

1.01 AUTHORITY

The following rules were promulgated by the Medina County Court of Common Pleas, Domestic Relations Division, 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. They were adopted to provide for the efficient and expeditious management of business before this Court.

1.02 APPLICATION

These rules apply only to the Domestic Relations Division of the Medina County Court of Common Pleas. Local rules of the General Division of the Medina County Court of Common Pleas do not apply to the Domestic Relations matters.

1.03 COMPLIANCE WITH THE RULES OF CIVIL PROCEDURE

Unless otherwise provided in these rules, all pleadings, motions and other filings in the Domestic Relations Division shall comply in form and content with the Ohio Rules of Civil Procedure.

1.04 EFFECTIVE DATE

These rules are effective March 1, 2002, and are subject to review and amendment, as necessary.

1.05 CITATION

As used in these rules, "Civ. R. " is a reference to the Ohio Rules of Civil Procedure. These rules shall be known as the Local Rules of the Court of Common Pleas of Medina County, Domestic Relations Division, and may be cited as Loc. R. _____."

1.06 THE RECORD

In all matters requiring an evidentiary hearing, a court reporter shall be provided or an electronic or digital recording shall be created. The creation of such record shall be taxed as costs unless otherwise agreed by the parties or ordered by the Court. A party requesting a transcript shall be responsible for the cost of its preparation.

1.07 HEARING / COURTROOM PROCEDURE

Counsel and the parties shall be present promptly on the date and time of the hearing/trial. Failure to promptly appear may result in a motion to show cause/order to appear.

1.08 RETENTION OF EXHIBITS BY THE COURT

Pursuant to Sup. R. 26(F), at the conclusion of litigation, including times for direct appeal, the Court will release exhibits, depositions and transcripts in its custody to the party that tendered such items upon the party's request. If the party does not request release of the items, then the Court will follow the procedure and conditions of Sup. R. 26(F) to notify the party of the availability of the items, and that said items will be destroyed, if not retrieved within sixty days of notification.

1.09 POVERTY AFFIDAVIT

- A. The deposit of court costs shall be satisfied by an indigent person upon the filing of both of the following:
 - 1. A poverty affidavit which states that the party is without funds or assets to pay the deposit.
 - 2. A certification by the attorney, if any, that no attorney fees have been paid.
- B. The party is not relieved from liability for court costs, only the initial deposit requirement.
- C. The Court may order the party to pay the deposit at a later date if the Court determines that the party is no longer indigent.

TITLE II – PLEADINGS AND MOTIONS GENERALLY

2.01 FORM

The caption of all complaints, petitions, answers, counterclaims, post-decree motions, final orders and decrees shall set forth the name, address, and date of birth, if known, of each party. The pleadings shall also contain the birth dates of any minor children at issue in the proceedings. The caption in all subsequent pleadings shall state the names of the parties, the case number and the name of the Judge, and Magistrate if applicable, to whom the case is assigned.

2.02 CERTIFICATE OF SERVICE

The Certificate of Service for all pleadings filed after the initial pleading must state the name and address of each counsel or party served.

2.03 SERVICE BY POSTING AND MAIL

In all cases where publication service by posting and mail is permitted pursuant to Ohio Civil Rule 4.4(A)(2), the clerk shall post the notice in the following places:

- A. A public bulletin board of the Court of Common Pleas, Domestic Relations Division, Old Courthouse, Second Floor, 99 Public Square, Medina, OH 44256;
- B. The bulletin board of the Court of Common Pleas, General Division, New Courthouse Lobby, First Floor, 93 Public Square, Medina, OH 44256;
- C. A public bulletin board of the Medina City Hall, 132 N. Elmwood, Medina, OH 44256; and
- D. A public bulletin board of the County of Medina, Administration Building, 144 N. Broadway, Medina, OH 44256.

2.04 SERVICE OF MOTIONS

For all motions filed in pending cases a hearing notice will be sent by the Court by regular mail to the moving party and to all who are named in the certificate of service for each motion. All motions filed in closed cases must be accompanied by instructions for service.

2.05 CONTENT OF MOTIONS

Motions shall state with specificity the grounds and the relief sought. All motions for continuance, withdrawal of counsel, immediate relief or agreed motions shall be accompanied by a judgment entry or order.

2.06 WITHDRAWAL OF COUNSEL

Attorneys seeking to withdraw as counsel shall file a written motion and a proposed entry. The attorney's client and opposing counsel or party must be served, and that service must be reflected in the certificate of service. Permission to withdraw may not be granted within 30 days of the scheduled trial or hearing.

2.07 VOLUNTARY DISMISSAL OF COMPLAINTS, COUNTERCLAIMS, PETITIONS, AND MOTIONS

Any party seeking to voluntarily dismiss a complaint, counterclaim, petition, or motion shall file a Notice of Dismissal with the Clerk of Courts.

2.08 CONTEMPT MOTIONS

All motions for contempt must be served on the alleged contemnor in accordance with the Civil Rules of Procedure and must be accompanied by a Summons and Order to Appear in a form that complies with R.C. 2705.031 or its successor.

TITLE III – MOTIONS TO CONTINUE

3.01 REQUIREMENTS

Motions to continue must conform to the following:

- A. The motion must be in writing and state a reason.
- B. The motion must contain a statement that the opposing counsel or pro se party was contacted, and that they either object or do not object to the continuance.

- C. The motion must contain the consent of the moving litigant and, if this cannot be obtained, a written explanation of why the consent cannot be obtained.
- D. The motion must be filed at least (7) seven days before the scheduled hearing date.

3.02 ORDERS

The motion must be accompanied by an order containing a blank notice of the new hearing date, and signature line. If the motion is granted, the Court will serve the entry on the moving party and all other parties listed in the certificate of service.

3.03 VACATIONS

The Court will try to accommodate attorneys who submit advance notice of their planned vacations in writing to the Assignment Commissioner. Filing such notice does not obviate the requirement to file a written motion to continue pursuant to Loc. R. 3.01.

TITLE IV – PRETRIAL ORDERS

4.01 TEMPORARY ORDERS

A. Requirements

If temporary orders are sought, the complaint, answer, counterclaim, or motion shall be accompanied by:

1. A Motion for Spousal Support, Child Support and Custody Pendente Lite, attached hereto in Form 4.01A and the Income and Expense Affidavit attached hereto in Form 4.01D;
2. A Child Support Enforcement Agency Title IV-D application, attached hereto in Form 4.01B. Failure to file one may delay the Court's issuance of a temporary order.
3. A Child Custody Affidavit, if applicable, in the form prescribed in Form 4.01C, attached hereto; and
4. Verifications of income as described in O.R.C. §3113.215(B)(5)(a). Tax returns may be filed with the Domestic Relations Office instead of the Clerk of Courts.

B. Service

When a complaint is accompanied by a motion for temporary orders, the Clerk of Courts shall serve copies of all documents upon the opposing party along with a blank answer affidavit (Form 4.01E) including income and expense statements in the form required by the Court (Form 4.01D).

When an answer or counterclaim is accompanied by a motion for temporary orders with supporting documents, the moving party shall serve copies of all documents upon the opposing party along with a blank answer affidavit (Form 4.01E), including income and expense statements in the form required by the Court (Form 4.01D).

C. Request for Oral Hearing

If a party disagrees with the order issued on affidavits or has additional information that may cause a change in the temporary orders, that party, within fourteen (14) days, shall request an oral hearing as provided in Civ. R. 75(N)(2). Requests filed after fourteen (14) days will be treated as a motion to modify the temporary order. Unless otherwise requested, one-half hour shall be allocated for the Rule 75 oral hearing.

4.02 MUTUAL RESTRAINING ORDER

Upon the filing of a divorce complaint, the Court will automatically issue a mutual restraining order that shall be served by the Clerk of Courts (Form 4.02).

4.03 EMERGENCY EX PARTE ORDERS

- A. Emergency ex parte orders shall be requested by written motion with a supporting affidavit which states with specificity the grounds and the irreparable harm.

- B. Emergency ex parte orders will only be granted where there are exigent circumstances that may result in irreparable harm for which there is no other adequate remedy. All ex parte motions not granted shall be set for oral hearing as soon as practicable after service on the opposing party.

TITLE V – PRETRIAL PROCEDURE

5.01 DIVORCE CHECKLISTS

In all divorce actions, the parties or their counsel should review the appropriate divorce checklist to verify that their filing is complete. Form 5.01A is used for divorces without minor children and form 5.01B is used for divorces with children.

5.02 MANDATORY DISCLOSURE

- A. 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:
1. All pension and profit-sharing plans including the most recent summary plan description and statement of participant's account;
 2. All COBRA benefits to which the other party/spouse may be entitled;
 3. As to each parcel of real property owned, a copy of any deed, a copy of any promissory note secured by a lien on the property, a copy of any mortgage encumbering the property, a copy of the original purchase agreement, a copy of the most recent statement of any mortgage holder, and a copy of any appraisal of the property. In addition, each spouse shall set forth with particularity any claim of separate property in regard to any parcel of real property owned;
 4. As to each vehicle owned, a copy of the title, a copy of the lease or purchase agreement, if any, and the most recent statement of account of any lien-holder;
 5. Copies of the last three (3) years individual tax returns, unless already in the possession of the other party/spouse;
 6. Documentary proof of current income from all sources;
 7. Copies of the most recent statements on all bank accounts, IRA's, stock accounts, mortgages, credit card accounts, and other debts; and,
 8. Particular information about any claim of separate property that the party/spouse intends to advance including the identity of the property, the source of the property, the date of acquisition, and the value of the property.
- B. Each party shall make full disclosure no later than thirty (30) days before the final pretrial unless otherwise ordered by the Court.

5.03 DISCOVERY

- A. All discovery shall be completed by the pre-trial unless otherwise ordered by the Court.
- B. Immediately upon request, all parties shall sign any authorization necessary for the opposing party to obtain full and detailed information of wages and benefits, including but not limited to, public benefits, private benefits, pensions, disability benefits and life insurance.
- C. All motions to compel or for sanctions must be filed seven (7) days prior to the pre-trial or other date set by the Court. Each motion shall have attached an affidavit of counsel setting forth the attempts made to obtain compliance with discover requests. The responding party shall have seven (7) days after or until the pre-trial, whichever occurs first, to respond in writing.
- D. All depositions shall be conducted in Medina County unless agreed otherwise.

5.04 CASE MANAGEMENT CONFERENCE

The parties and counsel shall be present. Discovery deadlines and the dates and times for the pretrial and trial shall be established. Motions for appointment of a guardian ad litem and motions for

psychological evaluations should be filed by the date of this conference, or raised orally at the conference.

5.05 POST DECREE MOTIONS

A. POST DECREE MOTIONS

The Court shall set all non-emergency post-decree motions, except motions to show cause for the non-payment of support, for a pretrial/settlement conference with the Mediation Magistrate. All post decree motions must include a "Notice of Hearing" in blank form, and the Court will write the hearing date and time on the original and copies before service. A hearing notice will be sent by regular mail to the moving party. All parties and counsel, if represented, shall attend this hearing. The purpose of the hearing is to define the issues and resolve issues by agreement before trial, if possible. In the event mediation/settlement efforts fail, the matter shall be set for pre-trial and trial before a Trial Magistrate.

B. MODIFICATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

Motions for modification shall be in writing and served in accordance with the Civil Rules of Procedure. In the event the parties are in agreement, the Court may set the matter for a hearing.

C. WITNESS AND EXHIBIT LISTS

No less than seven (7) days before the final hearing set for any post-decree motion, each party shall file a list of witnesses and exhibits the party expects to use at the hearing. Witnesses or exhibits not identified at least seven (7) days in advance will not be allowed at the hearing without written agreement of counsel (or pro se parties) or order of the Court.

5.06 PRE-TRIAL CONFERENCE

- A. Except as otherwise provided, pre-trial conferences shall be set for all post decree motions as set forth in Paragraph 5.05(A) and in all pending divorce cases. Parties and counsel must be present. Stipulations and issues in dispute will be finalized.
- B. Except as otherwise ordered, final witness and exhibit lists must be filed by the pre-trial date. All exhibits and witnesses, including experts, shall be specifically identified and copies of exhibits shall be provided to opposing counsel. Witnesses or exhibits not timely identified will not be allowed at trial without agreement of counsel or order of the Court.
- C. Expert reports must be served on all parties no later than thirty (30) days before trial, unless otherwise agreed by the parties or ordered by the Court.
- D. Unless otherwise ordered by the Court, discovery shall be completed by the pre-trial.

5.07 TRIAL BRIEFS

At final trial in every divorce, annulment or legal separation action, each party in a divorce, legal separation or annulment action shall submit a trial brief in the manner provided by form 5.07. Failure to file a trial brief as required may result in dismissal of the action.

5.08 OBJECTIONS

A notice of objection to Magistrates' decisions shall be filed no later than fourteen (14) days from the date of the decision. The notice shall state with particularity the grounds for objections. Unless waived in writing on the initial notice, objections shall be set for oral hearing. Notice may be supplemented by or responded to by a brief due at the time of hearing. Written transcripts must be filed with Court prior to oral hearing.

TITLE VI – MISCELLANEOUS PRETRIAL PROVISIONS

6.01 GUARDIANS ad LITEM

- A. The Court will issue an Order appointing the Guardian ad Litem, establishing the deposit for each party, and will distribute to each party or counsel a Guardian ad Litem information sheet (Form 6.01A).
- B. Each party shall submit to the Guardian ad Litem a completed Guardian ad Litem Information Form in the format required by the Court in Form 6.01A.
- C. Investigation
The Guardian ad Litem shall conduct an investigation and evaluation and present a report to the Court.
- D. Report
The report shall be submitted to the Community Services Office of the Domestic Relations Court (**not** the Clerk of Courts) by the date ordered by the Court but, in any event, not less than ten (10) days before trial. Upon written request, the report shall be made available to a party or counsel of record not less than seven (7) days before trial. Parties or counsel of record shall be permitted to review the report at the Court. Upon written motion and for good cause shown, the Court, in its discretion, may permit distribution of copies of the report to counsel or parties proceeding pro se.
- E. Service of Pleadings Upon Guardian
Every pleading, motion, notice or other paper that is required by the Civil Rules of Procedure to be served upon a party shall also be served upon the Guardian ad Litem.
- F. Attendance at Hearings
The Guardian ad Litem shall attend and participate in all status conferences, pre-trials, and hearings related to the children. The Guardian may be excused from attendance by agreement of all parties or by Order of Court. The Guardian may attend any other proceeding or deposition involving the children.
- G. Motions by Guardian ad Litem
Whenever necessary or appropriate to serve the best interests of the child/ward, a Guardian may file an appropriate motion with the Court. The costs of any such motion shall be taxed as costs and responsibility therefore shall be allocated by the Court.
- H. Conflicts with Child's Wishes
A Guardian ad Litem shall notify the Court and counsel promptly whenever the Guardian ad Litem is aware that her/his opinion regarding the best interest of the child/ward is in conflict with the expressed wishes of the child.

6.02 PSYCHOLOGICAL EXAMINATIONS

- A. Costs
When psychological examinations are ordered, the cost shall be paid by the parties, and not taxed as Court costs. The Court shall require one or both parties to contribute to payment, and will require a deposit with the psychologist or with the Clerk of Courts to cover all or part of the estimated costs before the beginning of the examinations.
- B. Reports
Reports will be filed with the Domestic Relations Office (**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, and shall be available to counsel and pro se litigants no less than seven (7) days before the scheduled hearing, upon written request.

6.03 EXPERT WITNESSES

- A. Any party intending to call a person to testify as an expert in any proceeding pending before the Court, other than an emergency proceeding shall:
 1. Notify the other party(s) to the proceeding in writing no later than thirty (30) days prior to the hearing or trial in which the expert is to testify;
 2. Provide a curriculum vitae and narrative report of the proposed expert witness to each other party contemporaneous with the notice of intent to call the expert testimony; and

3. Provide each other party the opportunity to depose the proposed expert witness at a mutually convenient time and place no later than seven (7) days prior to hearing or trial.
- B. It is the responsibility of any party calling an expert witness to:
 1. Pay the reasonable fee of such expert witness for preparation and testimony at hearing or trial, or at deposition in lieu of appearance; and
 2. Assure the availability at trial or hearing of such expert witness, without subpoena, if such appearance is requested by the calling party.
- C. It is the responsibility of any party taking the discovery deposition of such expert witness pursuant to subsection (A)(3) above, to pay the reasonable fees of the expert witness for actual time spent at deposition which shall be billed at not less than one hour of the customary hourly rate of the witness for testimony. After one hour of testimony, each additional period of time shall be billed in ¼ hour increments.

6.04 MEDIATION

A. Parenting Issues

When any parenting issue is contested, the Court may refer the parties to mediation. The Court will issue an order that the parties attend a mediation conference with the Court Mediation Magistrate or another outside mediation service, if appropriate. If referred to private mediation, the order shall set out how mediation fees are to be paid.

B. Economic Issues

The parties may agree to mediate any issue in controversy. The parties may secure their own mediator or they may request that the Court make a referral to the Court Mediation Services. If mediation is requested by both parties, the Court shall issue an order naming the mediator and setting out how mediation fees, if any, are to be paid.

C. Mediation Reports

At the conclusion of the mediation process, the mediator shall file a report with the Court and send copies to the attorneys or any unrepresented parties. The report shall state whether or not agreement was reached on any of the issues. If agreement was reached on any issues, then the agreed upon terms will be delineated in a mediation memorandum which will be sent only to the attorneys and unrepresented parties. The memorandum will not be filed with the Court and may not be submitted to the Court or entered into evidence in any matter. The purpose of the memorandum is to provide guidance to the attorneys or parties in the preparation of a judgment entry reflecting the agreed upon terms.

If the parties are unable to reach agreement in mediation, the report will state that mediation was unsuccessful and the parties shall proceed through the litigation process. The mediation report may not be entered into evidence or otherwise used in presentation of the case. The mediator may not be called to testify as to any matter discussed in mediation.

- D. Parties may informally request mediation services from the Court for parenting disputes so long as at least one party is a resident of Medina County or a case was filed in the Medina County Domestic Relations Court.

6.05 STANDARD PARENTING TIME SCHEDULE

All parties are strongly encouraged to develop their own plan. However, for parties who cannot agree, the Court has designed this plan to ensure that the minor child(ren) have frequent and consistent contact with both parents. Form 6.04A is the Court's Standard Parenting Time Schedule. Form 6.04B is the Court's Standard Long-Distance Parenting Time Schedule.

If the parties are unable to agree to a different plan, but have objections to this plan because of special circumstances (e.g., travel time, work schedules) or problems (e.g., substance abuse, mental illness, violence), be prepared to present specific facts in a scheduled hearing to show why this parenting time schedule is not in the best interests of the child(ren).

6.06 APPLICATION OF SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

In any action or proceeding commenced in this Court against an un-represented defendant who is a member of the military service, the Court may appoint an attorney to advise that defendant pursuant to

the Soldiers' and Sailors' Civil Relief Act of 1940, 50 USC APPENDIX 501, et seq. as amended, and may set a fee for the attorney's services.

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.

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.

6.07 CONCILIATION

This Court does not provide conciliation services.

Notwithstanding, at any time after thirty (30) days from service of summons in an action for divorce, annulment, or legal separation, one or both spouses may file a motion for conciliation pursuant to Section 3105.091 of the Revised Code.

The motion shall set forth, at a minimum, the conciliation procedure, the name of the conciliator and the method of payment for conciliation fees.

No stay on account of conciliation shall exceed 90 days. The parties shall immediately notify the Court of any conclusion of the conciliation process, including by the withdrawal of either party from the conciliation process.

TITLE VII - DISSOLUTIONS

7.01 DISSOLUTION CHECKLISTS

In all dissolutions, the parties or their counsel should review the appropriate Dissolution Checklist to verify that their filing is complete. Form 7.01A is used for dissolutions without minor children. Form 7.01B is used for dissolutions with minor children.

7.02 INCOMPLETE PLEADINGS

If the filings are incomplete, the Court, in its discretion, may continue the hearing or dismiss the matter.

7.03 NOTICE

The Court will mail notice of the hearing date to unrepresented parties and counsel of record.

7.04 DECREE

A proposed Decree of Dissolution shall be submitted to the Court at the time the petition is filed. It shall conform to the checklist in Form 7.01A or 7.01B and a copy of the signed Separation Agreement in its final form including all addenda and exhibits, shall be attached to the final judgment entry granting the dissolution.

7.05 DISSOLUTION FORMS PACKET

A dissolution forms packet is available from the Court's Community Services Office for parties not retaining an attorney. Employees of the Court will not offer or provide any legal advice or assistance in the preparation of the forms. Parties are encouraged to seek counsel review of the forms before filing.

TITLE VIII – JUDGMENT ENTRIES FOR MOTIONS, ANNULMENT, LEGAL SEPARATION AND DIVORCE ACTIONS

8.01 PREPARATION OF JUDGMENT ENTRIES

Except as otherwise provided, the Court may order or direct either party or counsel to prepare and present for journalization a judgment entry. Such party or counsel shall prepare a proper entry and submit same to the opposing party or counsel. The opposing party or counsel shall have five (5) days to approve or reject the judgment entry. In the event of rejection, the opposing party or counsel shall file with the Court, at the time of such rejection, either a written statement of the objections to the proposed entry or that party's own proposed entry. This subsection shall not apply to uncontested matters where the opposing party has made no answer or appearance, or dissolutions of marriage.

Upon the failure of the opposing party or counsel to approve or reject any submitted judgment entry as provided, the preparer of the entry may unilaterally present the entry to the Court for journalization with a certification thereon that the provisions of Loc. R. 8.01 have been complied with.

8.02 FAILURE TO PREPARE OR SUBMIT JUDGMENT ENTRY

Upon failure of the ordered party to prepare a judgment entry, the other party may prepare the entry and submit it to the Court.

Failure of a party or counsel to prepare a judgment entry when ordered or directed to do so may subject said party or attorney to the contempt powers of the Court and/or the vacation of any award of attorney fees. In addition, the Court may grant an award of attorney fees to a party who prepares a judgment entry in accordance with the above paragraph. If neither party prepares the judgment entry, the Court, in its discretion, may prepare the entry and assess costs to either or both parties, or dismiss the matter.

8.03 DECREES

In all divorces, the parties or their counsel should review the relevant portions of the appropriate Divorce Checklist to verify that their decree is complete. Form 5.01(A) is used for divorces without minor children. Form 5.01(B) is used for divorces with minor children.

8.04 PARENTING SEMINAR

Except as otherwise ordered by the Court, every party to a divorce or dissolution involving children shall attend the "For the Children" seminar. Failure to do so may result in dismissal of the action.

TITLE IX - DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS

9.01 GENERALLY

Forms are available from the Clerk of Courts. All petitions that seek protection for a child must include a IV-D Application Form ODHS7076 (4/96E). There is no initial filing fee. Costs will be assessed at the full hearing.

9.02 DISMISSALS

A. Ex parte Civil Protection Orders may be dismissed prior to full hearing by filing a voluntary dismissal pursuant to Civ.R. 41(A). The Court, in its discretion, may require an oral hearing.

B. If the Petitioner wishes to dismiss the petition and vacate the Civil Protection Order after full hearing, the Petitioner must file a motion requesting relief and a hearing will be set.

C. A party wishing to extend a civil protection order beyond its original expiration date must file a written request with the Court prior to the expiration date.