

RULES OF PRACTICE  
COMMON PLEAS COURT  
GENERAL DIVISION - CRIMINAL, CIVIL, & DOMESTIC RELATIONS  
ATHENS COUNTY, OHIO

Judge George P. McCarthy

Judge Patrick L. Lang

RULE 1

TERMS OF COURT

The Court shall be in continuous session for the transaction of judicial business. The term of court is one calendar year which may by written order be divided into parts.

RULE 2

HOURS OF COURT SESSIONS

Sessions of this court shall generally begin at 8:00 A.M. and close at 12:00 P.M. and shall resume at 1:00 P.M. and close at 4:00 P.M. on Monday through Friday of each week. The court reserves the right to modify these hours in an effort to expedite the administration of justice. All legal holidays as established by the United States Government or the State of Ohio will be observed.

RULE 3

SECURITY FOR COSTS

3.01 A deposit of \$146.00 is required as security for costs to initiate a civil action except in domestic relations cases and foreclosure cases. (See Local Rule 24.01 for domestic relations costs.) A deposit of \$341.00 is required to initiate a foreclosure action.

3.02 A deposit of \$75.00 shall be required in garnishment proceedings, and a \$75.00 deposit is required to re-open a civil action.

3.03 When submitting a request for service by publication or for publication of public sale notice, the proposed text is to be submitted to a newspaper of general circulation in Athens County for set up and determination of printer's fee/publication costs. These costs must be paid in advance to the printer and a copy of the receipt for said payment is to be submitted to the Clerk with the precipe for service and/or publication.

3.04 The appropriate deposit shall be made at the time of filing the complaint or other pleading with the Clerk of the Common Pleas Court. The word complaint as used in this rule refers to every original complaint,

counter-claim, cross-claim, or third-party complaint filed. If it is brought to the attention of the Court that any deposit is insufficient, the court may require said deposit to be increased from time to time.

3.05 No complaint will be accepted for filing by the Clerk where the party seeking the filing of said action has failed to pay costs previously incurred unless costs are waived due to the indigency of the party.

3.06 All persons requesting a public defender or appointed counsel shall be assessed an up-front application fee of \$25.00 per case, in accordance with R.C. 120.36. The fee shall be paid to the Clerk within seven (7) days of submitting an affidavit of indigency/financial disclosure form. Failure to pay the fee within this period shall result in assessment of the fee at sentencing or at the closing of the case. The Court reserves the discretion to waive the fee upon motion demonstrating that the applicant lacks the financial resources to pay it or if payment would result in an undue hardship.

#### RULE 4

#### RULES GOVERNING THE COURT

The Ohio Rules of Civil and Criminal Procedure and Rules of Superintendence as promulgated by the Supreme Court of Ohio shall apply in all civil and criminal proceedings in the Athens County Court of Common Pleas unless expressly excepted thereby. The Court is also required to take notice of the provisions of the Code of Judicial Conduct and Code of Professional Responsibility.

#### RULE 5

#### PLEADINGS AND MOTIONS - GENERAL FORM

5.01 Pleadings, motions, and applications shall be legibly typewritten or printed on paper approximately 8 1/2" X 11", and be securely bound at the top, and shall state the name of the court, county, and state, and shall state the name and address, if known, of each party. In the case of complaints with a space for the number, a blank space of at least three inches at the top of the first page shall be left for endorsement thereon by the clerk. After a case has been assigned to an individual judge, thereafter the Judge's name shall be typed in the caption.

5.02 Pleadings filed subsequent to the complaint, including motions and applications, shall state the number of the cause, the name of the first party plaintiff and the first party defendant on each side. Each initial pleading, motion or application filed by the party shall bear the name, office address, telephone number of the attorney or law firm representing that party, if any, or similar information of the party filing the same, and the Supreme Court registration number of the attorney representing the

party. Upon the face of the complaint there shall appear a general statement as to the type or kind of action.

5.03 When a new party plaintiff or defendant is added to a case after the commencement thereof, the caption of the first pleading in which or after which such new party is added shall contain the name of such new party, together with his, her, or its address followed by the specific designation of new party plaintiff or new party defendant as is applicable.

5.04 As a result of the Ohio Supreme Court's statistical reporting requirements, a completed Designation Form shall accompany the initial filing of all actions. (See form attached entitled Designation Form to Be Used By Counsel To Indicate The Category Of The Cause.) Copies of this form are available from the office of the Clerk of Courts.

5.05 Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission (fax) to 740-592-3282 subject to the following conditions:

5.051 Only post-complaint, post-indictment, and non-semantic pleadings documents filed by fax will be accepted as the original filing. The person making a fax filing need not file any original copy with the Clerk of Court, but must, however, maintain in his or her records and have available for production on request by the court the original copy of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover page used for the subject filing.

5.052 The person filing a document by fax will also provide therewith a cover page containing the following information: (A) the caption of the case; (B) the case number; (C) the assigned judge; (D) a description of the document being filed; (E) the date and time of transmission; (F) the transmitting fax number; and (G) an indication of the number of pages included in the transmission, including the cover page. If a document has been sent by fax to the Clerk of Court without the cover page information listed above, it will be deposited in the case jacket but will not be entered into the case docket and will be considered a nullity and thereby stricken. The Clerk of Court is not required to send any form of notice to the sender of a failed fax filing.

5.053 A party who wishes to file a signed document by fax will either (A) fax a copy of the original signed document or (B) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the original signed document. A party who files a signed document by fax represents that the original physically signed document is in his/her possession or control.

5.054 Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be

replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit will be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the entire document and/or exhibit.

5.055 Subject to prior court permission and the other provisions of these rules, all documents filed by fax will be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Court. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the basis of 24 hours per day, seven days per week, including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the last page of a document will determine the time of filing. Transmissions completed during a normal business day before midnight (12:00 a.m.) will be filed on the day of receipt. Transmissions completed on weekends or holidays will be deemed filed at 8:00 a.m. on the first court day following receipt of transmission. The risks of transmitting a document by fax to the Clerk of Courts will be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filings by the Clerk of Court through whatever technological means are then available.

5.056 Fax filings may not be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts. However, the parties shall fax copies of documents faxed to the Clerk to the Court.

## RULE 6

### PAPERS ON FILE WITH THE CLERK

The Clerk of Courts is responsible for all pleadings and papers in cases on file. Files shall not be taken from that office without permission and without receipting for the same. No such pleading or paper shall be removed from the Athens County Courthouse. Copies may be made of all pleadings.

## RULE 7

### SERVICE OF COPIES AND NOTICE

7.01 Upon the filing of a pleading or motion to be served by the Clerk of Courts, the person filing the same shall submit to the clerk, along

with the original, a true copy thereof for each party-defendant for service according to law. A file-stamped copy shall be provided the court for its personal use, except in domestic relations cases.

7.02 A true copy of each subsequent pleading, motion, or other paper filed in any cause shall be served as provided by law. File-stamped copies of all motions, memorandums, and briefs shall also be presented to the court for its personal file.

## RULE 8

### RULE DAYS NOT FIXED BY LAW

8.01 In all cases where the time for the filing of pleadings or amended pleadings is not fixed by law or another rule, the pleading or amended pleading shall be filed on or before the fourteenth day after the date of the entry requiring or granting leave for the filing of such pleading or amended pleading, unless otherwise specified in the entry and approved by the judge. The opposite party shall move or plead to the pleadings or amended pleadings so filed on or before the fourteenth day after such pleading or amended pleading is filed.

8.02 No pleading or motion shall be amended by interlineation or obliteration except upon express leave of the judge first obtained. Upon the filing of an amended pleading or motion, the original, or any prior amendment thereof, shall not be withdrawn from the files.

## RULE 9

### COUNSEL OF RECORD AND DUTY UPON WITHDRAWAL

9.01 At the first opportunity, each counsel for a defendant shall see that he/she is properly listed as attorney of record for such defendant, to be entitled to receive notice of proceedings as herein provided. This may be done by having the clerk note the attorney's name upon the appearance docket or by some showing on the first pleading that he/she is attorney of record. At the time the clerk is informed to list an appearance in the appearance docket, or is informed of such appearance by such attorney appending his/her name to a pleading, the clerk shall list such appearance in the appearance docket, the trial docket, and on the file of the original papers. An attorney may withdraw from a case only with leave of court upon motion, served upon all parties of record, and for good cause shown.

9.02 Any attorney who requests a case be set for hearing, but then fails to appear for it, shall be subject to payment of costs incurred, including unnecessary jury and witness fees.

## RULE 10

### HEARING AND SUBMISSION OF MOTIONS

10.01 All motions shall be accompanied by a brief or memorandum stating the grounds thereof and citing the authorities relied upon. Copies of unpublished opinions shall be appended. The opposing party may file an answer brief by the fourteenth day after the day on which the motion was filed. The moving party may file a reply brief by the twenty-first calendar day after the motion was filed. Thereafter, the motion shall be deemed submitted for non-oral hearing. An oral hearing is permitted only upon written request and leave of court at a time to be set by the court. This rule shall apply to all motions except in domestic relations matters.

10.02 Motions for continuance shall be granted by order/journal entry only. No case shall be moved on the docket without an order/entry of continuance continuing the case to a date and time certain.

## RULE 11

### ENTRIES

Unless the court otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five days thereafter prepare the proper journal entry and include instructions to the Clerk for service. Said counsel shall submit the entry to counsel for the adverse party, who shall approve or reject the same within three days after the receipt thereof and return to the submitting attorney or the assignment commissioner for the judge's signature. Upon failure of the adverse party to act upon the entry in the specified time, its preparer shall submit it to the court for approval with a notation as to when it was presented to the adverse party. If counsel are unable to agree upon the entry, their respective entries shall be submitted to the judge who will direct what entry shall be made.

## RULE 12

### TRIAL PRACTICE - ORAL ARGUMENTS

In civil and criminal cases, the court after consultation with counsel shall determine the time allotted for oral arguments. This rule is applicable to cases tried to a jury or tried to the court.

RULE 13

TRIAL PRACTICE - EXAMINATION OF WITNESSES

Only one counsel on each side will be permitted to examine a witness in the trial of a case

RULE 14

ATTORNEY CASE LOAD

Any attorney whose case load interferes with the effective functioning of the jury trial docket shall obtain co-counsel and proceed to jury trial on the date scheduled.

RULE 15

DISMISSAL FOR LACK OF PROSECUTION

Should a plaintiff fail to prosecute or fail to comply with the local rules of this court, the Ohio Rules of Civil and Criminal Procedure, the Rules of Superintendence as promulgated by the Supreme Court of Ohio, or any court order, the court upon motion of a defendant or on its own action may, after notice to plaintiff's counsel, dismiss an action or claim. Cost of the action will be taxed to plaintiff.

RULE 16

DEPOSIT FOR TRANSCRIPT COSTS

In any cause in which a transcript of the proceedings is requested by a party, such party shall deposit with the court reporter, or other person designated by the judge, security for the costs of said transcript. The amount shall be determined by the court reporter or such person after consideration of the nature and amount of work required.

RULE 17

SOLDIERS AND SAILORS CIVIL RELIEF ACT OF 1940

In any action or proceeding in which an individual who is a defendant has been served with summons, but has failed to answer, the plaintiff shall on or before the trial day or other date of default hearing or final disposition in such action or proceeding file with the court an affidavit in compliance with the Soldiers and Sailors Civil Relief Act of 1940.

RULE 18

MAGISTRATE

The court may, in an effort to expedite the administration of its civil cases, appoint magistrates pursuant to Rule 53 of Ohio Rules of Civil Procedure. The court will hear such matters as are upon a magistrate's docket for decision and/or orders only upon a party's application and showing of good cause.

RULE 19

NOTARIES PUBLIC

The office of the Common Pleas Court shall distribute applications and conduct tests for persons seeking appointment as notaries public in Athens County. The initial application is Thirty-Five Dollars (\$35.00) and the renewal fee is Thirty Dollars (\$30.00). The fees are payable to the Athens County Common Pleas Court Clerk and are to be distributed to the general fund of Athens County.

RULE 20

CASE MANAGEMENT PLAN

20.01 CIVIL CASE MANAGEMENT PLAN

- (A) Approximately forty-five (45) days after filing, the assignment commissioner shall verify service upon all parties and, irrespective of any notice that may have been provided by the Clerk of Courts office, shall send notice of deficiency of service where appropriate. If service on the parties is complete, or partially complete, the assignment commissioner shall schedule the first status conference.
- (B) Approximately ninety (90) days after filing, the assigned judge shall hold the first status conference. Counsel for all parties shall be present at this conference. Upon agreement of counsel, this conference may be by telephone. Topics to be discussed may include, but are not limited to:
  - 1. Problems of service of process.
  - 2. Time schedule for discovery and any discovery-related problems.
  - 3. Time schedule of pre-trial motions.
  - 4. Civil Rule 12(B).
  - 5. Determination of possible magistrate.
  - 6. Date for pre-trial conference which shall be scheduled approximately ten (10) days prior to the trial.



7. Date for trial.

- (C) At the final pre-trial conference, the Court may require the parties to be present. If not required to be present, all parties shall be available by telephone. Topics to be discussed may include, but are not limited to:
1. Determination of possible stipulations and date for submission.
  2. Number of witnesses and expert witnesses expected.
  3. Identification of difficult or unusual issues.
  4. Settlement options.
  5. Viability of existing trial date.
- (D) Nothing in sections A through C above shall prevent the Court from scheduling additional status or pre-trial conferences, should circumstances exist that require additional attention. Should an additional conference be necessary, the attorneys should expect that the parties will be required to be present.

## 20.02 CRIMINAL CASE MANAGEMENT PLAN

### (A) ARRAIGNMENT

1. Arraignment scheduled per local rule 27.01.
2. At arraignment, judge announces final pre-trial conference and trial dates.

### (B) STATUS CONFERENCE

Status conference may be held at any time at the request of counsel.

### (C) FINAL PRE-TRIAL CONFERENCE

1. Approximately ten days before trial, judge conducts final pre-trial conference with defendant present and discusses any issues that are necessary to be resolved to permit trial to proceed on time. The State shall be prepared to contact any persons needed to resolve the case.

### (D) PRE-TRIAL MOTIONS

1. The assignment commissioner shall schedule all pre-trial motions, to be filed in accordance with Criminal Rule 12(C), and shall complete appropriate Journal Entry, to be prepared and distributed by movant's counsel.

2. If all pre-trial motions have not been ruled upon at least three business days before the scheduled pre-trial conference, judge may set new final pre-trial and trial dates to allow sufficient time for Court to complete its consideration.

(E) CONTINUANCES

1. Continuance may be requested in writing or in presence of opposing counsel.

20.03 DOMESTIC RELATIONS CASE MANAGEMENT PLAN

(A) Dissolution

1. Clerical Step 1. Assignment Commissioner schedules hearing no sooner than thirty (30) but no later than ninety (90) days after the date of filing of petition.
2. Judicial Step 1. Within five (5) business days of hearing, a magistrate's proposed decision is prepared and filed unless waived or tried to bench. If waived or tried to bench, a decree of dissolution is prepared within five (5) business days.
3. Judicial Step 2. If a magistrate's proposed decision is issued, the judge rules upon objections after fourteen (14) days have elapsed and prepares decree of dissolution.
4. Clerical Step 2. The assignment commissioner prepares appropriate R.C. 3121.03 orders within five (5) business days of decree's preparation.
5. Judicial Step 3. Judge signs decree.
6. Clerical Step 3. Assignment commissioner files decree with attachments and 3121.03 orders, if appropriate.

(B) Divorce

1. Clerical Step 1. Twenty-one (21) days after filing of complaint, the assignment commissioner checks to see that service is complete upon all parties.
  - a. If service is incomplete and no other notice of failure of service has been mailed, the assignment commissioner shall send plaintiff's attorney notice that, until service is complete, no hearing can be scheduled.
  - b. If service is being accomplished by publication, then:

- (i) After the last publication, the publisher or agent shall file with the Court an affidavit showing publication was made, and a copy of the notice of publication. Both the affidavit and copy of the notice shall constitute proof of service.
  - (ii) Twenty-eight (28) days after the last publication, the case shall go to Clerical Step 2.
- 2. Clerical Step 2. As soon as service upon all defendants is complete:
  - a. If a temporary order is requested, the assignment commissioner shall schedule a hearing within twenty eight (28) days of the request being filed.
  - b. If no temporary order is requested, proceed to Clerical Step 3.
- 3. Clerical Step 3.
  - a. If no responsive pleading is filed within the time permitted under Civ. R. 12(A)(1), the assignment commissioner shall schedule a final hearing no sooner than forty-two (42) days after service is completed upon all defendants.
  - b. If a responsive pleading is filed within rule, the assignment commissioner shall schedule a pre-trial conference no later than sixty (60) days after a responsive pleading is filed.
- 4. Judicial Step 1. At the pre-trial conference the judge/magistrate will, among other inquiries,
  - a. Determine the status of the case with reference to settlement; and b. Schedule the trial date and all other intervening events.
- 5. Judicial Step 2. Following final hearing,
  - a. Unless waived or tried to judge, a magistrate's proposed decision shall issue within twenty-eight (28) days after date of hearing.
  - b. If proposed decision waived or hearing by judge, a decree of divorce shall be prepared within five (5) business days of hearing.

6. Judicial Step 3. If a magistrate's proposed decision is issued, the judge rules upon objections after fourteen (14) days have elapsed and prepares decree of divorce.
7. Clerical Step 4. The assignment commissioner prepares appropriate R.C. 3212.03 orders within five (5) business days of decree's preparation.
8. Clerical Step 5. Assignment commissioner files decree with attachments and 3121.03 orders, if appropriate.

(C) Domestic Violence

1. Clerical Step 1. If petitioner requests that respondent vacate home, the assignment commissioner shall schedule a hearing within seven (7) court days of the filing of the petition. If no request for vacation, then the assignment commissioner shall schedule a hearing within ten (10) court days.
2. Clerical Step 2. Prior to hearing, the assignment commissioner is to verify service upon respondent.
3. Judicial Step 1. Within five (5) business days of hearing, a magistrate's proposed decision is prepared and filed unless waived or tried to bench. If waived or tried to bench, a judgment entry is prepared within five (5) business days.
4. Judicial Step 2. If a magistrate's proposed decision is issued, the judge rules upon objections after fourteen (14) days have elapsed and prepares a judgment entry.
5. Clerical Step 3. The assignment commissioner prepares appropriate R.C. 3121.03 orders within five (5) business days of preparation of judgment entry.
6. Judicial Step 3. Judge signs judgment entry.
7. Clerical Step 4. Assignment commissioner files judgment entry and 3121.03 orders, if appropriate.

(D) Post-Decree Motions

1. Clerical Step 1. Upon request of movant's counsel, the assignment commissioner schedules a hearing no sooner than seven days after the filing of the motion. Counsel attaches the Notice of Hearing to the papers served upon respondent.
2. Clerical Step 2. Prior to hearing, the assignment commissioner is to verify service upon respondent.
3. Judicial Step 1- Following hearing:

- a. Unless waived or tried to judge, a magistrate's proposed decision shall issue within twenty-eight (28) days after day of hearing.
  - b. If proposed decision waived or heard by judge, judgment entry shall be prepared within five (5) business days of hearing.
4. Judicial Step 2. If a magistrate's proposed decision is issued, the judge rules upon objections after fourteen (14) days have elapsed and prepares a judgment entry.
  5. Clerical Step 3. The assignment commissioner prepares appropriate R.C. 3121.03 orders within five (5) business days of decree's preparation.
  6. Judicial Step 3. Judge signs judgment entry.
  7. Clerical Step 4. Assignment commissioner files judgment entry with attachments and 3121.03 orders, if appropriate.

(E) Special Circumstances

Shared parenting -If one or both parties have requested shared parenting, the judge/referee shall rule upon the request within twenty-eight (28) days of a plan (or plans) being filed and issue findings of fact and conclusions of law, if required. If the plans(s) is (are) rejected, the Court may proceed as if no request for shared parenting has been made or it may request changes in the plan(s). If an entry requesting changes is filed by the Court, the party(or parties) shall file such changes within fourteen (14) days of the Court's entry.

RULE 21

MEDICAL MALPRACTICE ARBITRATION

21.01 CASES FOR ARBITRATION

Upon the filing of a medical, dental, optometric, or chiropractic claim as defined in R.C. 2305.113, the claim shall be submitted to an arbitration board, only if all the parties agree to submit the controversy to arbitration, as provided in R.C. 2711.21

21.02 SELECTION OF ARBITRATORS AND MANNER OF APPOINTMENT

1. The three members of the arbitration panel shall be selected in accordance with R.C. 2711.21(A). The name of plaintiff's(s')

arbitrator and defendant's(s') arbitrator shall be submitted to the Court within sixty (60) days after a medical malpractice complaint is filed.

2. No one appointed as an arbitrator shall have any interest in the case being heard.
3. No disclosure shall be made to the arbitrators of any offers of settlement made by any party prior to the filing of the report and award. Prior to the delivery of the court file to the chairperson of the arbitration panel, the judge shall remove from the file and retain all papers or notations referring to demands or offers for settlement. Such file shall be forwarded to the chairperson at the time of the assignment of the case.

#### 21.03 DISCOVERY

The assignment of an arbitration panel shall not limit the right of the parties to continue discovery pursuant to the Rules of Civil Procedure.

#### 21.04 HEARINGS; WHEN AND WHERE HELD; NOTICE

A. Hearings shall be held at a place scheduled by the court assignment commissioner. This provision shall not, however, limit the right of the arbitration panel to held hearings in an appropriate place of their own choosing. A hearing shall be scheduled not more than forty-five (45) days after the appointment of the arbitration panel. At least fifteen (15) days before the hearing, the assignment commissioner shall give written notification to the arbitrators, and the parties or their counsel, of the time and place of the hearing. No hearing shall be fixed for Sunday or legal holidays, except upon agreement of all parties and the arbitrators.

B. Because sufficient time is available to the parties prior to the hearing date to settle or compromise a dispute, once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

#### 21.05 INABILITY OF PARTY TO PROCEED

In the event that a party is unable to proceed when the case has been scheduled, and such date is agreed to by all parties, the assignment commissioner may mark the case continued and may assess a \$25.00 continuance fee against such party.

#### 21.06 OATH OF ARBITRATOR

When the entire arbitration panel is assembled, they shall be sworn or affirmed to justly and equitably try all matters properly at issue submitted to them. Said oath or affirmation may be administered to them by any person having authority to administer oaths.

#### 21.07 DEFAULT OF A PARTY

The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the absence of a party; the panel shall require the other party to submit evidence as they may require for making an award.

#### 21.08 CONDUCT OF HEARING: GENERAL POWERS

A. The three arbitration panel members shall be the judges of the relevance and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators and the parties, except where any of the parties is absent, in default, or has waived the right to be present. In addition to oral testimony, the panel may receive the evidence or witnesses by deposition, video-tape deposition, interrogatories, or written medical reports. It shall give such weight as the panel deems is justified after consideration of any objections which may be submitted fourteen (14) days prior to the arbitration hearing, but shall not be admitted into evidence at trial if the decision of the arbitration panel is not accepted by the parties

B. Counsel shall upon request and whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.

#### 21.09 SPECIFIC POWERS

The panel shall have the general powers of a court including, but not limited to the following:

1. Subpoenas: to cause the issuance of subpoenas to witnesses to appear before the panel and to request the issuance of an attachment according to the practice of the courts for failure to comply therewith. Issuance of subpoenas will be done in the same manner as is used in other types of cases.
2. Production of Documents: to compel the production of all books, papers, and documents which are deemed material to the case.
3. Administering Oaths; Admissibility of Evidence: to administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions, and to decide the facts and the law of the case submitted to the panel.

#### 21.10 SUPERVISORY POWERS OF THE COURT

The judge shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in application to these rules.

#### 21.11 WITNESS FEES

Witness fees shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court of Athens County, Ohio. Fees shall be taxed as costs.

#### 21.12 TRANSCRIPT OF TESTIMONY

The Court shall provide, at the request of any party, an official court reporter for each medical malpractice arbitration hearing. The cost shall be assessed pursuant to R.C. 2301.21.

#### 21.13 REPORT AND AWARD

Within thirty (30) days after the hearing, the panel chairperson shall file a written report and award with the Clerk of the Court of Common Pleas and provide a duplicate copy to the judge. On the same day, the chairperson shall also mail or otherwise forward copies thereof to all parties or their counsel. In the event that all three members do not agree on the finding and award, the dissenting member shall submit a written dissenting opinion to be filed with the majority report.

#### 21.14 LEGAL EFFECT OF REPORT AND AWARD: ENTRY OF JUDGMENT

The report and award, unless rejected pursuant to law, shall be final. If no rejection is made within the manner specified by statute, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments.

#### 21.15 COMPENSATION OF ARBITRATORS

Each member of a panel who has signed an award or files a dissenting opinion, unless he has waived in writing his right to compensation prior to the hearing, shall receive as compensation for his services in each case a fee of Three Hundred Dollars (\$300.00) for the first day plus One Hundred Fifty Dollars (\$150.00) for each fractional half day thereafter. When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of a panel shall not be entitled to receive their fees until after filing the report and award with the Clerk of Court. Fees paid to arbitrators shall be assessed pursuant to R.C. 2711.21 and shall be taxed as costs, one-half to



plaintiff(s) and one-half to defendant(s). In addition to the deposit required by rule of this court, plaintiff(s) shall deposit Five Hundred Dollars (\$500.00) to guarantee the fees of the arbitrators at the time of filing the complaint. Within forty (40) days of the filing of the complaint, defendant(s) shall deposit Five Hundred Dollars (\$500.00) as a like guarantee. If there are multiple defendants and they cannot agree as to their proportionate share of the deposit, upon proper notice the judge shall order the apportionment. When it appears proper, the court may order additional deposits.

21.16 TIME LIMIT TO AMEND PLEADINGS

If the decision of the arbitrators is rejected pursuant to R.C. 2711.21, pleadings shall be amended and filed with the Clerk of Courts within thirty (30) days. Any party making such amendments shall serve all other parties pursuant to the Ohio Rules of Civil Procedure.

RULE 22

ATTORNEY FEES IN PARTITION

22.01 The attorney fees in partition in this court are fixed as follows:

Minimum Fees .....	\$250.00
On the first \$5,000.00 .....	8%
On the second \$5,000.00 .....	6%
All above \$10,000.00 .....	4%

22.02 Court appointed real estate appraisers are required to have one of the following qualifications:

1. Licensed real estate broker
2. A banker or insurance agent with experience in real estate evaluation
3. Any other individual with 5 years experience in real estate evaluation with approval of the Court.

RULE 23

ADMINISTRATIVE APPEALS

23.01 In all cases in which demand or request to the agency by the appellant is a prerequisite to the preparation or filing of the transcript

of the record by the agency, such demand or request shall be filed by the appellant at the time of filing the notice of appeal, unless otherwise provided by law or Rule of Supreme Court. The appellant shall order the preparation of the transcript and file the same as soon as possible.

23.02 When the time for filing is not fixed by statute or Rule of the Supreme Court, appellant shall file a brief within thirty (30) days after filing the transcript of the record; the appellee shall file a brief within thirty (30) days after the filing of appellant's brief. Any reply brief shall be filed within ten (10) days after appellee's brief is filed. After notice to all parties, the judge may, for good cause shown, grant extensions of time by entry.

Upon expiration of time for filing the last brief, the case will be considered as submitted upon the briefs.

23.03 The applicable procedures stated in 23.01 and 23.02 shall apply to all appeals including those under Chapters 2506 and 119 of the Ohio Revised Code.

23.04 Failure of an appellant to file a brief or demand for a transcript of the record within the time required shall be cause for dismissal of the appeal for want of prosecution or other disposition at the discretion of the judge to whom the case is assigned.

23.05 All briefs and memorandum, pro and contra, and all motions, briefs, and memoranda thereto, pro and contra, shall be filed in duplicate, with one copy furnished to the judge.

## RULE 24

### PRACTICE IN DOMESTIC RELATIONS CASES

#### 24.01 SECURITY FOR COSTS

- (A) A deposit of \$157.00 is required in all domestic relations cases.
- (B) The deposit shall be made at the time of filing the complaint or petition with the Clerk of the Common Pleas Court.
- (C) If service by publication is required by any party, an additional \$200.00 shall be required as security for costs.
- (D) All applications or motions to re-open a divorce, spousal support only, legal separation or dissolution case, to bring a contempt proceeding, or to seek modification of any court order therein, shall be accompanied by a cost deposit of \$75.00.
- (E) A party may request the court to waive the prepayment of the costs deposit by the following procedure:

1. Present an affidavit of inability to prepay court costs (form DR-3) to the domestic relations assignment commissioner. A copy of form DR-3 is appended to these Rules.
2. Cause applicant's attorney to present an affidavit that said attorney has not received any funds from the applicant as attorney fees or is a S.E.O.L.S. "Reduced Fee Panel Attorney."

#### 24.02 INITIAL PLEADING REQUIREMENTS

(A) An Affidavit of Income and Expenses, form DR- I, shall accompany the filing of a dissolution petition, action for divorce, legal separation, or the filing of an answer or counterclaim to the aforementioned, unless no support issue is involved and the plaintiff or petitioner files a form DR-2, a Waiver of the Financial Disclosure Affidavit. A movant shall also file a DR-1 form with any post-decree motion involving support. In any initial action or post-decree motion involving child support, an Affidavit of Health Insurance, DR-4, and a child support worksheet shall be filed. If allocation of parental rights and responsibilities or shared parenting is requested, worksheet A must be filed. If parental rights and responsibilities are split between the parties, worksheet B must be filed. Copies of these forms and worksheets are appended to the rules.

- (B) When there are minor or dependent children involved, every dissolution petition, complaint for divorce or legal separation, or post-decree motion or pleading shall state each party's social security number and date of birth in the case caption.
- (C) In all domestic actions involving allocation of parental rights and responsibilities, shared parenting or visitation both parties shall file an affidavit complying with R.C. Section 3109.27, copies of which shall be served on the opposing party as required by the Rules of civil Procedure.
- (D) Parent Education Class --All parents in divorce, legal separation, or dissolution actions in which there are any minor children or in post-decree actions involving visitation or reallocation of parental rights and responsibilities shall attend an educational seminar sponsored by the Domestic Relations Division of the Athens County Court of Common Pleas and Athens County Children Services. Attendance at the seminar shall take place within sixty (60) days after the filing of the action or motion. No action or motion shall proceed to final hearing until there has been compliance with this rule, provided, however, that noncompliance by a parent who enters no appearance and does not contest the action shall not delay the

final hearing. This requirement may be waived by the Court for good cause shown.

Each parent shall be responsible for registering for the class by calling the office of the Director of Preventive Services, Athens County Children Services, 592- 3061, Ext. 305. All parents who have not filed an indigency affidavit with the Court may be required to pay a fee not to exceed \$10.00 per person to cover the cost of providing this class. If charged, this fee will be payable at Athens County Children Services at the time of class attendance.

An instructional letter shall be included by the Clerk of Courts with service of process in each action for divorce or legal separation in which there are minor children and in each post-decree motion involving visitation or reallocation of parental rights and responsibilities. At the time of filing, the Clerk of Courts shall provide a copy of the instructional letter to counsel for delivery to the plaintiff or movant and to pro se litigants. Counsel filing dissolution of marriage actions shall provide a copy of the instructional letter to both parents to the action. (Effective October 5, 1992)

24.021 MANDATORY DISCOVERY

- (A) In a divorce proceeding each party has the affirmative duty, within twenty-eight (28) days of the filing of an answer or counterclaim, to disclose to the other party the following information and documents:
1. All pension and profit-sharing plans, including the most recent plan summary;
  2. All COBRA benefits to which the other party may be entitled;
  3. Copies of all real estate deeds, vehicle titles and registrations in that party's possession;
  4. Unless the parties, in writing, agree otherwise, all appraisals of real estate or personal property or any business property in which the party holds an interest, unless the complexity of the particular appraisal makes compliance impossible, in which event notice shall be provided to the other party within twenty-eight (28) days stating:
    - a. Inability to comply and reason;
    - b. Name and address of selected appraiser;
    - c. Date by which appraisal may be reasonably expected;
  5. Copies of the last three (3) years individual tax returns; unless already in the possession of the other party;
  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;
- (B) No objection as to the admissibility of any document will be entertained at any court hearing:
  1. If that document was provided to opposing counsel at least fourteen (14) days before the hearing; and
  2. Unless the party opposing introduction of the document into evidence files a written objection to the introduction of that document at least seven (7) days before the hearing, setting forth the particular legal objection raised; or
  3. Unless the basis for the objection was unforeseeable prior to the hearing.
- (C) Failure to comply with this Rule may result in sanctions pursuant to Civ. R. 37 including, but not limited to, contempt citation, possible dismissal of claims, restrictions on the submission of evidence, and payment of attorney's fees.

#### 24.03 TEMPORARY ORDERS

- (A) Upon motion, sworn affidavit, and appropriate basis pursuant to Ohio Civil Rule 75, temporary restraining orders as to person and/or disposition of property, temporary allocation of parental rights and responsibilities, child or spousal support, exclusive use of the residence or a vehicle, or other temporary relief may be granted ex parte.

Supporting affidavits must contain sufficient evidence to allow the Court to make a determination regarding the orders requested. If requesting exclusive use of the marital residence, the affidavit must contain the names and family relationship of all present occupants of the home. If an award of parental rights will result in removal of a child from the marital residence, give the address and school district, if applicable, to which the child is being taken and, if applicable, the name and address of a new child care provider. All requests that a party be named temporary residential parent and legal custodian must either provide for visitation or request that such be denied based upon facts set forth in the affidavit.

The party presenting an ex parte restraining order for the court's approval shall include language restraining the moving party from the same actions from which the moving party seeks relief; that is, restraining orders shall be mutual in effect.

Temporary allocation of parental rights and responsibilities, exclusive use of the marital residence, exclusive use of a vehicle, and restraining orders may take immediate effect upon filing. Other temporary orders shall not be effective until fourteen (14) days after service upon defendant. All temporary orders shall specify which provisions take immediate effect and which take effect fourteen (14) days after service.

(B) All temporary orders shall contain the following language:

"This order is granted upon application of (plaintiff/defendant) supported by affidavit. Objection to the order may be made by a proper motion and counter-affidavit filed with the Court within fourteen (14) days, pursuant to Ohio Civil Rule 75(N) (2)."

Requests to set aside Magistrate's Temporary Orders must follow the procedure set forth in Civ. R. 53(C) (3) (6).

(C) No ex-parte temporary orders will be granted when both parties are currently represented by counsel in any criminal or civil matter. Plaintiff's attorney shall allege in the complaint whether or not Defendant is represented by counsel and shall name Defendant's counsel, if known.

#### 24.04 PRETRIAL PROCEDURE

(A) A pretrial conference shall be scheduled in all contested divorce and legal separation actions and shall be held at least three weeks prior to trial.

(B) At the conference, pretrial statements shall be submitted, containing the following information:

1. Status of discovery and settlement negotiations;
2. Statement of issues involved;
3. Matters stipulated;
4. Exhibits to be used at trial (attach copies);
5. Financial documentation -at a minimum, include Federal Income Tax return for prior year plus attachments, paycheck stubs from previous six months, and bank statements for previous six months;
6. Names and addresses of witnesses to be called at trial (separate expert from lay witnesses and specify expert's field of expertise);
7. If allocation of parental rights and responsibilities is contested, statement justifying award;
8. If relevant, suggested child support level and visitation schedule -attach copy of child support computation worksheet per child support guidelines and suggested visitation schedule;
9. If spousal support is requested, needs of payee and ability of payor to meet requests;
10. Suggested property division;
11. List of personal and real property, including fair market value, appraised value, deeds, legal description, etc.

A copy of a suggested pretrial statement is appended to the rules.

- (C) If allocation of parental rights and responsibilities is contested, the Court may appoint a guardian ad litem and/or an evaluating psychologist. The parties shall share the guardian ad litem's and psychologist's fees. Prior to the issuance of the psychologist's report, ex parte communication with the psychologist is permitted only with Court approval. Written reports filed by the guardian ad litem and/or evaluating psychologist will be kept in Confidential Family Files in the office of the Domestic Relations Court. Upon submission of either of these reports to the Court, the Domestic Relations Assignment Commissioner will file a Notice of Availability with the Clerk of Court's Office and provide copies of this Notice to parties and/or their respective counsel. Copies of the reports may then be picked up by the parties and/or counsel in the office of the Domestic Relations Court. To preserve confidentiality, these reports will not be filed in the Clerk of Court's Office nor will copies be put in attorney's mail boxes.
- (D) Any agreements reached at pretrial shall be immediately reduced to writing, signed by both parties and counsel, filed with the Court, and shall be binding on all parties in any subsequent hearing on the case.

24.05 GUIDELINES FOR ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

- (A) The residential parent shall take the necessary action with school authorities of the schools in which the child or children are enrolled to:
1. List the parent who is not a residential parent as a parent of the child.
  2. Insure that the parent who is not a residential parent receives copies of any notices regarding the child.
- (B) The residential parent shall promptly transmit to the parent who is not a residential parent any information received concerning parent-teacher meetings, school club meetings, school programs, athletic schedules and any other school activities in which the child may be engaged or interested.
- (C) The residential parent shall promptly, after receiving the same, furnish to the parent who is not a residential parent a photocopy of the child's grades or reports, or copies of any report concerning the child's status or progress.
- (D) The residential parent shall, when possible, arrange appointments for parent-teacher conferences at a time when the parent who is not a residential parent can be present. Whenever possible, such conferences shall be attended by both parents.
- (E) The residential parent shall promptly inform the parent who is not a residential parent of any illness of the child which

requires medical attention. Elective surgery shall only be performed after consultation with the parent who is not a residential parent. Emergency surgery necessary for the preservation of life or to prevent further serious injury or condition shall be performed without consultation, provided, however, if time permits, the parent who is not a residential parent shall be consulted, and in any event, the parent who is not a residential parent shall be informed as soon as possible.

- (F) The residential parent shall encourage frequent communication between the child and the parent who is not a residential parent. The residential parent shall not do anything to impede or restrict communication by phone or mail between the child and the parent who is not a residential parent whether initiated by the child or the parent who is not a residential parent. The mail between the child and parent shall be strictly confidential between them and such mail shall not be opened or read by the other parent. This rule applies equally to the parent who is not a residential parent when the child is on an extended visitation/parenting time with the parent who is not a residential parent.
- (G) Both parents shall refrain from criticizing the other parent in the presence of the children.
- (H) Neither of the parents shall attempt to modify the religious practice of the child without first having consulted each other.

#### 24.06 VISITATION/PARENTING TIME GUIDELINES

- (A) Every decree involving children shall be accompanied by a specific visitation/parenting time schedule. The following are suggested schedules.

**Plan A** - (For parents who live in close proximity to each other and where work schedules permit.)

1. Alternate weekends from 6:00 p.m. Friday until the child is returned to the other parent's residence; the day care provider; or school on Monday morning. (The beginning and ending times, other than drop-off at school, may be varied to accommodate the parents' work schedules.)
2. A mid-week overnight, on Wednesdays in the week when there is parenting time on the upcoming weekend and on Thursdays in the week when there is no parenting time on the upcoming weekend, from 6:00 p.m. until the child is returned to the other parent's residence; the day care provider; or school on the following morning. (The beginning and ending times, other than drop-off at school, may be varied to accommodate the parents' work schedules.)



3. Mother's Day and Father's Day shall be spent with the appropriate parent. Should this provision require the child to be with the residential parent during the other parent's visitation/parenting time, the parent who is not a residential parent shall return the child by 9:00 a.m. on Mother's Day or Father's Day. Should the reverse occur, the parent who is not a residential parent shall receive the child at 9:00 a.m. on that day and return the child at 6:00 p.m.
4. Alternate holidays as follows:
  - a) in even-numbered years, the residential parent shall have the child:
    - (1) President's Day, Friday night to Monday night.
    - (2) Spring Vacation, 6:30 p.m. on the day school ends to 6:30 p.m. the Sunday prior to school reconvening.
    - (3) Memorial Day, Friday night to Monday night.
    - (4) Labor Day, Friday night to Monday night.
    - (5) Christmas, Christmas Eve and Christmas Day.
  - b) in even-numbered years, the parent who is not a residential parent shall have the child:
    - (1) Easter, Thursday night to Sunday night.
    - (2) Fourth of July, night before to morning after except when the 4th falls on Friday, Saturday, Sunday or Monday - then visitation/parenting time shall continue the night before and continue to end of weekend or end of holiday, whichever is later.
    - (3) Thanksgiving Day, Wednesday night to Sunday night.
    - (4) Christmas Vacation and New Years Day, December 26th at 9:00 a.m. until the night of the end of the New Years Holiday.
  - c) In odd-numbered years the schedule stated in 3 a) and 3 b) shall be reversed between the parents.
  - d) Other days of special meaning, such as religious holidays or Martin Luther King Day should be decided by the parties together, written down, and alternated.
  - e) Unless otherwise indicated in an entry or these rules, holiday visitation/parenting time shall begin and end at the same times as weekend visitation/parenting time. Holiday visitations/parenting times have

precedence over the regular visitation/parenting time schedule, but shall not otherwise modify it.

5. The parent who is not a residential parent shall have extended summer visitation/parenting time up to four (4) weeks duration. These extended times supersede the alternating weekend visitations/parenting times, i.e. a nonresidential parent may not begin an extended time on a Monday following an alternating weekend, or end an extended time on a Friday before an alternating weekend, as a means of lengthening the extended visitation/parenting time. Alternating weekends shall begin again two weeks after the end of the extended visitation/parenting time.

The parent who is not a residential parent shall attempt to coincide his or her vacation time with summer visitation/parenting time. The parent who is not a residential parent shall notify the residential parent no later than May 15th each year of the weeks summer visitation/parenting time will be exercised. Summer school necessary for the child to pass into the next grade must be attended.

6. The child's birthday shall be celebrated in the residential parent's home, unless it falls on a visitation/parenting time day. The parent who is not a residential parent may celebrate the birthday at another time if desired.
7. Such other times and places as the parties may agree.

**Plan B** - (For parents who do not live in close proximity to each other or whose work schedules do not permit the use of Plan A.)

1. Alternate weekends from 6:30 p.m. Friday until 6:30 p.m. Sunday. (The beginning and ending times may be varied to accommodate the parents' work schedules.)
2. Same as Plan A, 3-7.

**Plan C** - (For parents residing in different locations that make the above schedules impractical/)

1. Christmas vacation {including Christmas Day} in alternate years;
2. Spring vacation every year;
3. Up to six (6) weeks summer/parenting time very year.
4. Such other times and places as the parties may agree.

- (B) Both parents shall be diligent in having the children ready and available at the appointed times. The child and/or residential parent have no duty to await the nonresidential parent for more than thirty (30) minutes. A parent who is late, unless he or she suffers an unavoidable vehicle breakdown or delay enroute and promptly notifies the residential parent of the delay, shall forfeit visitation/parenting time for that time period.
- (C) The parent who is not a residential parent should give twenty-four (24) hour notice to cancel visitation/parenting time. If a child is ill, the residential parent should also give twenty-four (24) hours notice if possible.
- (D) The residential parent shall send with the child sufficient clothing and other wear appropriate to the season to last the visitation/parenting time period.
- (E) Visitation/parenting time does not include leaving the child with a non-family member while the nonresidential parent pursues his or her own pleasures or activities.

#### 24.07 SUPERVISED VISITATION

The Athens County Supervised Visitation Center is administered through the Victim's Assistance Program in the Athens County Prosecuting Attorney's Office, (740)592-3212. The Center is funded for approximately twenty (20) hours per week and provides both supervised visitation/parenting time and supervised exchanges. Use of the Center is by Court referral only, and a fee for use will be charged on a sliding fee scale with the Court having the authority to designate a paying party or setting forth the manner in which the parties shall share the fees.

Because the Center operates on limited hours, times for supervised visits and supervised exchanges must be arranged through the staff at the Center. Therefore, Court entries can only speak in general terms, i.e. supervised visitation/parenting time shall be for one hour one time per week. All entries shall contain basic information as to how the Center is to be contacted for the purposes of arranging exact times. It will be the responsibility of the parties involved to contact the Center and make the actual arrangements.

Because use of the Center is by prior arrangement, supervised visitation/parenting time and/or supervised exchanges will not be granted in ex parte temporary orders issued pursuant to Civ. R. 75(N) or in ex parte preliminary civil protection orders issued pursuant to R.C. 3113.31.

#### 24.08 OBJECTIONS TO MAGISTRATE'S PROPOSED DECISION

All objections to a magistrate's proposed decision must be in writing and filed with the Clerk of Court's Office within fourteen (14) days of the filing of the Proposed Decision. If any party timely files objections, any other party may also file objections not later than ten

(10) days after the first objections are filed. Extensions of time within which to file will be granted upon request and for good cause shown. Copies of objections must be provided to the opposing party and the Court. If the objection relates to a proceeding involving the Child Support Enforcement Agency, a copy must also be provided to the Agency.

If the Magistrate's Proposed Decision was in the abbreviated form permitted by Civ. R. 53(E), parties wanting findings of fact and conclusions of law must request such within seven (7) days of the filing of the Proposed Decision. If a party wishes to contest a finding of fact, a transcript of all the evidence submitted to the Magistrate relevant to that fact must be requested as set forth in Rule 24.09 or an affidavit relevant to that evidence must be provided if a transcript is not available.

#### 24.09 PROCEDURE FOR REQUESTING TRANSCRIPT

Any party wishing to have a transcript of proceedings before the Magistrate must file a written request for an extension of time within which to file objections and a request for a transcript within the fourteen (14) day time period permitted for the filing of objections. Upon the filing of such a request, the Assignment Commissioner/Court Reporter for the Domestic Relations Division will estimate the cost of the transcript and file a Notice of Request For Transcript granting an extension of time in which to file objections until the fourteenth day following the filing of a completed transcript. In order to preserve this extended time, a transcript deposit in the amount of one-half of the estimated amount must be filed with the Assignment Commissioner/Court Reporter within ten (10) days of the filing of the Notice of Request for Transcript.

Upon completion of the transcript, the Assignment Commissioner/Court Reporter will notify the party requesting the transcript of the exact amount still due and owing. The requesting party then has ten (10) days in which to pay this remaining amount. Upon receipt of the final amount, the Assignment Commissioner/Court Reporter will file the transcript in the Clerk of Court's Office and file a Notice of Filing of Transcript. The fourteen-day period of time in which to file objections begins on the date on which this Notice is filed. Any party wishing to have a copy of a filed transcript may obtain one from the Assignment Commissioner/Court Reporter upon payment of \$1.00 per page.

#### 24.10 FINAL ENTRY/DECREE REQUIREMENTS

(A) All final entries or decrees shall contain the following provisions:

1. Non-use of each other's credit.
2. Whether or not spousal support will be paid.

(B) In addition to 24.10(A) 1 and 2 above, all cases involving minor or dependent children shall contain the following provisions in final entries or decrees:

1. Each party's mailing address, social security number, and date of birth in the case caption;
2. A judgment for arrearages due on temporary support orders;
3. All child support orders shall provide:
  - (a) a specific amount per month;
  - (b) that payments shall be made through the Ohio Child Support Payment Central (CSPC), P.O. Box 182394, Columbus, Ohio 43218;
  - (c) that the payor shall pay a processing charge; and
  - (d) for continued support for disabled children over eighteen (18) years of age,
  - (e) the date upon which the child support provision is effective.
4. Specific provision for health insurance and/or payment of medical expenses for minor or dependent children;
5. A specific visitation/parenting time schedule, unless the parties intend for the standard schedule, outlined in Local Rule 24.06, to control.

#### 24.11 FILING

The Clerk of the Common Pleas Court shall file all final entries or decrees upon presentation.

#### 24.12 POST DECREE RELIEF

- (A) Post decree motions shall contain the exact language of the original order sought to be changed, the change requested and a complete and accurate statement of movant's reasons and/or bases for change. Failure to supply this information will result in the motion being dismissed. A copy of the original order may be attached to the motion in lieu of reciting the exact language of the original order sought to be changed.
- (B) Motions for modification of parental rights and responsibilities shall contain a professional statement by movant's attorney that he or she believes a bona fide basis for said motion exists.

#### RULE 25

ATHENS COUNTY CHILD SUPPORT ENFORCEMENT AGENCY

25.01 The Athens County Child Support Enforcement Agency (Agency), under the direction and control of the Athens County Department of Job and Family Services, shall administer all orders of child support and spousal support issued by the Athens County Common Pleas Court, Domestic Relations Division or Juvenile Division, if required by statute.

25.02 The Agency shall assist in collecting and disbursing payments made pursuant to support orders, keep appropriate records and compile statistics. The Agency shall maintain records listing the date a support order was entered, the amount of any payments made under it, when payments are required to be made, names, addresses, dates of birth and social security numbers of the parties affected by the order, and any employment, worker's compensation or financial account information obtained by the court pursuant to Revised Code Chapter 3121.

25.03 The Agency may assist in receiving and disbursing child support and spousal support payments made in accordance with the orders of any other court, but it shall not do so unless and until it is furnished with a certified copy of the court order and the names and addresses of the payor and payee. The agency shall also handle matters under The Uniform Interstate Family Support Act and keep accurate records of payments made under said Act.

25.04 The Agency shall not assist in receiving or disbursing any payment or spousal support and/or child support in the absence of a court order. No orders regarding mortgage, medical or insurance payments or attorney fees shall be handled by the Agency.

25.05 The Agency will cooperate fully with any agency of the State or Federal Government organized or established for the purpose of providing support or protection to minor children.

25.06 (A) All support payments shall be made exclusively through the Ohio Child Support Payment Central (CSPC), P.O. Box 182394, Columbus, Ohio 43218;

(B) All orders shall be specific as to the gross amount to be paid per month;

(C) All orders shall include a provision ordering the obligor to pay two percent (2%) processing charge or \$1.00 per month, whichever is greater.

25.07 Any person entitled to receive support payments either personally or on behalf of any other person, by reason of any support order which does not direct that payments be made to the CSPC, may apply to the Agency for the administration of the order. Upon receipt of the application, the Agency has the same powers to administer the order as it would have had if the order had required payment be made through the CSPC. The Agency shall notify the obligor, by any method of service authorized under Civil Rules to make all support payments due after service to the

CSPC. An obligor so notified by the Agency, shall make all subsequent payments through the Ohio Child Support Payment Central, P.O. Box 182349, Columbus, Ohio 43218. The Court may make such orders concerning such payments sua sponte.

## RULE 26

### PROCEDURES REGARDING CHILD SUPPORT

This rule applies to all domestic relations proceedings, both pre and post-decree, whenever there are minor or dependent children of the parties.

26.01 Pursuant to R.C. 3121.03, all support orders shall be accompanied by orders securing payment, as set forth below:

- (A) Notice to Income Provider to Withhold Obligor Income/Assets; and Addendum Withholding Notice to Parties to a Support Order; and/or
- (B) Order to Seek Employment; and Order to Obligee.

### 26.02 AMOUNT OF CHILD SUPPORT

The amount of child support ordered shall be determined by application of the Child Support Guidelines in conjunction with appropriate statutory criteria. A copy of the appropriate child support calculation worksheet must be attached. If the order deviates from the Guidelines, the Court shall include a finding of fact to explain the deviation.

### 26.03 OTHER PROCEDURES

- (A) The original and at least four (4) copies of any decree or other order containing child support payment provisions shall be presented to the domestic relations assignment commissioner prior to filing. The commissioner shall cause appropriate Revised Code Section 3121.03 orders to be prepared, cause said decrees and ancillary orders to be presented to the judge for signature, and shall cause said orders to be filed with the Clerk.
- (B) A party independently represented by counsel or proceeding pro se who files either a motion that has the possibility of modifying an existing child support order or charges in contempt relative to a child support order shall provide the Athens County Child Support Enforcement Agency a copy of either the motion or the charges in contempt, all notices regarding hearings or continuances, and copies of any objections filed.

(C) When submitting an agreed entry that either creates or modifies a child/spousal support order, the following information must be included:

1. Correct mailing addresses for both obligee and obligor;
2. If a withholding order will be issued, name and address of employer and frequency of pay;
3. If a bank account withdrawal order will be issued, name of bank, account number, and frequency of withdrawal. Attached form: (See Garnishment/Withholding Information Sheet)

## RULE 27

### GRAND JURY PROCEDURE

27.01 The Grand Jury shall be convened on the second and fourth Mondays of each month. Arraignments on indictments issued by the Grand Jury shall be held nine days (on Wednesdays) following the regular session of the Grand Jury or at such other times as the Court orders.

27.02 The Athens County Court Reporter shall record all Grand Jury testimony before the session of the Athens County Grand Jury. The reporter shall be sworn to secrecy pursuant to statute.

## RULE 28

### NEWS MEDIA BROADCASTING, TELEVISIONING, RECORDING AND PHOTOGRAPHING IN COURTROOM

Pursuant to the Rules of Superintendence for the Courts of Ohio Rule 12, and in order to facilitate news media coverage of sessions, including recesses, in the Court of Common Pleas Courtroom, General Division, broadcasting, televising, recording, and photographing by news media shall be permitted as follows:

#### ADMINISTRATION

28.01 Requests for permission to broadcast, televise, record or photograph in the courtroom shall be in writing to the judge as far in advance as reasonably practical, but in no event later than twenty-four (24) hours prior to the courtroom session involved, unless otherwise permitted by the judge. Request forms may be obtained from the court office.

28.02 Written permission of the judge, as required by Sup. R. 12(A), shall be made a part of the record of the proceedings.



## POOLING

28.03 Arrangements shall be made between or among media for pooling equipment and personnel authorized by this rule to cover the courtroom sessions. Such arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. In the event disputes arise over such arrangements between or among media representatives, the judge shall exclude all contesting representatives from the proceeding.

## EQUIPMENT AND PERSONNEL

28.04 Not more than one portable camera (television, video-type or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the judge.

28.05 Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the judge.

28.06 Not more than one audio system for radio broadcast purposes shall be permitted without authorization by the judge.

28.07 If audio arrangements cannot be reasonably made in advance, the judge may permit one audio portable tape recorder at the bench which shall be activated prior to commencement of the courtroom session.

28.08 Visible audio portable tape recorders may not be used without prior admission of the judge.

## LIGHT AND SOUND CRITERIA

28.09 Only professional quality telephonic, photographic, and audio equipment that does not produce distracting sound or light shall be used to cover courtroom sessions. No motor driven still camera shall be permitted.

28.10 No artificial lighting device other than normally used in the courtroom shall be employed, provided, that if the normal lighting in the courtroom can be improved without being obtrusive, the judge may permit modification.

28.11 Microphones and related wiring necessary for all media purposes shall be unobtrusive and located in places designated by this rule, or the judge, in advance of any session.

## LOCATION OF EQUIPMENT AND PERSONNEL

28.12 One television camera shall be positioned on a tripod at a location designated by the judge, and shall remain fixed in that location. This designated location shall provide reasonable access to coverage. Videotape recording equipment or other technical equipment which is not a

component part of an in-court television or broadcasting unit shall be located outside the courtroom.

28.13 Television, broadcast, and still camera operators shall position themselves in a location in the courtroom, either standing or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts, or zooms by television or still camera operators is prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.

28.14 Television cameras, microphones, and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session (the judge has not gaveled the proceeding to order or adjournment), or during a recess.

28.15 The changing of film or recording tape in the courtroom during court proceedings is prohibited.

#### MISCELLANEOUS

28.16 Proper courtroom decorum shall be maintained by all media personnel.

28.17 All media personnel shall be properly attired, in a manner that reflects positively on the journalism profession.

#### LIMITATIONS

28.18 There shall be no audio pickup or broadcast of conferences conducted in the courtroom between counsel and client, or judge and counsel.

28.19 The judge shall prohibit photographing or televising by any means victims of sexual assaults and undercover police officers. The judge shall retain discretion to limit or prohibit photographing or televising of any victim, witness, or counsel or his work product, upon objection.

28.20 The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

28.21 The filming, videotaping, recording, or taking of photographs of victims or witnesses who object thereto SHALL NOT BE PERMITTED.

28.22 The filming, videotaping, recording, or taking of photographs of jurors SHALL NOT BE PERMITTED.

28.23 This rule shall not be construed to grant media representatives any greater rights than permitted by law wherein public or media access or publication is prohibited, restricted, or limited.

28.24 Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

#### REVOCATION OF PERMISSION

28.25 Upon the failure of media representative to comply with the conditions prescribed by the judge, the Rules of Superintendence of the Supreme Court, or this Rule, the judge may revoke the permission to broadcast, photograph, or record the trial, hearing, or other proceeding.

#### RULE 29

JURY MANAGEMENT PLAN  
(Adopted Pursuant to Supreme Court Rule)

##### 29.01 OPPORTUNITY OF SERVICE

A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group.

B. Jury service is an obligation of all qualified citizens of Athens County, Ohio.

##### 29.02 JURY SOURCE LIST

A. The jury source list shall be obtained from the Board of Elections' list of registered voters and the Bureau of Motor Vehicles' list of licensed drivers. The Court shall designate a key number based on the total number from both sources (for example, every 14th name). The jury commissioners shall then receive a computer print-out. The Court finds that these two sources are as inclusive and representative of the adult population in Athens County as possible.

B. In December of each year the jury commissioners shall convene and select jury panel to cover potential jury dates throughout the following calendar year.

C. In the event the jury panel drawn is insufficient to meet the needs of the court in the calendar year, the jury commission shall convene as necessary to select additional jury panels.

D. The court shall periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

E. Should the court determine that improvement is needed in the representativeness of inclusiveness of the jury source list, appropriate corrective action shall be taken.

#### 29.03 RANDOM SELECTION PROCESS

A. The following random selection procedures shall be used in:

- a. Selecting persons to be summoned for jury service;
- b. Assigning prospective jurors to panels; and
- c. Calling prospective jurors for voir dire.

B. The jury list shall be generated from the computerized jury management program. Names are selected at random by the computer with the jury commissioners present.

C. All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons. Further, all prospective jurors shall be required to complete a jury questionnaire.

D. Departures from the principle of random selection are appropriate:

- a. To exclude persons ineligible for service in accordance with Rule 29.04;
- b. To excuse or defer prospective jurors in accordance with Rule 29.06;
- c. To remove prospective jurors for cause or if challenged peremptorily in accordance with Rule 29.08 and 29.09; and
- d. To provide all perspective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Rule 29.13

#### 29.04 ELIGIBILITY FOR JURY SERVICE

A. All persons shall be eligible for jury service except those who:

- a. Are less than eighteen years of age;
- b. Are not citizens of the United States;
- c. Are not residents of Athens County;
- d. Are not able to communicate in the English language; or
- e. Have been convicted of a felony and have not had their civil rights restored.

#### 29.05 TERM OF AND AVAILABILITY FOR JURY SERVICE

A. The time that persons are called upon to perform jury service and to be available shall be the shortest period consistent with the needs of justice.

B. Prospective petit jurors shall be on call for one calendar month period. Persons who serve on a jury shall be excused from further jury service for the month unless the court determines that the juror is needed for a future jury panel.

C. Since grand jurors customarily meet two days per month, prospective grand jurors shall be on call for a period of four months.

#### 29.06 EXEMPTION, EXCUSE, AND DEFERRAL

A. All excuses or exemptions, with the exception of statutory exemptions, from jury service shall be eliminated except for those approved by the Court.

B. Eligible persons who are summoned may be excused from jury service only if:

- a. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
- b. They request to be excused because their service would be a continuing hardship for them or members of the public and they are excused by a judge or a specifically authorized court official.

C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the Court.

#### 29.07 VOIR DIRE

A. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members shall be made available to counsel in writing for each party prior to the beginning of jury selection.

C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge shall ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

#### 29.08 REMOVAL FROM THE JURY PANEL FOR CAUSE

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

#### 29.09 PEREMPTORY CHALLENGES

Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

#### 29.10 ADMINISTRATION OF THE JURY SYSTEM

A. The responsibility for the administration of the jury system shall be vested exclusively in the judicial branch of government.

B. All procedures concerning jury selection and service shall be governed by Ohio Rules of Court.

#### 29.11 NOTIFICATION AND SUMMONING PROCEDURES

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:

- a. Mailed separately.
- b. Phrased so to be readily understood by and individual unfamiliar with the legal and jury systems; and
- c. Delivered by ordinary mail.

B. First a questionnaire shall be mailed to prospective juror. The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and shall request only that information essential for:

- a. Determining whether a person meets the criteria for eligibility;
- b. Providing basic background information ordinarily sought during voir examination; and
- c. Efficiently managing the jury system.

C. When the questionnaires are returned, a summons clearly explaining how and when the recipient must respond and the consequences of a failure to respond shall be mailed to the eligible prospective jurors.

D. Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

E. Jurors who fail to report for service may be scheduled for a contempt hearing to inform the court why they did not appear. The court may impose sanctions as appropriate.

#### 29.12 MONITORING THE JURY SYSTEM

A. Courts shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- a. The representativeness and inclusiveness of the jury source list;
- b. The effectiveness of qualification and summoning procedures;
- c. The responsiveness of individual citizens to jury duty summons;
- d. The efficient use of jurors; and
- e. The cost-effectiveness of the jury management system.

#### 29.13 JUROR USE

A. Courts shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. Courts shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

C. Courts shall coordinate jury management and calendar management to make effective use of jurors.

#### 29.14 JURY FACILITIES

A. The Court shall provide an adequate and suitable environment for jurors.

B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the flow of prospective jurors to the courthouse.

C. Jury deliberations rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict.

D. To the extent feasible, juror facilities shall be arranged to minimize contact between jurors, parties, counsel, and the public.

#### 29.15 JUROR COMPENSATION

A. Persons called for jury service shall receive the fee established by the County Commissioners for their service and parking expenses.

B. Such fees shall be paid promptly.

#### 29.16 JURY ORIENTATION AND INSTRUCTION

A. Orientation programs shall be designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors.

B. Courts shall provide some form of orientation or instructions to persons called for jury service upon reporting to a courtroom for voir dire.

C. The trial judge shall:

- a. Give preliminary instructions to all prospective jurors.
- b. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
- c. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations;
- d. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system;
- e. Recognize utilization of written instructions is preferable;
- f. During instructions prior to jury deliberations the Court shall:
  - (i) Advise the jurors they are released from their duty of confidentiality following deliberations;
  - (ii) Explain their rights regarding inquiries from counselor the press.
- g. Before dismissing a jury at the conclusion of a case:
  - (i) Either advise them that they are discharged from service or specify when they must report again;
  - (ii) Express appreciation to the jurors for their services, but not express approval or disapproval of the result of the deliberation.

#### 29.17 JURY SIZE AND UNANIMITY OF VERDICT



Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

#### 29.18 JURY DELIBERATIONS

A. Jury deliberations shall take place under conditions pursuant to procedure that are designed to ensure impartiality and to enhance rational decision-making.

B. The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Rule 29.16(C).

C. The deliberation room shall conform to the recommendations set forth in Rule 29.14.

D. The jury shall not be sequestered except under the circumstances and procedures set forth in Rule 29.19.

E. A jury shall not be required to deliberate after a reasonable hour unless the trial judge determine that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

F. Training shall be provided to personnel who escort and assist jurors during deliberations.

#### 29.19 SEQUESTRATION OF JURORS

A. A jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

B. The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.

C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

D. Standard procedures should be promulgated to:

- a. Achieve the purpose of sequestration; and
- b. Minimize the inconvenience and discomfort of the sequestered jurors.

E. Training shall be provided to personnel who escort and assist jurors during sequestration.

## RULE 30 - MEDIATION

### Introduction

The Athens County Court of Common Pleas adopts Local Rule 30 effective April 23, 2007, 2007. Through Local Rule 30 the Athens County Court of Common Pleas incorporates by reference the R.C. 2710 Uniform Mediation Act (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

#### (A) Definitions

All definitions found in the Uniform Mediation Act (UMA) R.C. 2710.01 are adopted by this court through this local rule including, but not limited to the following:

1. Mediation means any process in which a Mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
2. Mediator means an individual who conducts a mediation.
3. Mediation Communication means a statement, whether oral, in a record, verbal or non verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a Mediator.
4. Proceeding means either of the following:
  - a. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
  - b. A legislative hearing or similar process.

#### (B) Purpose

Through mediation the court will provide an alternative method for the resolution of disputes that come before the Athens Court of Common Pleas.

#### (C) Scope

At any time any action under the jurisdiction of this court may be ordered to mediation, providing there is no applicable statutory exclusion.

#### (D) Case Selection

##### (1) Referral Process

The court, on its own motion, or the motion of any of the parties may order disputed issues to mediation in whole or in part by Notice of Scheduled Mediation which shall, at a minimum indicate the date,

time, place and contact information of the mediation. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the 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 Mediator will screen mediation candidates for the capacity to mediate prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.

(E) Procedures

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Mediator, mediation will be scheduled. The 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 multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

(1) The court shall utilize procedures for all cases that will:

- A. 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.
- B. Screen for domestic violence both before and during mediation.
- C. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
- D. Prohibit the use of mediation in any of the following:
  - a. As an alternative to the prosecution or adjudication of domestic violence;
  - b. In determining whether to grant, modify or terminate a protection order;
  - c. In determining the terms and conditions of a protection order; and
  - d. In determining the penalty for violation of a protection order.

- (2) Mediation of allocation of parental rights and responsibilities or the care of, or visitation with minor children shall abide by all provisions set forth in (E)(1) 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 (F) of this rule and all of the following conditions are satisfied:
- A. 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.
  - B. The parties have the capacity to mediate without fear of coercion or control.
  - C. 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.
  - D. Procedures are in place for the Mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.
  - E. 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.

(3) Party/Non-Party Participation

Parties who are ordered into mediation shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.

A judge, magistrate and/or Mediator may require the attendance of the parties' attorneys at the mediation sessions if the Mediator deems it necessary and appropriate.

If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the Mediator as well as the assigned judge or magistrate.

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

By participating in mediation a nonparty participant, as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B) (3) and 2710.04(A) (2).

#### (4) 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.

#### (5) Continuances

It is the policy of this court to determine matters in a timely way. Continuances of a scheduled mediation will be granted only by the Judge, Magistrate, or Mediator, where applicable, for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the court that the extension will not interrupt the scheduled movement of the case. Requests for continuances and extensions, and their disposition, will be recorded in the file of the case.

#### (6) Mediation Case Summary

Attorneys may, at their option, or must if required on a specific case by the judge and/or magistrate, submit a Mediation Case Summary to the Mediator which shall contain the following:

Insert applicable provisions, such as:

1. Summary or material facts.
2. Summary of legal issues.
3. Status of discovery.
4. List special damages and summarize injuries or damages.
5. Settlement attempts to date, including demands and offers.

#### (7) Mediation Memorandum of Understanding

The assigned Mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum memorializing the agreement reached by the parties. The Mediation Memorandum may be signed

by the parties and counsel (if the Mediation Memorandum is signed it will not be privileged pursuant to R.C. 2710.05 (A) (1)). The written Mediation Memorandum of Understanding may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the court will be regarded unless made in open court.

#### (8) Mediator Report

At the conclusion of the mediation and in compliance with R.C. 2710.06 the court shall be informed of the status of the mediation including all of the following:

1. Whether the mediation occurred or was terminated;
2. Whether a settlement was reached on some, all or none of the issues; and
3. Attendance of the parties.
4. Future mediation session(s), including date and time.

#### (F) 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., the Rules of Evidence and any other pertinent judicial rule(s).

#### (G) Mediator's Duty

##### (1) Inform the Court

The Mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the Mediator to the Court, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure. The Mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure.

##### (2) Give no Advice

The efforts of the Mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The Mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource.

The recipient of that information is charged with the duty to evaluate those resources independently.

### (3) Mediator Conflicts of Interest

In accordance with R.C. 2710.08(A) and (B), the Mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator withdraw because of the facts so disclosed, the assigned Mediator should withdraw and report the conflict to a Judge or Magistrate. The parties shall be free to retain the Mediator by an informed, written waiver of the conflict of interest(s).

### (H) Qualifications

#### (1) Qualifications for Civil Mediators

A Mediator employed by the division or to whom the division makes referrals for mediation of civil cases shall satisfy the following:

- a. Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the division
- b. At least 12 hours of basic mediation training by a qualified professional
- c. Minimum of two years mediating civil cases or other professional experience satisfactory to the division.

#### (2) Qualifications for Domestic Relations Mediators

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 visitation 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 which has been approved by the Dispute Resolution Section of the Supreme Court.

(3) 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 these cases only if he/she co-mediate with a Mediator who has completed the specialized training.

(I) Sanctions

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

(J) 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 of Superintendence for the Courts of Ohio.