

**RULES OF PRACTICE AND PROCEDURE
OF THE
COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
LAKE COUNTY, OHIO**

Adopted March 1, 2005

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**RULES OF COURT
LAKE COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
EFFECTIVE DATE MARCH 1, 2005**

PREAMBLE

The following Rules were issued by the Lake County Court of Common Pleas, Division of Domestic Relations, the Honorable Colleen A. Falkowski, Judge, Presiding, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Common Pleas.

These Rules supplement and are to be used in conjunction with the Ohio Rules of Civil Procedure, the Ohio Supreme Court Rules of Superintendence for the Courts of Common Pleas, the Ohio Rules of Evidence and the Ohio Revised Code.

These Rules apply only to the Division of Domestic Relations, Court of Common Pleas for Lake County, Ohio, and supersede all prior Rules of this Division. Rules of Court of Lake County published by any other division of the Courts of Common Pleas, Lake County, Ohio are inapplicable to the Domestic Relations Division. These Rules may be cited as Loc. R. _____.

These Rules were adopted to provide for the efficient and expeditious management of business before this Court.

Rule 1: BUSINESS HOURS

The Lake County Domestic Relations Court conducts business from 8:00 a.m. to 4:30 p.m. Monday through Friday, or as may otherwise be scheduled by the Court.

Rule 2: COURTHOUSE SECURITY

2.01 Search

Everyone entering the Court shall pass through a metal detector or other screening device for maintaining the security of the Court. All persons entering the Court are subject to search, along with all packages, briefcases, purses, wallets or other containers.

2.02 Firearms and Other Weapons Prohibited

Pursuant to the Order of the Judges of the Lake County Court of Common Pleas filed in the Lake County Clerk of Courts on April 5, 2004, “[a]ll persons are hereby prohibited from conveying or attempting to convey a deadly weapon or dangerous ordnance in the Lake County Court House” subject to the exceptions as stated in the Journal Entry.

2.03 Conduct

The Court reserves the right to remove any person from the Court whose conduct disrupts the proceedings before the Court or poses a threat to security. The definition of “the Court” includes the Judge and all appointed Magistrates.

Rule 3: PLEADINGS AND MOTIONS

3.01 Form

(A) Unless otherwise provided in these Rules, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure.

(B) The caption in every Complaint, Petition, or other pleading, which opens or reopens a case, shall state the name and address, if known, of each party. The caption of subsequent pleadings, motions and other papers shall state the case number, the name of the Judge or Magistrate to whom the case is assigned, and the name of the first party Plaintiff and the first party Defendant. All captions shall briefly describe the general nature of the action. The social security number and date of birth of any party shall not be in the caption.

(C) A completed Case Designation Sheet shall be filed along with the pleading which opens or reopens the case.

(D) All motions shall be in writing and supported by a brief and/or affidavit where appropriate. If the matter is already set for hearing, the motion shall be filed no later than seven (7) days prior to the time fixed for hearing.

(E) Any motion that requests relief without a hearing shall be filed with an appropriate Judgment Entry or Order.

3.02 Initial Filings and Affidavits

(A) **Divorces and Legal Separations:** When a Complaint for Divorce or Legal Separation is filed, the Plaintiff shall also file a completed Affidavit of Income, Expenses and Property on the Court approved form. If there are minor children, the Plaintiff shall complete and file the statutory Affidavit Regarding Parenting Proceeding pursuant to R.C. 3109.27.¹ These affidavits shall be served on the Defendant with the Complaint in accordance with the Ohio Civil Rules of Procedure.

(B) **Answers and Counterclaims:** A Defendant who files an Answer and/or Counterclaim shall also complete, file, and serve an Affidavit of Income, Expenses and Property. If there are minor children, the Defendant shall file the statutory Affidavit Regarding Parenting

¹ Due to the recent passage of the Uniform Child Custody Jurisdiction and Enforcement Act, this statutory provision has been amended and re-codified in R.C. 3127.23, effective April 10, 2005.

Proceeding pursuant to R.C. 3109.27.² These affidavits shall be served on the Plaintiff in accordance with the Ohio Civil Rules of Procedure.

(C) **Dissolution:** When the Petition is filed in a case where there are minor children, the parties shall complete and file the statutory Affidavit Regarding Parenting Proceeding pursuant to R.C. 3109.27³ and a Child Support Worksheet. A Waiver of Service of Summons shall be attached to the Petition. A Waiver of Counsel shall also be attached to the Petition where one party is unrepresented.

3.03 Post Decree Motions

(A) All post decree motions, except as required by Loc. R. 3.04, shall be made in writing and shall be supported by an affidavit or memorandum setting forth the specific grounds for the motion.

(B) All post decree motions which involve parental rights and responsibilities shall be accompanied by the statutory Affidavit Regarding Parenting Proceeding pursuant to R.C. 3109.27⁴ which shall be served on the opposing party with the motion.

3.04 Motions to Show Cause

(A) **Content of Motion:** A Motion to Show Cause shall be made in writing and shall be accompanied by an affidavit signed by the movant setting forth the specific facts forming the basis for the motion and shall clearly state:

- (1) Each provision of a prior Court Order with which the opposing party has failed to comply;
- (2) The date of the prior Court Order; and,
- (3) The facts regarding the claim of non-compliance.

(B) **Order:** Every Motion to Show Cause shall be filed with the Clerk of Courts and shall contain an **Order to Appear and Show Cause** and Instructions for Service. The Order to Appear and Show Cause shall be on a Court approved form. The date of hearing shall be inserted on the Order to Appear and Show Cause by the Court in accordance with Subsection C of this Rule.

(C) **Date of Hearing:** At the time of the filing of a Motion to Show Cause, the Clerk of Courts shall forward the packet containing the motion, the Order to Appear and Show Cause and the Instructions for Service to the Court. Upon receipt of the packet, the Court shall insert a hearing

² *Id.*

³ *Id.*

⁴ *Id.*

date in the Order to Appear and Show Cause, sign the Order and return the packet to the Clerk. Upon receipt, the Clerk of Courts shall file the Order to Appear and Show Cause and serve the motion along with the Order in accordance with the Instructions for Service.

(D) **Responsibility:** Counsel for the movant or the *pro se*⁵ litigant is responsible to insure that the Motion to Show Cause and Order to Appear and Show Cause are transmitted to the Domestic Relations Court. If the Order to Appear and Show Cause does not appear on the docket of the Clerk of Courts within twenty-one (21) days after the filing of the Motion to Show Cause, counsel or the *pro se* litigant shall notify the Domestic Relations Court and provide to the Court the case name, case number and date of the filing of the Motion to Show Cause. Thereafter, the Court shall take such action as is appropriate.

(E) **Medical Expenses:** All Motions to Show Cause concerning medical expenses shall include in the attached affidavit a statement specifying the manner by which the bills were presented to the obligor for payment.

3.05 Amendments to Affidavits

The parties have an affirmative duty to file amended affidavits whenever the information provided on the affidavits required under the Local Rules of Court has changed.

Rule 4: APPLICATION OF SERVICE MEMBERS' CIVIL RELIEF ACT

(A) In any action or proceeding commenced in this Court against an unrepresented Defendant who is a member of the military service, the Court may appoint an attorney to advise that Defendant pursuant to the Service Members' Civil Relief Act, 50 U.S.C. APPENDIX 501, *et seq.*, as amended, and may set a fee for the attorney's services.

(B) The Court may, on its own motion, and shall, on application, stay any hearing in the proceeding for the duration of the Defendant's period of military service, unless, in the opinion of the Court, the Defendant's ability to conduct a defense is not materially affected by reason of the Defendant's period of military service.

(C) In any event, the Defendant will be ordered to cooperate in all discovery procedures and to notify the Court upon the Defendant's discharge from active duty.

Rule 5: OTHER COURT CASES REGARDING THE SAME CHILDREN

It shall be the obligation of the party filing an action involving parenting or support of minor children to notify the Court of other cases in any domestic relations or juvenile court involving the children. This notification shall include the name of the court and case number for Uniform Child Custody Jurisdiction Act (UCCJA) written communication between the Courts.

⁵*Pro Se* is the latin term for "on one's own behalf": unrepresented party.

Rule 6: NOTICE AND SCHEDULING OF HEARINGS

(A) Notices of hearing shall be sent to counsel of record and unrepresented parties, and shall be mailed no later than seven (7) days prior to the hearing. Court dates and hearing times may also be found on the Lake County Clerk of Courts' docket under the case number. The Lake County Clerk of Courts' docket is available online at www.lakecountyohio.org.

(B) Counsel and unrepresented parties shall be prepared to schedule all future hearing dates, including trial dates, at the time of the Case Management Conference for pending Divorces, at the time of the pretrial for post decree motions. Counsel and litigants shall bring their calendars to Court for scheduling.

Rule 7: CONTINUANCES

7.01 Requirements for Continuance

Motions to Continue must comply with the following:

- (A) The motion must be in writing and state a reason;
- (B) The motion must contain a statement that opposing counsel or *pro se* litigant was contacted, and that they either object or do not object to the continuance;
- (C) The motion must contain the written consent of the moving party, and if this cannot be obtained, a written explanation of why the consent cannot be obtained;
- (D) The motion must be filed at least seven (7) days before the hearing date; and,
- (E) The motion must be accompanied by a Judgment Entry or Magistrate's Order.

The Court reserves the right to grant a continuance not filed in accordance with the above sections of this Rule for good cause shown.

7.02 Vacation Schedules

Attorneys shall submit their respective vacation schedules no later than sixty (60) days in advance of their vacation to preserve the right to seek a continuance for this reason.

Rule 8: FAILURE TO APPEAR/COMPLY WITH RULES

(A) Cases shall proceed as scheduled. Failure to appear on time and/or failure to comply with these Rules and/or any Pretrial Order may result in the imposition of appropriate sanctions including, but not limited to, an award of attorney fees, a dismissal of the motion or case without prejudice, or a contempt citation.

(B) Counsel and parties shall appear at all hearings on time unless excused by Court Order for good cause shown. If a party's attendance has been excused by Court Order, counsel representing the non-appearing party shall have express authority to bind the party to any agreement.

Rule 9: ATTORNEY OF RECORD

9.01 Entry of Appearance

(A) An Entry of Appearance shall be filed by counsel immediately after being retained by a party.

(B) Until an Entry of Appearance properly made and signed by counsel has been filed, counsel shall not be entitled to appear at any proceeding in the action.

9.02 Withdrawal

(A) After entering an appearance as counsel for a party, no attorney shall be relieved of his or her responsibilities unless:

(1) Counsel files a written motion with the Court stating the grounds for withdrawal from the case, citing the applicable Disciplinary Rule and certifying that the client has been noticed of the filing of the motion;

AND,

(2) The Court grants the motion.

(B) Counsel shall proffer to the Court a proposed Judgment Entry granting the motion.

Rule 10: RECORDING OF PROCEEDINGS

10.01 Official Record

(A) All official proceedings of the Lake County Common Pleas Court, Division of Domestic Relations, are recorded as authorized by the Rules of Superintendence for the Courts of Ohio.

(B) In all cases, the Court's own recording of the proceeding shall be the official record.

(C) In accordance with the Rules of Superintendence for the Courts of Ohio, the Court may permit a party to review or hear the official record and/or transcript of proceedings on file. A party may, at his or her own expense, have an electronically recorded proceeding transcribed by a Court Reporter. No one is permitted to remove the official record of a proceeding from the Domestic Relations Court without prior Court Order.

10.02 Cases Heard by the Judge

In matters heard by the Judge, a Court Reporter shall be provided by the Court and taxed as costs.

10.03 Cases Heard by the Magistrate

(A) Magistrate proceedings shall be recorded in accordance with the Ohio Civil Rules of Procedure.

(B) Any party may, at his or her own expense, retain the services of a Court Reporter to record a proceeding.

10.04 Transcripts

(A) All transcripts shall contain a word index.

(B) The party requesting a transcript is responsible for payment.

Rule 11: MUTUAL RESTRAINING ORDERS; EMERGENCY *EX PARTE* ORDERS; CIVIL RULE 75 MOTIONS

11.01 Mutual Restraining Orders

Upon the filing of a Complaint for Divorce, the Court will automatically issue mutual restraining orders as to conduct and assets that shall be served by the Clerk of Courts with the Complaint.

11.02 Emergency *Ex Parte* Orders

(A) The only requests for relief which shall be considered *Ex Parte* requests are written motions with a supporting affidavit from the movant which states with specificity the grounds and the irreparable harm to the movant. A Judgment Entry shall be proffered along with the *Ex Parte* motion.

(B) *Ex Parte* Orders will only be granted where there are exigent circumstances that may result in irreparable harm to the movant. All *Ex Parte* motions that have been denied shall be set for hearing within twenty-eight (28) days.

(C) Duty hearings are abolished.

(D) Abuse of the *Ex Parte* Motion filing procedure set forth in this Rule may subject an attorney or *pro se* litigant to the imposition of appropriate sanctions, including but not limited to, an award of attorney fees or a contempt citation.

11.03 Civil Rule 75 Motions

(A) Motions for child support, spousal support, and allocation of parental rights and responsibilities *pendente lite* shall comply with Rule 75(N) of the Ohio Civil Rules of Procedure and with the Local Rules of Court. Said motions shall be filed on Court approved forms.

(B) The original filing of the Affidavit of Income, Expenses and Property may serve as the affidavit in support of a Motion for Temporary Child Support or Spousal Support. A completed Affidavit of Income, Expenses and Property filed by the respondent to a Motion for Temporary Support shall serve as the Counter-Affidavit described in Rule 75(N)(2) of the Ohio Rules of Civil Procedure.

(C) Every Motion for Temporary Child Support shall be filed with a proposed Child Support Worksheet.

Rule 12: CASE MANAGEMENT CONFERENCES, PRETRIALS AND OBJECTIONS

12.01 Case Management Conferences

(A) A Case Management Conference shall be scheduled approximately sixty (60) days after perfection of service of the Complaint. At the Case Management Conference, the parties shall establish the amount of time needed to prepare the case for trial and the amount of time needed to try the case, and shall schedule the pretrial and trial dates. The Court reserves the right to expand or reduce the amount of trial time or the time requested to prepare the case for trial based on the Court's analysis of the factual and legal issues.

(B) At the Case Management Conference, counsel shall submit witness lists and schedule a discovery deadline for the retention of expert witnesses, exchange of expert witness reports and *curriculum vitae* and address other discovery issues. Exchange of expert witness reports and *curriculum vitae* shall take place no later than the scheduled pretrial date.

(C) All pending motions and contemplated motions are to be discussed at the Case Management Conference.

(D) Motions for guardians ad litem and psychological evaluations should be filed by the date of the Case Management Conference.

(E) Counsel shall advise the Court if mediation, counseling and/or conciliation should be ordered. If trial briefs may be needed, guidelines and deadlines for same shall be established.

(F) After the Case Management Conference, the Court may file additional Pretrial Orders appropriate to facilitate a resolution of the issues or to facilitate an orderly trial.

12.02 Pretrials

(A) **When Held:** A pretrial shall be scheduled after the Case Management Conference in all contested Divorces and cases involving the allocation of parental rights and responsibilities, or in any other matter at the discretion of the Court.

(B) **Purpose:** The purpose of the pretrial is to explore final settlement of all or some of the contested issues and in event settlement is not achieved, to expedite trial of the case.

At the time of the pretrial, the attorney and/or *pro se* litigant shall be prepared to:

- (1) Narrow the disputed legal issues;
- (2) Admit to undisputed facts;
- (3) Stipulate to the authentication of documents and other exhibits to be introduced at trial; and,
- (4) Exchange reports of expert witnesses, if not already done.

Final exhibit and witness lists must be filed by the pretrial date. All exhibits and witnesses, including experts, shall be specifically identified and copies of exhibits shall be provided to opposing counsel. Exhibits and witnesses not timely identified will not be allowed at trial without agreement of counsel or Court Order.

12.03 Objections

(A) Objections to a Magistrate's Decision shall be filed no later than fourteen (14) days from the date of the filing of the decision. The Lake County Clerk of Courts' docket is available online at www.lakecountyohio.org. The objection shall be specific and state with particularity the grounds for the objections. Objections shall be set for an oral hearing.

(B) The initial objection filing may be supplemented by or responded to by a brief due at the time of the hearing. Written transcripts must be filed with the Court prior to the oral hearing. The party requesting the transcript is responsible for payment of same.

Rule 13: DISCOVERY PROCEDURES

13.01 In General

Rules 26 through 37 of the Ohio Rules of Civil Procedure shall apply to any action in this Court, including post-decree motions filed pursuant to Civ. R. 75(J).

13.02 Policy of Local Rules

It is the policy of this Rule to encourage open, prompt and complete discovery and avoid the Court's involvement in the discovery process.

13.03 Mandatory Disclosure

Each party/spouse in an action for Divorce, Annulment or Legal Separation has the affirmative duty to disclose to the other party/spouse all information and documents, such as the following:

(A) All pension and profit-sharing plans, including the most recent plan summary of the participant's account;

(B) All COBRA benefits to which the other party/spouse may be entitled;

(C) Copies of all real estate deeds, vehicle titles and registration unless already in the possession of the other party/spouse;

(D) All appraisals of real estate or personal property or any property in which the party/spouse holds an interest;

(E) Copies of the last three (3) years individual tax returns, unless already in the possession of the other party/spouse;

(F) Documentary proof of current income from all sources; and,

(G) Copies of the most recent statements on all bank accounts, IRA's, stock accounts, mortgages, credit card accounts, and any other debts.

13.04 Disclosure Deadline

Each party shall make full disclosure within the discovery deadlines as set at the Case Management Conference, or pretrial for post decree motions, unless otherwise ordered by the Court.

13.05 Filings Pertaining to Discovery

Depositions upon oral examination, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall not be filed unless upon Order of the Court, or for use as evidence, or for consideration of a motion in the proceeding. Discovery filed with the Court shall not be considered until a Proof of Service is endorsed thereon or separately filed. The Proof of Service shall state the date and manner of service and shall be signed in accordance with Rule 11 of the Ohio Rules of Civil Procedure. The Clerk of Courts shall not accept for filing any document which does not conform with the requirements of this Rule.

13.06 Motions for Protective Order

A Motion for Protective Order shall be filed no later than fourteen (14) days prior to the date on which response to a discovery request is due or the date of a scheduled deposition, unless it can be shown that it was not possible to file such a motion within such time. The motion shall state, with specificity, the basis for the protective order and shall state clearly on its face the date on which a response to the request is due or the date of a scheduled deposition.

13.07 Authentication

No objection as to the authentication of any document will be permitted at any court hearing:

(A) If that document was provided to opposing counsel at least fourteen (14) days prior to the hearing;

AND

(B) The party opposing introduction of the document into evidence **failed** to file a written objection to the authentication of that document at least seven (7) days before the hearing setting forth the particular legal objection raised.

13.08 Sanctions

Failure to comply with this Rule may result in sanctions pursuant to Rule 37 of the Ohio Rules of Civil Procedure, including but not limited to, a contempt citation, award of attorney fees and litigation expenses, possible dismissal of claims and restrictions on the submission of evidence.

Rule 14: MEDIATION

14.01 When Ordered

At any time after service of summons in any action for Divorce, Legal Separation, or Annulment involving one or more minor children, or at any time after the filing of a post-decree Motion to Modify the Allocation of Parental Rights and Responsibilities, when it is determined that the parents of the children do not agree upon the allocation of parental rights and responsibilities, the Court may order the parties into mediation.

The Court's mediation department will also accept direct referrals from parties wishing to voluntarily mediate post-decree issues involving parental rights and responsibilities without litigation pending.

14.02 Procedure

(A) Cases shall be assigned to the Court's in-house mediation department. The parties may use an outside mediator as long as the parties agree on the mediator, the payment arrangement and the Court has given prior approval.

(B) If the mediation department determines that the case is appropriate for mediation, the Court may permit both parties to participate in mediation for a time period not to exceed sixty (60) days. The time period may be extended by the Court for good cause shown. The mediator shall make the final determination as to whether a case is appropriate for mediation.

(C) An Order referring the parties to mediation stays the proceedings except temporary support hearings, implementation of any temporary orders issued by the Court, or any scheduling/discovery matters. Mediation sessions may be convened from time to time until all issues are resolved in a manner mutually agreeable to the parties or until the mediator determines continued efforts would not be productive. The Court may order parties to participate in or return to mediation at any time.

(D) The mediator shall do the following:

- (1) Keep all verbal and written communications confidential;
- (2) Provide to the parties and their attorneys (if any) a summary of any agreement reached, or a statement that the mediation has been terminated without agreement; and,
- (3) Notify the Court, for purposes of scheduling, that mediation has been concluded.

(E) It is not necessary for the parties' attorneys to attend the mediation. Attorneys attending the mediation session are present only as observers and cannot participate in the mediation, unless their participation is approved by the mediator. The guardian ad litem shall attend the mediation, if requested by the Court or either party. Children shall not be brought to the mediation session unless specifically ordered by the Court.

14.03 Agreements

(A) Agreements reached in mediation shall be reduced to writing by the mediator and signed by the parties. Any agreement reached during mediation shall not be binding upon the parties until approved by the Court, which shall consider the best interests of the children.

(B) If the agreement is approved by the attorneys and adopted by the Court, counsel for Plaintiff or movant (if post decree), or the Plaintiff or movant if unrepresented, shall submit an Entry to the Court incorporating the agreement and containing all language required to conform with the Local Rules of Court. The Entry may be in the form of a Final Decree or a separate Agreed Judgment Entry. If the agreement is not adopted by the Court, any mediation agreement shall be destroyed and not considered by the Court for any other purpose. If no agreement is reached, the mediator shall issue a report stating only that no agreement was reached.

14.04 Qualifications

(A) Any mediator employed by the Court, or who is included on the Court's informational list of mediators, shall comply with the qualifications set forth in Rule 16 of the Ohio Rules of Superintendence and meet the following minimum qualifications:

- (1) Adherence to the ethical standards of the mediation profession;
- (2) Eligibility for membership in an association of mediation professionals;
- (3) Maintain appropriate liability insurance specifically covering the activities of the individual as a mediator;
- (4) A commitment to continuing education;
- (5) Awareness of the factors affecting the propriety of mediation in particular cases; and,
- (6) Demonstration of good character, reputation and good judgment within his/her profession and the community.

14.05 Confidentiality

Statements made during mediation shall be considered compromise negotiations and not admissible as evidence pursuant to Rule 408 of the Ohio Rules of Evidence. Everyone attending a mediation session, including attorneys and guardian ad litem, shall sign a Memorandum of Understanding for Mediation which confirms the confidentiality requirement. The mediator shall not be required to disclose any statements or discussions which occurred during the mediation except as set forth in R.C. 2317.02(H). The mediator shall not be called as a witness for any purpose and the mediator shall not be subject to subpoena to testify at any proceeding except as set forth in R.C. 2317.02(H). This Rule shall not preclude the mediator from testifying as to a crime committed in his/her presence or from complying with any law requiring the reporting of child abuse.

14.06 Fees

No fees are charged for cases referred to the Lake County Domestic Relations Court Mediation Department. If the case is referred to a mediator other than one provided by the Lake County Domestic Relations Court Mediation Department, the parties shall agree upon the mediator and share the cost of mediation in such proportion as they may agree. Cases using an outside mediator must comply with the time frames and procedures set forth in Loc. R. 14.02.

Rule 15: GUARDIAN AD LITEM

15.01 When Appointed

Whenever the Court finds that it is necessary to appoint a guardian ad litem to make a recommendation as to a child's best interest, upon the filing of the appropriate Motion and supporting affidavit, or whenever the Court is required to do so by statute, the Court shall appoint a guardian ad litem.

15.02 Qualifications

(A) A Guardian ad litem shall be an attorney with the following qualifications:

- (1) Must be in good standing with the Supreme Court of Ohio;
- (2) Has practiced law at least one (1) year in the Juvenile and/or Domestic Relations Courts;
- (3) Has attended a Court-sponsored guardian ad litem seminar for the current year; or possess equivalent continuing legal education satisfactory to the Court; and,
- (4) Be willing to accept one (1) pro bono case per calendar year.

(B) Any attorney who meets the above criteria and wishes to be on the Court's guardian ad litem list must submit an annual application to the Court Administrator for approval.

15.03 Compensation

(A) Guardians ad litem shall be compensated at the rate of Seventy-Five Dollars (\$75.00) per hour for all reasonable and necessary time expended.

(B) At the time of the guardian ad litem's appointment, the Court shall order one or both of the parties to post a cash bond with the Clerk of Courts, which bond shall not exceed One Thousand Dollars (\$1,000.00). In the event the Court determines that the parties are unable to post such a bond, the Court may issue an Order waiving this requirement. The bond shall be held as security towards payment of the guardian ad litem fees.

(C) Upon motion for guardian ad litem fees, the Court may conduct a hearing to determine if the fee sought by the guardian ad litem is reasonable and necessary, and to determine the amount each party shall contribute toward the fee. Any Order for fees shall include a direction to the Clerk of Courts to release the bond to the guardian ad litem.

(D) Payment for guardian ad litem fees shall be borne equally by the parties unless otherwise ordered by the Court.

(E) Guardian ad litem reports will be filed with the Domestic Relations Court (**NOT THE CLERK OF COURTS**) by the date ordered by the Court, but in any event, no later than ten (10) days before the scheduled hearing.

Rule 16: FAMILY EDUCATIONAL PROGRAM

16.01 Purpose

The purpose of this educational program is to assist parents on how to minimize the negative impact that Separation or Divorce proceedings may have on children.

16.02 Requirements for Attendance

(A) **Pre Decree Attendance Mandatory:** A Court-approved family educational program must be attended by the parties prior to the final hearing in actions for Divorce, Legal Separation and Dissolution of Marriage where minor children are involved. Attendance is required within sixty (60) days after completion of the service of the Complaint or the filing of the Petition. For good cause shown, the Court may waive the requirement for attendance.

(B) **Post Decree Attendance Discretionary:** Attendance at a Court-approved family educational program may be required in connection with post decree motions involving the allocation of parental rights and responsibilities.

(C) **Certificate of Attendance:** Upon completion of the program, a Certificate of Attendance will be issued for each participant and shall be furnished to the Court at the Case Management Conference or Dissolution hearing.

(D) **Parties Outside of Lake County:** Parties in another jurisdiction are required to attend a similar program in that jurisdiction and provide documentation of same to the Court.

Rule 17: ATTORNEY FEES

17.01 Motion

(A) A Motion for Attorney Fees and/or Expenses shall be filed no later than seven (7) days prior to the hearing on the issue that gives rise to the request for the fees. The motion shall be served in accordance with the Ohio Civil Rules of Procedure and shall be supported by an affidavit itemizing the expended time and the hourly rate charged.

(B) No oral motions for fees shall be entertained.

(C) The attorney who moves for fees and/or expenses may testify in support of the motion. Expert testimony is not required to prove the reasonableness of attorney fees.

17.02 Failure to Comply with Rule

Failure to comply with the provisions of this Rule shall result in denial of the Motion for Attorney Fees and/or Expenses, unless the Court finds, for good cause shown, that, under the circumstances, the movant could not reasonably comply with the provisions of this Rule.

Rule 18: JUDGMENT ENTRIES

18.01 Contested Trial and Motion Hearings

(A) The Court may order or direct either counsel or *pro se* litigant to prepare the Judgment Entry. If the Court orders counsel or *pro se* litigant to prepare the Judgment Entry, it shall be submitted to the Court within a reasonable time, not to exceed twenty-one (21) days after the date of the Judge's hearing or the filing of the Order adopting or modifying the Magistrate's Decision. Prior to submission to the Court, the Judgment Entry shall be submitted to opposing counsel or *pro se* litigant for signature.

- (1) **Signatures:** It is the responsibility of all counsel of record or *pro se* litigant to sign the Judgment Entry if accurate. Attorney fees or other appropriate sanctions shall be considered if counsel of record or *pro se* litigant unreasonably withholds his/her signature. If any Judgment Entry is presented to the Court without the signatures of counsel or *pro se* litigant, a Certificate of Service to the Court documenting the date that the Judgment Entry was served on opposing counsel or *pro se* litigant must accompany the Judgment Entry. The Entry shall not be submitted to the Court until seven (7) business days have passed from the date on the certificate of service.
- (2) **Rejection of Judgment Entry:** In the event of a rejection of the Judgment Entry, opposing counsel or *pro se* litigant shall file objections within five (5) business days of receipt of the proposed Judgment Entry and shall serve copies of the same on opposing counsel or *pro se* litigant, and the matter shall be set for hearing as the Court docket permits.

(B) Failure to submit a Judgment Entry in accordance with the above stated Rule shall subject counsel or *pro se* litigant to a contempt citation.

18.02 Dissolutions and Other Uncontested Cases

(A) **Decrees for Dissolution of Marriage:** Decrees for Dissolution of Marriage shall be presented to the Court at the same time as the Petition for Dissolution of Marriage is filed.

(B) **Other Uncontested Cases:** Proposed Judgment Entries must be submitted to the Court at the time of the final hearing.

18.03 Court Approved Supplemental Entries/Companion Entries and Forms

(A) All Allocation of Parental Rights Orders shall be accompanied by a R.C. 3109.051 Order.

(B) All Child Support Orders shall be accompanied by the Health Insurance and Expense Orders required by the Ohio Revised Code on Court approved forms.

(C) Judgment Entries establishing or modifying a Child Support Order shall include an Order for Collection of Child Support/Obligation of Both Parties to the Lake County Child Support Enforcement Division (Exhibit 1 of Court approved forms).

18.04 Agreed Judgment Entries

(A) **Requirements:** Written settlements signed by all parties shall be presented to the Court at the commencement of the hearing. Oral settlements shall be read into the record at the hearing and the parties' consent given under oath.

(1) **Written Filing Requesting Relief:** Any Agreed Judgment Entry must relate to a written motion requesting relief. The Court may schedule the Agreed Judgment Entry for hearing.

(2) **Modification of Child Support:** Agreed Judgment Entries resolving Motions to Modify Child Support shall have attached all appropriate Court Approved Supplemental Entries/Companion Entries and Forms. The Entry is to address the current child support based upon the Ohio Child Support Computation Worksheet, the tax dependency exemption(s), the arrearage, the repayment rate on the arrearage, the effective date of the child support order, and any other statutory requirements. The Agreed Judgment Entry shall also be accompanied by a Health Insurance and Expense Order on Court approved forms, a Child Support Worksheet and a Child Support Deviation Worksheet, if applicable, signed by the parties and/or counsel.

(B) **Submission Prior to the Hearing:** If an Agreed Judgment Entry submitted with all the required documents resolves the matter set for hearing, counsel shall confirm with the Court that the hearing has been canceled. The submission of an Agreed Judgment Entry does not guarantee that the hearing will not proceed.

Rule 19: IV-D APPLICATIONS

All pending and post decree motions requesting that child support be established or modified must be accompanied by a completed IV-D Application signed by the obligee.

Rule 20: COSTS

20.01 Application and Exemptions

(A) The Clerk of Courts shall not accept any action, proceeding, pleading or joint motion with an Agreed Judgment Entry for filing purposes without the appropriate deposit for security for costs in the amount as set forth in a schedule as promulgated by the Court, or as ordered by the Court.

(B) The Lake County Department of Job and Family Services / Lake County Child Support Enforcement Division filings are hereby exempted from this requirement, as are those litigants exempt by Rule or Statute.

(C) At any time during the course of a proceeding, the Court may order either party or both parties to pay further security for costs, and/or the past due balance on unpaid costs, as may be necessary and appropriate. Failure to pay may subject the offending litigant to sanctions including, but not limited to, the striking of the pleadings, and/or a contempt citation.

20.02 Additional Fees

Pursuant to R.C. 2303.201, the Court may determine that additional fees are necessary to fund certain special programs and projects. Accordingly, the Court may from time to time authorize and direct the payment of additional fees on the filing of actions and/or pleadings.

20.03 Indigency

(A) The deposit requirement may be waived by the filing of an affidavit stating that:

- (1) The party is without funds/assets or the ability to obtain same to pay the deposit;
- (2) A statement of the affiant's current financial situation, if not otherwise prepared as part of the case;

AND,

- (3) A certification by counsel, if represented, that no or nominal attorney fees have been paid or will be paid as a retainer.

(B) The filing of an Affidavit of Indigence does not relieve a party from liability for the payment of the costs. At any time that the Court determines that the affiant has become, or is able to post the deposit for costs, the Court may order the party to pay the deposit within a reasonable time.

Rule 21: POSTING OF NOTICES FOR SERVICE BY PUBLICATION

21.01 When Proper

(A) In accordance with Rule 4.4(A) of the Ohio Rules of Civil Procedure, service by publication in Divorce, Annulment, and Legal Separation proceedings shall be available when the residence of a Defendant is unknown.

(B) The Court must give prior approval for service by publication. To obtain prior approval of the Court, the attorney or *pro se* litigant shall file a motion with an attached affidavit and proposed Judgment Entry. The affidavit shall state that service of summons cannot be made because the residence of the Defendant is unknown to the affiant, shall detail all the efforts made on behalf of the party to ascertain the residence of the Defendant, and shall state that the residence of the Defendant cannot be ascertained with reasonable diligence. The motion may be set for hearing at the Court's discretion.

21.02 Responsibility

In all cases where service of process is to be accomplished by publication in a newspaper of general circulation, it shall be the responsibility of counsel or *pro se* litigant to insure that the publication is accomplished. The publication shall contain the name and address of the Court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. Publication shall also contain a summary statement of the object of the Complaint and Demand for Relief, and shall notify the person to be served that he or she is required to answer within twenty-eight (28) days after publication. The publication shall be published once a week for six (6) successive weeks, unless publication for a lesser number of weeks is specifically provided by law. Service shall be complete on the date of the last publication.

21.03 Confirmation

Upon completion of the last publication of service, the party shall file with the Court an affidavit showing the fact of publication together with a copy of the Notice of Publication. The affidavit and its exhibit shall constitute the Proof of Service.

21.04 Posting Locations and Indigence Cases

(A) In all cases where publication service by posting and mail is made pursuant to Rule 4.4(A)(2) of the Ohio Rules of Civil Procedure, the Clerk of Courts shall cause notices to be posted in conspicuous places as required by law including the following locations:

- (1) Lake County Courthouse where the Domestic Relations Court is located;
- (2) Willoughby Municipal Court, located at One Public Square, Willoughby, Ohio 44094; and,

- (3) Mentor Municipal Court, located at 85 Civic Center Blvd., Mentor, Ohio 44060.

(B) Should the Courts' addresses change, posting will be made at each Court's new location.

Rule 22: POSTING OF NOTICES FOR RECORDS MANAGEMENT

In addition to the requirements of the Ohio Rules of Superintendence, the Court shall cause a general posting to occur annually in the locations listed in Loc. R. 21.04(A), indicating a list of the cases in which the Court intends to destroy exhibits, depositions and/or transcripts unless retrieved.

Rule 23: STANDARD PARENTING TIME GUIDELINES

23.01 In General

THE COURT STRONGLY ENCOURAGES PARENTS TO CREATE COOPERATIVE PARENTING TIME SCHEDULES TAILORED TO THE SPECIFIC NEEDS OF THEIR CHILDREN, THE PARENTS' RESPECTIVE WORK HOURS, AND THE COLLECTIVE NEEDS OF EACH HOUSEHOLD.

For parents who are unable to agree on a parenting schedule, the Court sets forth in this Rule a plan to ensure the minor children have frequent and consistent contact with both parents.

The Court's plan reflects: (1) the preservation/development of a close relationship between the children and each parent; and, (2) consideration of the changing developmental needs of the children.

If parents cannot agree on their own plan or the Court's plan due to objections because of special circumstances (such as travel time, work requirements, substance abuse, mental illness or violence), the parents must be prepared to present specific facts in a hearing as to a plan which is in the best interests of the children.

23.02 Infants: 0 - 2 Months

For infants younger than two (2) months of age, the non-residential parent may spend time with the infant in the residential parent's home three (3) days per week, for two (2) hours per visit. If the parties cannot agree as to days and time, the following schedule shall be followed: on each Sunday from 2:00 p.m. to 4:00 p.m., and on each Tuesday and Thursday evening, from 6:00 p.m. to 8:00 p.m.

23.03 Infants: 2 Months - Age 2

Commencing at age two (2) months, parenting time is spent away from the residential parent's residence.

(A) Beginning at two (2) months through twelve (12) months, the non-residential parent may spend time with the child away from the residential parent's residence every Tuesday and Thursday evening from 5:30 p.m. to 8:30 p.m., and one day each weekend, alternating between Saturday and Sunday, from 10:00 a.m. to 6:00 p.m.

(B) From thirteen (13) months through twenty-three (23) months, the non-residential parent may spend time with the child as follows: every Tuesday and Thursday evening from 5:30 p.m. to 8:30 p.m., and on alternating weekends from Saturday at 10:00 a.m. to Sunday at 6:00 p.m.

(C) **Holidays:** In odd numbered years, the non-residential parent may spend time with the children from 10:00 a.m. to 6:00 p.m. on President's Day, Memorial Day, Thanksgiving and Christmas Eve. In even numbered years, the non-residential parent may spend time with the children from 10:00 a.m. to 6:00 p.m. on Easter, July 4th, Labor Day and Christmas.

(D) **Older Siblings:** If there are older brothers and sisters of the infant children, the parenting time (including holidays) set forth below for children ages two (2) years through twelve (12) years shall govern infant visitation, once the infant is two months old.

23.04 Children - Age 2 Through 12

(A) **Weekends:** Alternate weekends beginning Friday at 6:00 p.m. and ending Sunday at 6:00 p.m.

(B) **Weekdays:** Every Wednesday (or other day by agreement) from 5:30 p.m. to 8:30 p.m.

(C) **Holidays:** In odd numbered years, the residential parent will have the children on:

Easter: from Saturday at 6:00 p.m. to Sunday at 7:00 p.m.

July 4th: from 9:00 a.m. to 11:00 p.m.

Labor Day: from Friday at 6:00 p.m. to Monday at 7:00 p.m.

Christmas: from December 24th at 9:00 p.m. to January 1st at 6:00 p.m.

In odd numbered years, the non-residential parent will have the children on:

President's Day: from Friday at 6:00 p.m. to Monday at 7:00 p.m.

Memorial Day: from Friday at 6:00 p.m. to Monday at 7:00 p.m.

- Thanksgiving:** from Wednesday night at 6:00 p.m. to Thursday at 7:00 p.m., unless the following weekend is the non-residential parent's regularly scheduled weekend, in which case the parenting time shall continue until Sunday at 6:00 p.m.
- Christmas:** from December 21st or the last day of school, whichever is later, at 6:00 p.m. to December 24th at 9:00 p.m.
- Spring Break:** commencing at 9:00 a.m. the day after school recess, to 6:00 p.m. the day before school resumes.

In the even numbered years, this schedule will be reversed. If any of the above holidays fall on a Monday following that parent's regular weekend, then the parenting time will be continuous through Monday evening at 7:00 p.m.

Mother's Day: shall be spent with the mother from 9:00 a.m. to 7:00 p.m.

Father's Day: shall be spent with the father from 9:00 a.m. to 7:00 p.m.

Birthdays: Children's birthdays shall be celebrated in the home of the residential parent, unless the birthday falls on a scheduled parenting time of the non-residential parent.

(D) **Extended Parenting Time, Summer Vacations and Travel:** The non-residential parent shall have extended parenting time with the children to coincide with his or her work vacation if possible. The parenting time may extend to two (2) weeks (non-consecutive) for ages two (2) to four (4) years; it may extend to two (2) consecutive weeks for ages four (4) and five (5) years; and it may extend for up to four (4) weeks (with no more than two weeks being consecutive) for ages six (6) through twelve (12) years. The residential parent may also have an extended vacation with the children not to exceed two (2) weeks. All parenting/vacation time taken under this section must be taken in blocks of time of at least seven (7) days. Each parent must give the other party thirty (30) days prior written notice of the dates he or she intends to have extended parenting time or vacation with the child or children. In the case of conflict, the schedule of the parent who first gives written notice to the other parent shall prevail. For any vacation or holiday travel, each parent must provide the other parent with destination, times of arrival and departure, and methods of travel. If there are children in different age brackets, the provisions set forth for the oldest age bracket shall govern as to all children, except that there shall be no extended parenting time/vacation for children under two (2) years of age. **NOTE:** Child support will not be reduced during summer vacation periods specified in this provision.

23.05 Teenagers - Age 13 Through 18

(A) Regular parenting time by the non-residential parent on alternating weekends, midweek, and during holidays, and for extended time during the summer months as set forth in Loc. R. 23.04 shall apply to teenagers. Parents are urged to understand a child's normal social development during these sensitive years.

(B) In exercising parenting time with a teenager, the non-residential parent shall make reasonable efforts to accommodate a teenager's participation in his/her regular academic, extracurricular, and social activities.

23.06 Rules Regarding Parenting Time

(A) **Conflicting Schedules:** In the event of any conflict between parenting time schedules, the following is the order of precedence:

- (1) Holidays
- (2) Vacation periods or extended parenting times
- (3) Weekends and mid-week days

For example, one parent may not schedule his or her summer vacation to include July 4th, if July 4th is the other parent's holiday that year. As another example, the residential parent may be entitled to have the children on the Easter holiday, even though it falls on the non-residential parent's alternating weekend. In this case, the non-residential parent's weekend shall conclude at 6:00 p.m. on Saturday evening.

(B) **Illness:** Any weekend parenting time that is missed due to the illness of a child shall be made up the following weekend or as the parties may mutually agree. The residential parent shall promptly notify the non-residential parent of the child's illness prior to the exercise of parenting time. The Court does not expect parents to abuse the intent of this Rule and interfere with the non-residential parent's time with the child.

(C) **Telephone and Mail:** The non-residential parent may have reasonable telephone contact with the children, not to exceed once a day between the hours of 7:00 a.m. and 9:00 p.m. If the children are not available, the children should return the telephone call. The residential parent shall encourage free communications between the children and the non-residential parent, and shall not do anything to impede or restrict reasonable communications by telephone or mail between the children and the non-residential parent, whether initiated by the children or the non-residential parent. Any mail between the children and either parent shall be strictly confidential and shall not be opened or read by the other parent. This Rule applies equally to the non-residential parent when the children are spending time with the non-residential parent.

(D) **Cooperation:** Both parents shall refrain from criticizing the other parent or arguing with the other parent in the presence of the children.

(E) **Exchange of Phone Numbers:** Each parent must, unless this Court orders otherwise, keep the other parent informed of his and her current telephone number and a telephone number where the children may be reached. This includes cell phone numbers of the parents.

(F) **Grace Period:** The transporting parent for parenting time shall have a grace period of fifteen (15) minutes for pick up and delivery, if both parties live within thirty (30) miles of each other. If the one way distance to be traveled is more than thirty (30) miles, the grace period shall be thirty (30) minutes. In the event the non-residential parent exceeds the grace period, that period

of parenting time is forfeited unless prior notification and arrangements have been made, excepting cases where the non-residential parent lives in excess of thirty (30) miles away and suffers an unavoidable breakdown, or delay en route and the non-residential parent promptly notifies the residential parent by telephone of the delay. Repeated violations by either parent shall be cause for granting a modification of the parenting order.

(G) **Transportation:** In the event that the parents are unable to reach an agreement regarding transportation, the parent receiving the children shall arrange transportation.

(H) **Clothing and Supplies for Children Under Age Ten:** The residential parent shall send with the children on parenting time sufficient clothing and outerwear appropriate for the season and for any known, planned activities. For the weekend, this shall consist of a minimum of a coat and shoes appropriate for the weather, two (2) extra sets of play clothes, one (1) dress outfit and underwear, in addition to the clothes the children are wearing at the time of the start of the weekend. In the case of infants, the residential parent shall send with the children sufficient bottles, formula and diapers, and shall inform the non-residential parent of the child's sleeping and eating schedules. The non-residential parent shall return all items that are sent with the children at the end of his or her parenting time.

(I) **Children's Activities:** Scheduled periods of parenting time shall not be delayed or denied because a child has other activities (with friends, work, lessons, sports, etc.). Parents need to realize the significance of these activities in their children's lives, and flexibility is encouraged. It is the responsibility of the parents to discuss extra-curricular activities of the children in advance, including time, dates and transportation needs, so that the children are not deprived of activities and maintaining friends. Each parent shall provide the other with copies of any written material (i.e., activity schedules, maps, instructions) that are distributed in connection with the children's activities. The parent who has the children during the time of scheduled activities is responsible for transportation, attendance and/or other arrangements. Both parents are encouraged to attend all their children's activities.

CONCLUSION

Parents are encouraged to allow for flexibility in the foregoing schedule to best suit the changing needs of the children and the employment schedules of the parents. HOWEVER, absent an order of this Court, the foregoing schedule shall be followed unless there is a clear, mutual understanding between parents to deviate. Any such deviation shall be in writing to document the parents' mutual understanding.

APPENDIX

Forms Available from the Lake County Domestic Relations Court

Case Designation Sheet
Financial Disclosure/Affidavit of Indigency
Mutual Restraining Order
Motion for Temporary Residential Parenting, Child and/or Spousal Support
Affidavit of Income, Expenses and Property
Answer Affidavit
Affidavit Regarding Parenting Proceeding⁶/Custody Affidavit
Standard Parenting Time Guidelines

Child Support Schedule / R.C. 3119.021
Child Support Computation Worksheet for Sole Residential Parent or Shared Parenting Order
Child Support Computation Worksheet for Split Parental Rights and Responsibilities
Order for Collection of Child Support / Obligation of both parties to CSEA (Exhibit 1)
Child Support Deviation Worksheet (Exhibit 2)
IV-D Application

Mediation Request - Voluntary Mediation Program
Order to Appear and Show Cause

Health Insurance and Expense Orders
R.C. 3109.051 Order

Change of Address
Entry Restoring Former Name

Address Information for Payments to CSEA
Order to Report / Order on Obligor/Obligee
Order to Post Bond / Order on Obligor/Obligee

⁶ Due to the recent passage of the Uniform Child Custody Jurisdiction and Enforcement Act, which is effective April 10, 2005, the Affidavit Regarding Parenting Proceeding may be changed to reflect the new statutory provisions.