**

### 13.0 Body Attachments

**When the Judge orders a body attachment to be issued, the attorney for the moving party shall prepare the Entry Ordering Body Attachment (Form No. 13.8), the pink Warrant Information sheet (Form No. 13.9) and the Warrant (available in the Clerk of Courts Office (Room 3-47). The original Entry Ordering Body Attachment is filed with the Clerk of Courts (Room 3-47). The original Warrant, the pink Warrant Information sheet and a copy of the Entry Ordering Body Attachment is to be submitted to the Sheriff's Special Warrant Unit (located at 800 Broadway) for processing.**

## **Title XIV: Witnesses**

- 14.0 Witnesses with subpoenas may have the hearing officer sign the subpoena for verification. The witness may then take the subpoena to the Clerk of Courts for payment.

## **Title XV: Communications with Judges and Magistrates**

### 15.0 Ex-Parte Communications

No attorney shall discuss the merits, either orally or in writing, of any litigation with any Judge or Magistrate presiding over the matter until final disposition thereof without the presence of opposing counsel or the party, if not represented.

### 15.1 Attorney Conferences

If it is determined that an issue in a pending action needs to be discussed with a Judge or Magistrate prior to hearing or disposition of the action, the party so desiring may request a conference with the Judge or Magistrate.

## **Title XVI: Withdrawal of Attorney – Amended 7-6-09**

### *16.0 Agreed Withdrawal – Motion Required*

#### A. Filing Requirements

An attorney seeking to withdraw as counsel in a pending case shall present a filed motion and a proposed entry to the assigned judge or magistrate. The motion and proposed entry shall be served on all parties in accordance with the Ohio Rules of Civil Procedure.

The motion and proposed entry shall contain the following:

1. Date and time of any scheduled hearings and all deadlines previously established by the Court;
2. Reasons for withdrawal;
3. Statement that the client has been advised to promptly obtain new counsel;
4. Statement that a continuance of any pending hearings must be specifically and/or separately requested and will not automatically be granted solely for the reason of change of counsel;
5. Signature of the client on the proposed entry indicating agreement with the motion seeking the Court's permission to withdraw; and
6. Address of the client whose attorney is withdrawing.

#### B. Court's Response

The Court may grant the motion without a hearing. The Court will promptly notify counsel if a hearing is to be scheduled. Once the judge or magistrate has ruled upon the motion, the Court will send a copy of the Entry to all attorneys and the client who requested the filing of the motion.

#### C. Oral Motion

The Court may entertain an oral motion to withdraw if counsel who is requesting to withdraw and the client are present. Absent an extraordinary circumstance the Court will not entertain such an oral motion.

An extraordinary circumstance includes, but is not limited to, a client discharging counsel.

### *16.1 Withdrawal Absent Agreement – Motion and Hearing Required*

#### A. Filing Requirements

The attorney seeking to withdraw as counsel in a pending case, who does not have the agreement of the client, must present the motion to the Docket Office and secure a hearing date and time before the assigned judge or magistrate. The motion must contain all of the requirements listed in 16.0(a), with the exception of # 5. The motion must be served upon all parties in accordance with the Ohio Rules of Civil Procedure. The attorney seeking to withdraw shall request service of the motion on the client through the Clerk of Court's office by certified mail, return receipt requested, or personal service via a sheriff or process server. The motion shall include the time and

date of the hearing, the assigned judge or magistrate's name, the courtroom number and address of the courthouse.

#### B. Court's Response

The Court shall conduct a hearing and determine whether to grant the motion. If the motion is granted and the client failed to appear at the hearing, the attorney seeking to withdraw shall notify the client by certified mail, return receipt requested, that the motion was granted and that the client must notify the court of new trial counsel within such time as the court may designate. A copy of such notice, along with a copy of the entry granting the withdrawal and a copy of the certified mail receipt shall be filed and docketed at the Clerk of Courts. A courtesy copy shall also be provided to the Docket Office.

#### 16.2 *Time Limitations*

- A. In the absence of an extraordinary circumstance, the court will not grant an attorney permission to withdraw less than 30 days prior to a scheduled hearing.
- B. An attorney may not withdraw prior to completion and submission to the court of any pending entries, resulting from prior court rulings.
- C. An extraordinary circumstance includes, but is not limited to, a client discharging counsel.

#### 16.3 *New Counsel of Record*

##### A. Notice Required

Where new counsel is substituted for an attorney of record, a Notice Substituting New Counsel, signed by the withdrawing counsel and the substituting counsel shall be filed with the Clerk of Courts. A copy shall be left with the Docket Office and served upon opposing counsel or the opposing party if the opposing party is unrepresented.

### **Title XVII: Motion for Attorney Fees**

#### 17.0 Procedure - Motion

A motion for attorney fees shall be included in the body of the motion or other pleading that gives rise to the request for fees. No oral motion for fees shall be entertained unless good cause is shown that the provisions of this rule could not be observed.

#### 17.1 Evidence in Support of Motion

At the time of the final hearing on the request for attorney fees, the attorney seeking such fees shall present:

1. An itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time.
2. Testimony as to whether the case was complicated by any or all of the following:
  - a. New or unique issues of law.
  - b. Difficulty in ascertaining or valuing the parties assets.
  - c. Problems with completing discovery.
  - d. Any other factor necessitating extra time being spent on the case.

3. Testimony regarding the attorney's years in practice and experience in domestic relations cases.
4. Evidence of the parties' respective income and expenses, if not otherwise disclosed during the proceedings.
5. Failure to comply with the provisions of this rule shall result in the denial of a request for attorney fees, unless jurisdiction to determine the issue of fees is expressly reserved in any order resulting from the hearing.

## **Title XVIII: Motion to Vacate Premises**

### 18.0 Motion

A motion to vacate premises shall state with specificity the reasons for the motion and shall be supported by an affidavit of the moving party setting forth the facts on which the motion is based.

### 18.1 *Ex-Parte Orders*

No motion to vacate premises shall be granted ex-parte.

### 18.2 *When Granted*

A motion to vacate premises may be granted if the movant establishes that the opposing party:

1. Attempted to cause or recklessly caused bodily injury by acts of physical violence.
2. Place a party, by threat of force, in fear of imminent serious physical harm.
3. Committed any act with respect to a child that would result in the child being an abused child as defined in ORC 2151.031.
4. Engaged in conduct which causes or is likely to cause emotional and/or mental stress to the spouse and/or minor children of the parties.
5. Engaged in conduct which creates or is likely to create an environment which significantly endangers the spouse's and/or minor children's physical health or mental, or moral or emotional development.
6. Engaged in conduct abusive to the spouse and/or minor children whether by physical or verbal acts.

## **Title XIX: Temporary Restraining Orders (Effective 9-1-2011)**

### 19.0 Issuance of Administrative Order and Additional Orders

At the time of the filing of an action for divorce, legal separation, or annulment an Administrative Temporary Restraining Order will be issued. Plaintiff shall be deemed served with the Administrative Temporary Restraining Order upon filing the complaint. The Administrative Temporary Restraining Order shall be served on the Defendant with the summons. A request for additional restraining orders in comportment with Civ. R. 75(I) may be made by the filing of a motion and an affidavit of a party. Any request under this Rule may be set for hearing at the discretion of the assigned judge.

### 19.1 *Dissolving Order*

A party against whom an Administrative Temporary Restraining Order or other ex-parte restraining order has been granted may file a motion, supported by affidavit, requesting that such order be dissolved. If the motion seeks a partial dissolution of a restraining order on a bank account for purposes of satisfying outstanding obligations, such motion may be granted ex-parte at the discretion of the assigned Judge. All other motions to dissolve restraining orders shall be set for hearing before the assigned Judge.

## **Title XX – Exhibits – Amended 3-18-08**

### *20.0 Trial Exhibits*

Prior to commencement of any pre or post-decree evidentiary hearing, each party shall provide the Court with the following:

- (1) A completed CDR Exhibit List (Form DR No.20.0); and
- (2) An original and three sets of photocopies of all exhibits, pre-marked, with plaintiff identifying exhibits by numbers, defendant identifying exhibits by letters and CSEA identifying exhibits using roman numerals.

The above items shall be prepared in advance of the evidentiary hearing. The parties shall provide all copies and exhibits labels. Access to Domestic Relations Court copy machines will not be provided to allow compliance with this rule.

Upon its own motion or that of any aggrieved party, the Court may impose appropriate sanctions for a violation of this rule, including, but not limited to, an award of attorney fees and/or expenses incurred by an aggrieved party and the denial of a request to move into evidence exhibits offered by the offending party.

### *20.1 Retention/Destruction of Exhibits*

Exhibits shall be held and subject to destruction in accordance with Rule 26 of the Rules of Superintendence for the Courts of Ohio. Parties desiring the return of their exhibits should make application to the Court upon completion of the case and the expiration of all applicable time periods for direct appeal.

## **Title XXI: Case Management Plan**

### *21.0 Track Schedules*

To ensure the readiness of cases and their timely disposition, all cases shall be assigned to the appropriate case track as set forth below. The time frames are meant to be outside limits and the parties or the Court may accelerate the schedule as necessary.

#### *A. Case Definition and Track Assignment*

<u>Track</u>	<u>Track Definition</u>	<u>Length in Weeks</u>	<u>Length in Months</u>
Track A	Divorce, Legal Separation or Annulment with Children	78 Weeks	18 Months
Track B	Divorce, Legal Separation or Annulment without Children	52 Weeks	12 Months
Track C	Dissolution with Children	12 Weeks	3 Months
Track D	Dissolution without Children	12 Weeks	3 Months
Track E	Custody	36 Weeks	9 Months

Track F	Parenting Time	36 Weeks	9 Months
Track G	Support	52 Weeks	12 Months
Track H	Domestic Violence	4 Weeks	1 Month
Track I	UIFSA	12 Weeks	3 Months
Track J	Parentage	52 Weeks	12 Months
Track K	All Others	26 Weeks	6 Months

*B. Track Schedules*

***Track A***

**Divorce, Legal Separation or Annulment with Children**

<b>(Pre-Decree)</b>	<b>78 Weeks</b>	<b>(18 Months)</b>
Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Scheduling Conference *	12	12
Custody Pre-Trial/Conference	16	28
Custody Trial	12	40
Property Pre-Trial/Conference	06	46
Property Trial	12	58
Decision	04	62
Order	12	74
Merits	02	76
Final Decree	02	78
<b>TOTAL</b>	<b>78</b>	<b>78</b>

\* Early Intervention Mediation if necessary

***Track B***

**Divorce, Legal Separation or Annulment without Children**

<b>(Pre-Decree)</b>	<b>52 Weeks</b>	<b>(12 Months)</b>
Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Scheduling Conference	12	12
Property Pre-Trial/Conference	08	20
Property Trial	12	32
Decision	04	36
Order	12	48
Merits	02	50
Final Decree	02	52
<b>TOTAL</b>	<b>52</b>	<b>52</b>

***Track C***

**Dissolution with Children**

**(Pre-Decree)**

**12 Weeks**

**(3 Months)**

Milestone Description	Number of Weeks per Activity	Week of Completion
Service Completed	00	00
Merits	11	11
Final Decree	01	12
TOTAL	12	12

***Track D***

**Dissolution without Children      12 Weeks      (3 Months)**

**(Pre-Decree)**

Milestone Description	Number of Weeks per Activity	Week of Completion
Service Completed	00	00
Merits	11	11
Final Decree	01	12
TOTAL	12	12

***Track E***

**Custody  
(Change)      36 Weeks      (9 Months)**

**(Post-Decree)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Determination	10	10
Custody Pre-Trial/Conference	12	22
Custody Trial	12	34
Order	02	36
TOTAL	36	36

***Track F***

**Parenting Time  
(Enforcement & Modification)      36 Weeks      (9 Months)**

**(Post-Decree)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Trial	12	12
Report/Conference	08	20
Decision	04	24
Order	12	36
TOTAL	36	36

***Track G***

**Support  
(Enforcement & Modification)      52 Weeks      (12 Months)**

**(Post-Decree)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
-----------------------	------------------------------	--------------------

Service Completed	00	00
Trial	36	36
Decision	04	40
Order	12	52
TOTAL	52	52

***Track H***

**Domestic Violence (R.C. 3113.31) 4 Weeks (1 Month)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Ex-Parte Order	01	01
Service Completed	01	02
Full Hearing Final Judgment	02	04
TOTAL	04	04

***Track I***

**UIFSA (Uniform Interstate Family Support Act – R.C. 3115) 12 Weeks (3 Months)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Trial/Decision	10	10
Order	02	12
TOTAL	12	12

***Track J***

**Parentage (Establish) 52 Weeks (12 Months)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Trial	36	36
Decision	04	40
Order	12	52
TOTAL	52	52

***Track K***

**All Others (Post-Decree) 26 Weeks (6 Months)**

Milestone Description	Number of Weeks Per Activity	Week of Completion
Service Completed	00	00
Trial	10	10
Decision	04	14
Order	12	26
TOTAL	26	26

## APPENDIX A

### MODIFIED INVESTIGATION

1. Required in cases where:
  - both parents request to be sole residential parent and child is 12 years or older
2. Conducted by Parent Specialist and completed in approximately one month.
3. Initial contact by Social Worker with parents will be in the form of mediation assessment. Couples will be encouraged to utilize community mediators or family counselors to resolve their problems in a non-adversarial manner.
4. If the issue remains unresolved, the investigation will normally consist of:
  - one joint interview with parents;
  - one interview with each child with the family nit;
  - school report will be obtained;
  - critical information from outside sources will be obtained.
5. One or two page report will be issued by Social Worker and mailed to attorneys. If case is complex, Social Worker may recommend Full Investigation.
6. Case is set by Social Worker before assigned Judge.

### FULL INVESTIGATION

1. Required in cases where:
  - both parents request to be sole residential parent and one or all children are under 12 years of age;

OR

- the Court has rejected the parents' shared parenting requests and desires further investigation.
2. Conducted by Social Worker and completed in approximately three months.
  3. Initial contact by Social Worker with parents will be in the form of mediation assessment. Couples will be encouraged to utilize community mediators or family counselors to resolve their problems in a non-adversarial manner.
  4. If the issue remains unresolved, the investigation will normally consist of:
    - one or more joint interviews with parents;
    - one or more individual interviews with each parent;
    - interviews with stepparents or significant other;
    - one or more interview with each child with the family unit;
    - outside information obtained from schools, counselors, hospitals, physicians, social service agencies, police and witnesses;
    - home visits performed on each parent's household.
  5. Five to ten page report will be issued by Social Worker and mailed to attorneys.
  6. Case is set by Social Worker before assigned Judge.

**APPENDIX B**

**Allocation of parental rights and responsibilities parenting schedule for  
Hamilton county court of domestic relations**

Plaintiff / Petitioner	Enter: _____ Judge/Magistrate
-and-	Date: _____
Defendant / Petitioner	Case No. _____
	File No. _____
	CSEA No. _____
	Judge _____

**STANDARD PARENTING ORDER**

DURING AND AFTER A DIVORCE, THERE IS OFTEN A CRISIS PERIOD (FROM SEVERAL MONTHS TO YEARS) DURING WHICH FAMILIES ARE UNDER GREAT STRESS BECAUSE OF LOSS, CONFLICT AND CHANGE. MOST STUDIES SHOW, AND PSYCHOLOGISTS UNIFORMLY AGREE, THAT THE CHILDREN WHO “DO BEST” FOLLOWING DIVORCE ARE FROM FAMILIES WHICH MAINTAIN A LOW LEVEL OF CONFLICT. THE ABSENCE OF CONFLICT IS EVEN MORE CRITICAL THAN THE AMOUNT OF TIME EITHER PARENT SPENDS WITH THE CHILD.

HOWEVER, CHILDREN CLEARLY PROFIT BY CONTINUED MEANINGFUL EXPOSURE TO BOTH PARENTS. CHILDREN NEED THE CONTINUING AND REGULAR INVOLVEMENT OF BOTH PARENTS TO FEEL LOVED. NO SPECIFIC SCHEDULE WILL SATISFY THE CHANGE IN NEEDS OF BOTH CHILDREN AND PARENTS OVER THE YEARS. CRITICAL TO THE SUCCESS OF ANY SCHEDULE IS THAT EACH PARENT BE FLEXIBLE BASED UPON THE CHANGING NEEDS OF A CHILD AS THE CHILD GROWS OLDER.

THIS COURT ORDER TAKES INTO ACCOUNT THE CHANGING DEVELOPMENTAL NEEDS OF CHILDREN. IT IS RECOGNIZED THAT EACH SITUATION AND EACH CHILD IS DIFFERENT, AND IT IS PREFERRED THAT PARENTS TAILOR THE PARENTING SCHEDULE TO MEET THE SPECIFIC NEEDS OF THEIR CHILDREN.

A GOOD PARENTING PLAN DEVELOPED FOR A FAMILY SHOULD BE BASED UPON THE FOLLOWING CONSIDERATIONS:

1. THE DEVELOPMENTAL NEEDS AND AGE OF EACH CHILD
2. THE PSYCHOLOGICAL ATTACHMENTS OF EACH CHILD
3. THE WAY THE CHILD-REARING TASKS WERE SHARED DURING THE MARRIAGE
4. THE PRESERVATION OR DEVELOPMENT OF A CLOSE RELATIONSHIP WITH EACH PARENT
5. A CONSISTENT AND PREDICTABLE SCHEDULE THAT MINIMIZES THE TRANSITION BETWEEN THE HOUSEHOLDS
6. EACH CHILD’S TEMPERAMENT AND ABILITY TO HANDLE CHANGE
7. PARENTS’ CAREER DEMANDS AND WORK SCHEDULES
8. THE NEED FOR PERIODIC REVIEW OF THE PLAN, NOTING TROUBLE SIGNS AND REVISING AS EACH CHILD’S NEEDS AND CIRCUMSTANCES CHANGE

IF PARENTS HAVE NOT FILED WITH THE COURT THEIR OWN AGREED WRITTEN PLAN, FOR GOOD CAUSE SHOWN, THE FOLLOWING SCHEDULE OF PARENTING TIME (COURT ORDER IN BOLDFACE PRINT) IS HEREBY ORDERED:

**1. TERMINOLOGY:**

**FOR PURPOSES OF THIS ORDER, \_\_\_\_\_ IS DESIGNATED THE RESIDENTIAL PARENT AND**

**\_\_\_\_\_ IS DESIGNATED THE NON-RESIDENTIAL PARENT.**

**FOR PURPOSES OF A SHARED PARENTING PLAN, WHEREVER “RESIDENTIAL PARENT” APPEARS, THE NAME OF \_\_\_\_\_ SHALL BE SUBSTITUTED AS IF REWRITTEN, AND WHEREVER “NON-RESIDENTIAL PARENT” APPEARS, THE NAME OF \_\_\_\_\_ SHALL BE SUBSTITUTED AS IF REWRITTEN. FOR PURPOSES OF THE FOLLOWING PARENTING SCHEDULE, “WEEK 1” IS CONSIDERED TO BE THE FIRST FULL WEEK OF EACH CALENDAR YEAR WITH MONDAY REGARDED AS THE FIRST DAY OF THE WEEK.**

**PARENTS WITH CHILDREN IN MORE THAN ONE AGE GROUP:**

**THE POLICY OF THE FOLLOWING TIME ALLOCATION IS TO PROVIDE A SCHEDULE WHICH IS BEST SUITED FOR THE PARTICULAR AGE OF THAT CHILD(REN). WHEN A FAMILY HAS CHILDREN IN MORE THAN ONE AGE GROUP, THE PARENTS SHOULD EITHER ADAPT THE SCHEDULE TO FIT THE NEEDS OF EACH CHILD OR FOLLOW SCHEDULE C.**

**2. WEEKLY SCHEDULE**

**BASIC PRINCIPLES: BIRTH TO FIVE YEARS**

- I. PARTICULARLY WITH VERY YOUNG CHILDREN, THE MORE FREQUENTLY THE NON-RESIDENTIAL PARENT SEES THE CHILD(REN), THE MORE APPROPRIATE IT IS TO HAVE LONGER PERIODS OF TIME WITH THE NON-RESIDENTIAL PARENT.
- II. IF THE NON-RESIDENTIAL PARENT HAS NOT HAD REGULAR CONTACT WITH THE CHILD, SHORT PERIODS OF PARENTING TIME MUST PRECEDE EXTENDED PERIODS.
- III. WITH CHILDREN OVER THE AGE OF 3 MONTHS, AND PARTICULARLY WITH CHILDREN IN THE PRESCHOOL YEARS, MORE OVERNIGHT TIME MAY BE APPROPRIATE, SUBJECT TO THE TEMPERAMENT OF THE CHILD AND THE CIRCUMSTANCES OF EACH FAMILY.

THE NON-RESIDENTIAL PARENT SHALL HAVE PARENTING TIME AS FOLLOWS:

**A. BIRTH TO 3 MONTHS: FREQUENT SHORT VISITS IN THE BABY’S HOME, UNLESS OTHERWISE SPECIFIED. IF THE RESIDENTIAL PARENT IS NOT WORKING OUTSIDE THE HOME, DAILY FROM 6:00 PM UNTIL 8:00 PM IF THE RESIDENTIAL PARENT IS WORKING OUTSIDE THE HOME, EVERY OTHER DAY FROM 6:00 PM UNTIL 8:00 PM THE NON-RESIDENTIAL PARENT MAY TAKE THE CHILD OUT FOR WALKS OR DRIVES IF SLEEPING AND FEEDING ARE PROVIDED FOR.**

**B. 3 MONTHS TO 3 YEARS:**

**FREQUENT SHORT VISITS PER AGREEMENT OR, TUESDAY AND THURSDAY EVENINGS FROM 5:30 PM UNTIL 8:30 PM**

**ONE DAY EVERY WEEKEND, ALTERNATING SATURDAY/SUNDAY FROM 10:00 AM UNTIL 6:00 PM**

3 Months to 3 Years - Parenting Schedule							
	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Wk1		5		5			D
Wk2		5		5		D*	
Wk3		5		5			D
Wk4		5		5		D*	

\* BEGINNING AT 12 MONTHS, THE SATURDAY PARENTING TIME SHALL BEGIN ON FRIDAY AT 6:00 PM UNTIL SATURDAY AT 6:00 PM

X = EVENINGS  
D = 10:00 am To 6:00 pm

**C. 3 TO 5 YEARS:**

**TUESDAY AND THURSDAY EVENINGS FROM 5:30 PM UNTIL 8:30 PM**

**A ROTATING FOUR WEEK SCHEDULE AS FOLLOWS:**

**WEEK 1-FRIDAY 6:00 PM UNTIL SATURDAY AT 6:00 PM**

**WEEK 2-SATURDAY 6:00 PM UNTIL SUNDAY AT 6:00 PM**

**WEEK 3-FRIDAY 6:00 PM UNTIL SUNDAY AT 6:00 PM**

**WEEK 4-RESIDENTIAL PARENT’S WEEKEND.**

3 to 5 Years - Parenting Schedule							
	Mon	TUE	Wed	Thu	Fri	Sat	Sun
Wk1		5		5	o		
Wk2		5		5		o	
Wk3		5		5	o	o	
Wk4		5		5			

X = EVENINGS  
O = OVERNIGHT

**BASIC PRINCIPLES - SIX TO ELEVEN YEARS**

- I. ELEMENTARY SCHOOL AGE CHILDREN CAN ADAPT TO LONGER PERIODS OF SEPARATION FROM THEIR PRINCIPAL CARETAKERS THAN YOUNGER CHILDREN CAN.
  - II. THE NEEDS OF THE 6-11 YEAR OLD CHILD WITH REGARD TO SCHOOL SCHEDULES, HOMEWORK, AND EXTRA-CURRICULAR ACTIVITIES MUST BE RESPECTED.
  - III. ADJUSTING TO AND MOVING BACK AND FORTH BETWEEN TWO HOUSEHOLDS INCREASES THE COMPLEXITY OF LIFE FOR A CHILD IN A DIVORCE SITUATION. IT MAY, THEREFORE, BE NECESSARY TO SIMPLIFY OTHER ASPECTS OF A CHILD’S LIFE, E.G. BY REDUCING THE NUMBER OF OUTSIDE ACTIVITIES.
- THE NON-RESIDENTIAL PARENT SHALL HAVE PARENTING TIME AS FOLLOWS:

**D. 6 TO 11 YEARS:**

**ALTERNATE WEEKENDS FROM FRIDAY EVENING AT 6:00 PM TO MONDAY MORNING BEFORE SCHOOL, OR SUMMER CARE.**

**OVERNIGHT ON THE THURSDAY EVENING FOLLOWING THAT WEEKEND FROM 6:00 PM TO BEFORE SCHOOL OR SUMMER CARE ON FRIDAY MORNING, AND FROM 6:00 PM TO**

6 - 11 Years - Parenting Schedule							
	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Wk1		5			o	o	o
Wk2				o			
Wk3		5			o	o	o
Wk4				o			

8:00 PM ON THE FOLLOWING TUESDAY EVENING.

X = EVENINGS O = OVERNIGHT
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**BASIC PRINCIPLES: TWELVE AND TEENAGE YEARS**

- I. PARENTS SHOULD RESPECT A TEENAGER’S NEED TO SPEND TIME WITH PEERS AND IN ORGANIZED ACTIVITIES, AND LESS TIME WITH EACH PARENT, ESPECIALLY DURING WEEKENDS AND SUMMER HOLIDAYS.
- II. QUALITY OF TIME IS MORE IMPORTANT THAN A RIGID SCHEDULE. FLEXIBILITY IN SCHEDULING IS NECESSARY. WHEN POSSIBLE, IT IS PREFERABLE TO CONSIDER THE TEENAGER’S WISHES AS LONG AS THE PARENTS AGREE. THE NON-RESIDENTIAL PARENT SHALL HAVE PARENTING TIME AS FOLLOWS:

**E. 12 TO 18 YEARS:**

**TUESDAY AND THURSDAY EVENINGS FROM 5:30 PM UNTIL 8:30 PM**

**A ROTATING FOUR WEEK SCHEDULE AS FOLLOWS:**

**WEEK 1-FRIDAY 6:00 PM UNTIL SATURDAY AT 6:00 PM**

**WEEK 2-SATURDAY 6:00 PM UNTIL SUNDAY AT 6:00 PM**

**WEEK 3-FRIDAY 6:00 PM UNTIL SUNDAY AT 6:00 PM**

**WEEK 4-RESIDENTIAL PARENT’S WEEKEND**

12-Teenagers - Parenting Schedule							
	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Wk1		5		5	o		
Wk2		5		5		o	
Wk3		5		5	o	o	
Wk4		5		5			

X = EVENINGS O = OVERNIGHT
-------------------------------

**3. Holiday schedule/extended periods**

**A. PARENTS MAY WISH TO CHANGE, BY AGREEMENT, A HOLIDAY AT LEAST ONE WEEK IN ADVANCE IN ORDER TO OBSERVE FAMILY OR RELIGIOUS TRADITIONS. IF NOT CHANGED BY AGREEMENT HOLIDAY TIMES, WHERE RELEVANT, ARE AS FOLLOWS:**

Holidays	Even # Years	Odd # Years	AS AGREED, OR
NEW YEAR’S HOLIDAY *	MOTHER	FATHER	12/31, 6:00 PM - 1/1/, 7:00 PM
MARTIN LUTHER KING DAY	FATHER	MOTHER	SUN.,6:00PM - MON., 7:00 PM
PRESIDENT’S DAY	MOTHER	FATHER	SUN.,6:00 PM - MON., 7:00PM
EASTER	FATHER	MOTHER	SAT., NOON - SUN., 7:00 PM
MEMORIAL DAY	MOTHER	FATHER	SUN.,NOON - MON., 7:00 PM
FOURTH OF JULY	FATHER	MOTHER	7/4, 9:00 AM - 10:30 PM
LABOR DAY	MOTHER	FATHER	SUN., 6:00 PM - MON., 7:00 PM
HALLOWEEN (BEGGAR’S NIGHT)	FATHER	MOTHER	5:00 PM - 8:00 PM
THANKSGIVING	MOTHER	FATHER	WEDS., 6:00 PM - FRI., 7:00 PM
CHRISTMAS EVE	FATHER	MOTHER	12/23, NOON - 12/24, 10:00 PM
CHRISTMAS DAY	MOTHER	FATHER	12/24 10:00PM - 12/26, 6:00PM
KWANZAA	FATHER	MOTHER	1ST NIGHT, 5:00 PM-9:30 PM
ROSH HASHANAH EVE	MOTHER	FATHER	5:00 PM - 9:30 PM
ROSH HASHANAH DAY	FATHER	MOTHER	9:00 AM - 7:00 PM
YOM KIPPUR EVE	MOTHER	FATHER	5:00 PM - 9:30 PM
YOM KIPPUR DAY	FATHER	MOTHER	9:00 AM - 7:00 PM
PASSOVER (1ST NIGHT)	MOTHER	FATHER	5:00 PM - 9:30 PM
HANUKKAH (1ST NIGHT)	FATHER	MOTHER	6:00 PM - 8:30 PM
MOTHER’S DAY	MOTHER	MOTHER	10:00 AM - 7:00 PM
FATHER’S DAY	FATHER	FATHER	10:00 AM - 7:00 PM
CHILD’S B’DAY (SCHOOL)	FATHER	MOTHER	5:30 PM - 8:30 PM
CHILD’S B’DAY (NO SCHOOL)	FATHER	MOTHER	10:00 AM - 8:30 PM

\* NEW YEAR’S HOLIDAY IS GOVERNED BY THE YEAR IN WHICH NEW YEAR’S DAY FALLS. IT IS NOT GOVERNED BY THE YEAR IN WHICH NEW YEAR’S EVE FALLS.

**B. WHEN A CHILD REACHES THE AGE OF TWO, THE NON-RESIDENTIAL PARENT SHALL BE ENTITLED TO FOUR WEEKS OF ADDITIONAL TIME EACH YEAR. AFTER THE AGE OF FIVE, TWO WEEKS MAY BE TAKEN CONSECUTIVELY. THIS TIME MAY BE EXERCISED DURING THE SUMMER, THE CHILD(REN)’S SPRING BREAK FROM SCHOOL (EVERY OTHER YEAR) OR AT ANY OTHER APPROPRIATE TIME DURING THE YEAR. THIS TIME MAY ALSO BE EXERCISED DURING THE CHILD(REN)’S SCHOOL BREAK AT CHRISTMAS (EVERY OTHER YEAR), BUT UNDER NO CIRCUMSTANCES SHALL THE ADDITIONAL EXTENDED TIME COMMENCE BEFORE DECEMBER 26 AND CONTINUE PAST 6:00 PM ON DECEMBER 31. FOR CHILDREN AGES TWO TO FIVE, SAID FOUR WEEK EXTENDED TIME MAY BE TAKEN IN ONE WEEK INCREMENTS. UNDER THE AGE OF TWO THERE WILL BE NO EXTENDED PERIODS.**

**C. THE RESIDENTIAL PARENT SHALL BE ENTITLED TO TWO WEEKS OF CONSECUTIVE TIME EACH YEAR.**

D. EXTENDED PERIODS OF TIME ARE TO BE ARRANGED WITHIN SEVEN DAYS FROM THE TIME THE PARENTS' VACATION SCHEDULES ARE POSTED BY THEIR EMPLOYERS. EACH PARENT SHALL NOTIFY THE OTHER PARENT IN WRITING OF THE TIMES DESIRED FOR THESE EXTENDED PERIODS NO LATER THAN 30 DAYS PRIOR TO THE EXERCISE OF EXTENDED PERIOD. WHERE THERE IS A CONFLICT BETWEEN PARENTS AS TO VACATION SCHEDULES, THE SCHEDULE OF THE PARENT WHO FIRST GIVES WRITTEN NOTICE TO THE OTHER PARENT SHALL PREVAIL.

E. IN THE EVENT OF A CONFLICT, THE FOLLOWING IS THE ORDER OF PRECEDENCE: 1ST HOLIDAYS; 2ND EXTENDED PERIODS; 3RD WEEKENDS; AND 4TH MIDWEEK DAYS.

#### 4. MISCELLANEOUS

A. THE CHILD(REN) AND/OR RESIDENTIAL PARENT HAVE NO DUTY TO WAIT FOR THE NON-RESIDENTIAL PARENT TO ARRIVE FOR MORE THAN 30 MINUTES. THE NON-RESIDENTIAL PARENT WHO IS MORE THAN 30 MINUTES LATE FOR A PARTICULAR PERIOD OF TIME SHALL FORFEIT THAT PERIOD OF TIME. EXCEPTION SHALL BE MADE IF, AND ONLY IF, THE TARDINESS OF THE NON-RESIDENTIAL PARENT IS FOR JUST CAUSE AND THE RESIDENTIAL PARENT RECEIVES BOTH PROMPT NOTIFICATION AND A REASONABLE ESTIMATED ARRIVAL TIME.

B. THE NON-RESIDENTIAL PARENT WHO IS MORE THAN 30 MINUTES LATE IN RETURNING THE CHILD(REN) WITHOUT CALLING TO MAKE ARRANGEMENTS AND WITHOUT JUST CAUSE SHALL BE SUBJECT TO CONTEMPT.

C. WHEN THE RESIDENTIAL PARENT WILL BE GONE OVERNIGHT REGARDLESS OF THE AGE OF THE CHILD(REN), THE NON-RESIDENTIAL PARENT SHALL BE AFFORDED THE OPPORTUNITY TO EXERCISE OVERNIGHT PARENTING TIME.

D. MAKE-UP DAYS SHALL BE GIVEN IF, DUE TO AN EMERGENCY, THE CHILD(REN) OR NON-RESIDENTIAL PARENT IS NOT AVAILABLE AT THE SCHEDULED TIME OR IF THE RESIDENTIAL PARENT DENIES ACCESS TO THE CHILD(REN) WITHOUT JUST CAUSE. ALL MAKE-UP DATES SHALL BE RESCHEDULED AND EXERCISED WITHIN 30 DAYS.

E. THE PARENTS SHALL MAKE EVERY EFFORT TO CONSIDER THE CHILD(REN)'S SCHOOL SCHEDULE OR REASONABLE EXTRACURRICULAR ACTIVITIES TO SERVE THE BEST INTEREST OF THE CHILD(REN).

F. IN THE EVENT THAT THE PARENTS ARE UNABLE TO REACH AN AGREEMENT REGARDING TRANSPORTATION,  
\_\_\_\_\_ SHALL PROVIDE TRANSPORTATION AT COMMENCEMENT OF THE PERIOD AND  
\_\_\_\_\_ SHALL PROVIDE TRANSPORTATION AT TERMINATION OF THE PERIOD.

G. THE NON-RESIDENTIAL PARENT SHALL HAVE FREQUENT AND ONGOING TELEPHONE CONTACT WITH THE CHILD(REN). THE NON-RESIDENTIAL PARENT SHALL UTILIZE THIS TIME IN A REASONABLE FASHION.

#### 5. RECORDS/DAYCARE/STUDENT ACTIVITIES/MEDICAL ACCESS

A. THE NON-RESIDENTIAL PARENT SHALL BE ENTITLED TO ACCESS TO ANY AND ALL RECORDS RELATED TO THE CHILD(REN) TO THE SAME EXTENT AS IS LEGALLY PROVIDED TO THE RESIDENTIAL PARENT AND UNDER THE SAME TERMS AND CONDITIONS BY WHICH ACCESS IS PROVIDED TO THE RESIDENTIAL PARENT. THE RESIDENTIAL PARENT SHALL SUPPLY THE KEEPER OF ANY MEDICAL/SCHOOL RECORDS OF THE CHILD(REN) WITH A COPY OF HIS/HER ORDER. THE RESIDENTIAL PARENT SHALL SUPPLY ANY OTHER KEEPER OF ANY RECORDS OF THE CHILD(REN) WITH A COPY OF THIS ORDER UPON REQUEST OF EITHER THE NON-RESIDENTIAL PARENT OR THE KEEPER OF THE RECORD.

B. IN THE EVENT A CHILD'S ILLNESS REQUIRES MEDICAL ATTENTION BY A PHYSICIAN, THE RESIDENTIAL PARENT SHALL PROMPTLY NOTIFY THE NON-RESIDENTIAL PARENT. ELECTIVE SURGERY SHALL ONLY BE PERFORMED AFTER CONSULTATION WITH THE NON-RESIDENTIAL PARENT.

C. THE NON-RESIDENTIAL PARENT SHALL BE ENTITLED TO ACCESS TO STUDENT ACTIVITIES RELATING TO THE CHILD(REN) TO THE SAME EXTENT AS IS LEGALLY PROVIDED TO THE RESIDENTIAL PARENT AND UNDER THE SAME TERMS AND CONDITIONS BY WHICH ACCESS IS PROVIDED TO THE RESIDENTIAL PARENT. THE RESIDENTIAL PARENT SHALL PROVIDE THE SCHOOL(S) WITH A COPY OF THIS ORDER.

D. THE NON-RESIDENTIAL PARENT SHALL BE ENTITLED TO ACCESS TO ANY DAYCARE CENTER THAT IS, OR THAT IN THE FUTURE MAY BE ATTENDED BY THE CHILD(REN), TO THE SAME EXTENT AS IS LEGALLY PROVIDED TO THE RESIDENTIAL PARENT AND UNDER THE SAME TERMS AND CONDITIONS BY WHICH ACCESS IS PROVIDED TO THE RESIDENTIAL PARENT. THE NON-RESIDENTIAL PARENT SHALL NOT REMOVE THE CHILD(REN) FROM THE DAYCARE PREMISES EXCEPT DURING PERIODS OF TIME TO WHICH THE NON-RESIDENTIAL PARENT IS OTHERWISE ENTITLED PURSUANT TO THIS ORDER OR EXCEPT BY WRITTEN AGREEMENT OF THE PARENTS. THE RESIDENTIAL PARENT SHALL PROVIDE A COPY OF THIS ORDER TO THE DAYCARE CENTER.

#### 6. RELOCATION/REMOVAL

A. IN ACCORDANCE WITH RULE 2.7 OF THE COURT'S LOCAL RULES, THE RESIDENTIAL PARENT SHALL NOTIFY THE COURT AND THE OTHER PARENT OF ANY INTENT TO RELOCATE BY COMPLETING COURT FORM 2.8 ("NOTICE OF INTENT TO RELOCATE") AND SUBMITTING IT TO THE COURT'S DOCKET OFFICE. IF A SHARED PARENTING PLAN IS IN EFFECT, EACH PARENT MUST NOTIFY THE COURT AND THE OTHER PARENT OF ANY INTENT TO RELOCATE BY COMPLYING WITH THE PROVISIONS OF LOCAL RULE 2.7 AND SUBMITTING FORM 2.8. FORM 2.8 IS AVAILABLE IN THE DOCKET OFFICE.

B. NEITHER PARENT MAY REMOVE THE CHILD(REN) FROM HAMILTON COUNTY OR ITS CONTIGUOUS OHIO COUNTIES (I.E. BUTLER, WARREN, CLERMONT COUNTIES) AND ESTABLISH RESIDENCE FOR THEM IN ANOTHER COUNTY WITHOUT FIRST OBTAINING A COURT ORDER OR AN AGREED ENTRY PERMITTING SUCH REMOVAL. (NOTE: TO HAVE LEGAL EFFECT, AN AGREED ENTRY MUST BE SIGNED BY BOTH PARENTS, THEIR ATTORNEYS (IF ANY), AND THE COURT, AND THEREAFTER BE FILED WITH THE HAMILTON COUNTY CLERK OF COURTS.)

#### 7. MODIFICATION/RESTRICTIONS AS FOLLOWS:

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ANY KEEPER OF ANY RECORD WHO KNOWINGLY FAILS TO COMPLY WITH THIS ORDER, OR DIVISION (H) OF SECTION 3109.051 OF THE OHIO REVISED CODE, AND ANY SCHOOL OFFICIAL OR EMPLOYEE WHO KNOWINGLY FAILS TO COMPLY WITH THIS ORDER OR DIVISION (J) OF SECTION 3109.051 OF THE OHIO REVISED CODE IS IN CONTEMPT OF COURT.

**WILLFUL NON-COMPLIANCE BY A PARENT WITH THIS ORDER MAY RESULT IN A FINDING OF CONTEMPT RESULTING IN THIRTY (30) DAYS TO NINETY (90) DAYS INCARCERATION, A \$250.00 TO \$1,000.00 FINE, AND AN AWARD OF THE MOVING PARENT'S ATTORNEY FEES AND COSTS.**

**BY SIGNATURE ON THIS AGREED ORDER, BOTH PARENTS EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVE ANY REQUIREMENT THAT THE COURT ISSUE SEPARATE FINDINGS OF FACT/CONCLUSIONS OF LAW PURSUANT TO O.R.C. 3109.04, 3109.051 AND 3109.052.**

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**MAGISTRATE**

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**PLAINTIFF/PETITIONER**

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**DEFENDANT/PETITIONER**

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**ATTORNEY FOR PLAINTIFF/PETITIONER**

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**ATTORNEY FOR DEFENDANT/PETITIONER**