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PREBLE COUNTY, OHIO

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CHRISTOPHER B. WASHINGTON
CLERK OF COURTS

IN THE COMMON PLEAS COURT, PREBLE COUNTY, OHIO

IN THE MATTER OF THE DOMESTIC RELATIONS

LOCAL RULES:

ENTRY

The following local rules are adopted to govern the practice and procedures of this Court, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio.

These rules shall be recorded by the Clerk of Courts of Preble County, and journalized therein, and shall be filed with the Ohio Supreme Court.

Unless otherwise stated herein, these rules are effective March 23, 2015.

Judge David N. Abruzzo

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FORMS REFERENCE

Forms are provided online at www.preblecountyohio.net

PREBLE COUNTY LOCAL DOMESTIC RELATIONS RULES

DR 1. Compliance with Ohio Rules of Civil Procedure and Preble County Common Pleas Court Local Civil Rules

All pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure and this Court's Local Civil Rules.

DR 2. Attorney Requirements

Attorneys who practice in the Domestic Relations Division must be admitted to the practice of law and registered with the Ohio Supreme Court. An attorney may be required to present his or her registration card to a judge or magistrate.

DR 3. Financial Disclosure

Requirements for Initial Pleadings

The plaintiff shall file completed Uniform Ohio Domestic Relations Forms (UODRF) Affidavits 1 and 2 with the complaint for divorce, annulment or legal separation. These forms shall be served upon the defendant along with the complaint.

The defendant shall file completed UODRF Affidavits 1 and 2 with the answer. These forms shall be served upon the plaintiff along with the answer.

Petitioners for dissolution shall each file completed UODRF Affidavits 1 and 2 with the petition for dissolution and the separation agreement.

The requirements regarding the filing of these affidavits may not be waived by agreement of the parties.

Requirements for Motions

The movant shall attach a completed UODRF Affidavit 1 to all motions which concern spousal support, child support, payment of expenses or any other financial issue.

The party responding to the motion shall file a completed UODRF Affidavit 1 at least three days prior to the hearing date.

Character and Effect of UODRF Information

The information contained in the UODRF Affidavits 1 – 5 shall be treated as though it was obtained in answer to questions propounded by the Court and shall be subject to cross-examination.

DR 4. Child Custody Affidavit

All pleadings and motions requesting a parenting order shall be accompanied by completed form UODRF Affidavits 3 and 4..

DR 5. Child Support Calculation Sheets

Initial Filing Requirements

All original filings for divorce, annulment, legal separation or dissolution must be accompanied by completed child support calculation sheets if minor children are involved.

If the income of a party is unknown, the attorney shall obtain that information by filing a *subpoena duces tecum* at the time the complaint is filed and noting on the calculation sheet that a subpoena has been issued in lieu of the calculation.

Motion Requirements

All motions requesting a modification of a child support order shall be accompanied by a completed child support calculation sheet.

DR 6. CSEA Information [FORM 7076 – TITLE IV-D APPLICATION

When a support order is established or modified (including temporary *ex parte* orders), the obligee shall execute and deliver to the Court an application for Title IV-D services pursuant to ORC §2301.35 (J) (2).

DR 7. Supplemental Pleadings

Any person, who filed pleadings after a case has been heard, shall deliver a copy of those pleadings directly to the judge or magistrate who heard the case.

DR 7.5 Continuances

Continuances shall only be considered when submitted in writing and when they substantially comply with Rule 41 of The Supreme Court's Rules of Superintendence. In addition, continuances shall state the nature of the scheduled hearing, the name of the party who filed the original motion to be heard, the reason for the continuance, how many continuances have previously been granted for this particular motion, and whether the opposing side objects or agrees with the continuance. Further, if the reason for the continuance is a conflict with another scheduled hearing in another court, the movant shall file with the continuance a timed stamped copy of the order or hearing notice setting the conflicting hearing.

DR 8. Style of Pleadings

All pleadings and forms required by the Court, except the IV-D application and child support calculation sheets, shall be typewritten. All motions filed with the Court shall be filed separate and apart from any proposed entry.

A separate copy of a pending motion and the proposed entry (if any) shall be delivered to the Court by counsel. As a backup, the clerk or a deputy clerk, shall scan the front sheet of every motion filed and e-mail same to the Judge or to the Magistrate (if the motion pertains to a domestic relations matter). The clerk shall, on the day motions are filed, return all file stamped copies to counsel via the self-addressed envelope provided or by placing same in the designated mail box in the clerk's office. (11/11)

The assignment commissioner shall file all entries, and copies, submitted to the Court. File stamped copies shall be placed in the attorney's box at the Clerk's office. **Out of town counsel shall submit with the copies a self-addressed stamped return envelope sized appropriately for the number of copies to be returned. If the envelope is not large enough, the copies shall be retained in the court file until they are picked up by counsel or until the conclusion of the case.**

Entries submitted without copies shall be filed without copies. It is counsel's responsibility to see that service of the entry is made on opposing counsel.

The first line of the first page of all pleadings filed with the Court shall begin **two and one-half inches (2 1/2") from the top of the page.**

In addition, to promote accuracy in the docket, **all initial pleadings** filed by counsel shall be **accompanied**

by a **Notice of Appearance of Counsel**. The only exception to this rule shall be the filing of a complaint or an answer.

DR 9. Court Costs

The Clerk of Courts shall not accept a domestic relations action for filing unless it is accompanied by a filing fee as established by the Court or an affidavit of indigence.

Security for costs must be posted to cover witness fees, plus mileage for all witnesses to be subpoenaed in excess of two.

Persons who move for the appointment of a *guardian ad litem* shall deposit \$500.00 in Movant's counsel's trust account as security for the payment of guardian fees. The Court shall be notified that the deposit has been made at the time of the request for the appointment of a *guardian ad litem*. The Judge only may grant relief from this provision in cases of extreme hardship and where it appears to the Court, after review of the file and conference with counsel, that the nature of the case is such that a *guardian ad litem* investigation and evaluation is necessary to the proper presentation of the case.

When the fees generated by the *guardian ad litem* exceed the deposit, it is the obligation of the *guardian ad litem* to immediately file a notice to the Court of the amount of expected fees to complete the case. At that time, the Court may require that an additional deposit be made to Movant's counsel's trust account.

DR 10. Failure to Comply with Local Rules

If any person fails to properly file a form required by these rules, the Court may continue the matter in progress and entertain a motion for attorney fees occasioned by the delay or impose other appropriate sanctions.

DR 11. Withdrawal of Counsel

An attorney seeking to withdraw as counsel in a pending case shall submit a motion and entry to the Court. Said motion and entry must contain a certificate of service to opposing counsel and to the withdrawing attorney's client.

DR 12. Ex parte Orders - Residential Parent Status

When both parties remain in the same house

If, at the time the complaint is filed, both parties are living in the marital residence, the plaintiff shall file with the complaint an *ex parte* order which provides that the parents will share the rights and responsibilities regarding their children in accordance with the established practices of the household (business as usual). The order shall further provide that, pending further order of the Court, each parent shall be the residential parent of the children.

When the parties are separated

If, at the time the complaint is filed, the parties live in separate households, the plaintiff shall file with the complaint, an *ex parte* order granting residential parent status to the person who had actual, physical custody of the children preceding the filing of the complaint.

Note: In situations where the parties have been separated for some period of time prior to the filing of the complaint, it is the Court's intention that the status quo be maintained with regard to residential parent status.

In situations where the parties have separated shortly before the filing of the complaint, it is the Court's intention that the children should remain with the person who was the primary caretaker prior to the separation.

This rule does not make reference to a specific length of time of the separation with respect to *ex parte* residential parent status orders because the circumstances of every case will be different and it will ultimately be the circumstances that determine whether there is status quo that should be maintained.

Affidavit

No *ex parte* order shall be granted unless the party seeking an *ex parte* order granting temporary residential parent status files an affidavit, which sets forth facts sufficient to allow the Court to make the necessary findings.

DR 13. Temporary Child Support Order

When the parties remain in the same house

If both parties remain in the marital residence, the plaintiff shall file with the complaint an *ex parte* order which provides that each parent shall continue to provide support for the minor children in accordance with the established practices of the household.

When the parties are separated

If the parties live in separate households and one party has been designated the residential parent of the children, the plaintiff shall file with the complaint an *ex parte* order which requires the nonresidential parent to pay child support.

The amount of the child support order shall be calculated pursuant to ORC §3113.215 and calculation sheets shall be attached to each temporary order.

If the payor's income is unknown, that information shall be obtained by *subpoena duces tecum*.

Temporary child support orders shall be effective and payable through the Child Support Enforcement Agency (CSEA) on the Friday following service of the Order on the Payor. A copy of the Entry establishing the *ex parte* temporary support order shall be delivered to the CSEA. Said Entry shall contain the mandatory support language required in any Order establishing support.

In addition to monetary payments, all temporary child support orders shall require the parties to pay for their children's medical expenses in accordance with the established practices of the household. The order shall also provide that the parties maintain their current medical insurance policies.

DR 14. Temporary Parenting Time Orders

This Court has adopted a schedule of parenting time. **[FORM - GUIDELINES FOR PARENTING TIME OF NON-RESIDENTIAL PARENTS]**

If at the time of filing the parties are living in separate households, the plaintiff shall file with the complaint an *ex parte* order granting parenting time pursuant to the standard order of the court to the non-residential parent, unless it appears that such an order would be inappropriate as not being in the best interest of the child(ren). In cases where the residential parent believes that the standard order of parenting time is not appropriate, a motion requesting some other form of parenting time shall be filed and same shall be accompanied by an affidavit setting forth the facts that the movant believes support the request.

DR 15. Temporary Order for Payment of Debts

If at the time of the filing the parties are living in the same household, the plaintiff shall file with the complaint an order providing that the parties shall continue to pay their marital debts and obligations in accordance with the established practices of the household.

DR 16. Temporary Spousal Support

Temporary spousal support shall be awarded only upon motion and hearing.

DR 17. Relief from *Ex parte* Orders

Any party who believes that *ex parte* orders filed in accordance with these rules are inappropriate may file a motion for relief. The filing party shall obtain a hearing date from the assignment commissioner. All motions shall contain a notice of the date, time, and place of the hearing and shall be served in accordance with the Ohio Civil Rules.

Motions for relief from *ex parte* temporary orders shall be given priority on the Court's docket.

DR 18. Non-contested cases

If a timely answer is not filed by the defendant, the Court will schedule a non-contested hearing and notify both parties of the day and time.

The plaintiff's attorney shall prepare a proposed decree and serve it upon the defendant at least seven days prior to the hearing date if any of the following conditions apply: 1) the parties have minor children; 2) the parties own real estate; 3) the parties own personal property in which there is equity of \$2,000 or more.

The plaintiff may serve the proposed decree by ordinary mail. A certificate of service shall be filed with the Clerk of Courts.

A proposed decree shall not be required when the defendant was served by posting or publication and his or her whereabouts continue to be unknown to the plaintiff.

If the defendant fails to indicate to plaintiff's counsel and/or the Court his/her objections to the proposed final decree at least 24 hours prior to the scheduled final hearing, the defendant, except in cases involving unusual or extenuating circumstances, shall be foreclosed to objecting to the proposed decree or any portion thereof at the hearing, and the decree, to the extent that same is found to be fair and equitable by the Court, will be adopted by the Court as its order.

DR 19. Contested Cases

Scheduling Conferences

When an answer to a complaint is filed, the Court will set the case for a scheduling conference and notify counsel of the date and time. The purpose of the scheduling conference is to identify the issues in controversy, establish a timetable for discovery and set appropriate pre-trial conference dates or, if pre-trials are not warranted, trial dates. At the conclusion of the scheduling conference, a scheduling order will be issued. Attorneys shall bring their calendars to all scheduling conferences. Parties need not be present.

At the scheduling conference, the Court will also determine whether there are disputed issues regarding the allocation of parental rights and responsibilities. If parenting issues are disputed or if either party intends to request shared parenting, the Court will address those issues in the scheduling order.

The scheduling order shall contain:

1. A timetable for the submission of shared parenting plans and responsive plans.
2. Orders regarding the nature and extent of any investigation to be conducted.
3. The timetable for the completion of investigation and discovery.

4. Orders regarding the necessity of psychological evaluations or the appointment of *guardian ad litem*.
5. Pre-trial conference date.
6. The Court may order counsel for the parties to prepare a joint pre-trial statement.

Pre-trial Conference

Attorneys shall complete all discovery before the pre-trial.

On the day that a pre-trial conference is scheduled, each party shall file a pre-trial statement, which contains all of the following information:

1. The parties' dates of birth, employment status, social security numbers, incomes, physical and mental health status, and length of the marriage.
2. The names and ages of all dependant children.
3. A list of all property believed to be the separate property of each spouse.
4. A list of all property believed to be marital in nature, the value of that property, the valuation date used in determining the value, and an account of all debts owing upon each item of property.
5. A list of all debts of the marriage, the date each was incurred and the consideration therefore.
6. A statement of the contested issues of fact and law.
7. A list of the name and addresses of all witnesses.
8. The Court may at the pre-trial conference order the parties to file a joint pre-trial statement (stipulations).

If a pre-trial statement is not filed in accordance with this rule, the Court may continue the pretrial in progress and entertain a motion for attorney fees against the non-complying party.

At the pre-trial the Court will review the reports of investigators, psychologists, *guardian ad litem* and the parenting plans submitted by each party.

If at the conclusion of the pre-trial conference the matter is not resolved, a final hearing will be scheduled.

Final Hearing

Final hearings shall begin promptly on the date assigned. Before the trial begins, each attorney shall provide the Court with the following:

1. An index of exhibits.
2. All exhibits shall be pre-marked with plaintiff using numbers and defendant using letters.
3. A list of the names and addresses of all witnesses.
4. A copy of any joint pre-trial statement (stipulations) prepared and/or filed pursuant to a previous order of the Court.

Hearings, which cannot be completed in the time allotted, shall be continued in progress to another date.

Decrees and Judgment Entries

Unless otherwise ordered or agreed by counsel, the attorney for the **Plaintiff** shall prepare and file a final judgment entry or decree **within thirty days** of the decision of the Court.

All final entries shall identify the judge or magistrate assigned to the case and the date the case was heard.

Attorneys who fail to comply with this rule may be cited for contempt of court.

DR 20. Motion Practice

Time of Hearing

The party filing a motion shall submit a copy of the motion to the Court along with a proposed Entry, which shall contain a blank space for the time, date, and place of the hearing. The Assignment Commissioner shall assign the matter for hearing. (2/02)

Motions to Modify

All motions to modify prior orders of the Court shall contain a statement of the order sought to be modified, the nature of the modification sought and the specific change in circumstances, which justify modification. Motions to modify child support orders shall be accompanied by completed child support calculation sheets.

Motions for Lump Sum Judgment

All motions for lump sum judgment shall contain a statement of the order upon which the motion is based and a statement of the total amount due under the order. If the motion pertains to a child support or spousal support order, CSEA records shall be presented at the hearing.

Motions Regarding Health Care Expenses

All motions regarding payment of or reimbursement of medical expense shall contain a chronological list of all bills for which payment is requested, the name and address of each health care provider, the date of service, the nature of the service provided and the name and date of birth of the person who received the services. The motion shall state all amounts that have been paid by insurance companies, the balances remaining and the amount sought to be reimbursed.

The motion shall also contain an assurance that the movant has previously forwarded the medical bills to the respondent and that payment has been refused.

Motions in Contempt

All motions requesting a finding in contempt shall contain a statement of the court order alleged to have been violated and the facts constituting the violation. Upon a finding of contempt the Court may award a standard attorney fee of \$200.00. If a higher award is sought, the attorney must request fees as a part of the motion and present independent evidence regarding reasonableness.

Motions to Change Residential Parent Status

All motions to modify residential parent status shall contain the following:

1. The identity of the court order (by the date same was filed) that movant seeks to modify;
2. The particular reasons supporting the modification requested;
3. The names and dates of birth of the children for whom the change is requested;
4. The current address of the children for whom the modification is requested and the address of the court ordered residential parent if different than the address of the children; and
5. Certification that efforts have been made by movant to resolve the requested change of residential parent status and related issues prior to the filing of the motion, and the nature and extent of those efforts.

Failure to Conform to DR 20

The Court's staff shall have the right to refuse to assign a hearing date to any motion that does not comply with the requirements of DR 20

The preceding notwithstanding, the Court may dismiss on its own motion, any motion that does not comport with the requirements of DR 20 and/or applicable civil rules.

DR 21. Agreed Entries

Pre-decree Shared Parenting Agreements

In all cases in which the parents agree upon shared parenting, counsel shall submit the shared parenting plan, completed child support calculation sheets, DR 10, and Decree of Shared Parenting to the judge or magistrate for approval at least one week before final hearing. The plan must include the following:

1. The physical living arrangements for the children.
2. The amount of child support to be paid and a statement as to whether or not the support order conforms to the schedule of support contained in ORC §3113.215. If the order deviates from the schedule, the plan shall contain findings of fact as to why the scheduled amount would be unjust, inappropriate, and not in the best interest of the children.
3. A provision for medical and dental care including an order for maintenance of health insurance.
4. A provision for decisions regarding school placement.
5. A specific schedule of parenting time or placement with each parent.
6. If it is necessary for school or other purposes, a designation of legal custodian.
7. A provision allocating the rights of the parents to claim the children as tax exemptions.
8. A provision that each parent files a Notice of Intent to Relocate with the Domestic Relations Court at least 30 days prior to changing address.

Post-decree Agreed Modifications of Parental Rights and Responsibilities

Parties who agree to a modification of their parental rights and responsibilities shall first obtain a hearing date from the assignment commissioner. Both the parties and their children shall attend the hearing. Agreements modifying parental rights shall address all issues relevant to the children including physical custody, support, parenting time, health care, medical insurance and tax exemptions. The Court may refuse to approve agreements that are not in the best interest of the children.

DR 22. Objections to Magistrate's Decisions

Persons filing objections to a magistrate's decision shall also file a Motion to Set a Briefing Schedule. A copy of the Objections and the Motion shall be delivered to the Judge's office on the date of filing. All objections shall contain a notice of the date and time of the hearing for which objections are being raised. Anyone objecting to a magistrate's decision shall provide the Court with a transcript of the proceedings or a statement as to why a transcript is not needed.

Magistrate hearings shall be recorded.

DR 23. Attorney Scheduling

Each attorney is responsible for his or her own calendar. Attorneys shall request adequate court time for all hearings and shall avoid scheduling overlapping hearings. Each attorney shall have his or her appointment book at all scheduling conferences, pre-trials and hearings.

When a docketed matter is settled or dismissed, the attorney shall notify the assignment commissioner immediately so that the court time can be assigned.

DR 24. Emergency Settings

If a substantial emergency exists which requires prompt court intervention, counsel may request an emergency setting.

DR 25. Child Support Orders

In any order or decree where child support is ordered or where a previous child support order is modified, child support orders shall be made by separate entry (see form entitled JUDGMENT ENTRY/CHILD SUPPORT AND MEDICAL SUPPORT).

Counsel presenting a decree or entry shall prepare the JUDGMENT ENTRY/CHILD SUPPORT AND MEDICAL SUPPORT ORDER where support is established and/or modified by court order.

No Entry or Decree (establishing or modifying support) shall be presented for signature without the **JUDGMENT ENTRY/CHILD SUPPORT AND MEDICAL SUPPORT ORDER.**

The original of this form and a copy of the order shall be filed with the Clerk, and the Clerk shall send the the copy of the order to the CSEA for processing.

DR 26. Seminar for Separating Parents

All parents in a divorce, legal separation, or dissolution action in which there are any minor children under sixteen years of age shall attend an educational seminar for separating parents sponsored by the Court within 60 days after the filing of the action or service of process. No action shall proceed to final hearing until there has been compliance with this rule; provided, however, that non-compliance by a parent who enters no appearance 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 at least one week prior to the seminar to be attended. Fees shall be paid from the deposit for court costs paid the Clerk of Courts with the initial complaint.

An informational brochure [**FORM - HELPING CHILDREN SUCCEED AFTER DIVORCE**] shall be included by the Clerk of Courts with service of process in each action for divorce or legal separation in which there are any minor children, and a copy shall be provided to counsel for delivery to the plaintiff. Counsel shall prepare and file an appropriate praecipe with the Clerk of Courts. Counsel filing dissolution of marriage actions shall provide a copy of the brochure to both parties to the action.

Seminar attendance may also be required by order of the Court in connection with motions for post-decree relief concerning custody of, or parenting time with, minor children.

DR 27. Service of Process in Divorce, Annulment and Legal Separation Actions

In a divorce, annulment, or legal separation action where service of process is perfected in accordance with Ohio Rules of Civil Procedure 4.4(A) (2), the Clerk shall cause notices to be posted in a conspicuous place in the Preble County Courthouse, the Preble County Auto Title Department and the County Office Building at 546 North Barron Street, Eaton, Ohio.

DR 28. Decrees and Final Orders

Mandatory Support Order language – All required support language shall be found on the form entitled JUDGMENT ENTRY/CHILD SUPPORT AND MEDICAL SUPPORT. No deviation from the form language is permitted without express permission of the Court. In cases where spousal support is ordered paid through the Child Support Enforcement Agency (CSEA), counsel shall provide the CSEA with all relevant information to allow the agency to set up the account.

Parenting Time Language

Out of State Relocation: Neither parent shall relocate the children out of state without first obtaining a modified parenting time order. The parties may submit an agreed order modifying parenting time with a provision for allocation of transportation expenses, to the Court for adoption by the Court as an order. If the parents are unable to agree, the moving parent shall, prior to relocation 1) file a motion asking the Court to modify the parenting time schedule, 2) set a hearing and 3) obtain a modified parenting time order. No

continuances of the hearing will be granted without written permission of the judge.

Access to Records: The *non-residential* parent shall have access to the same records, same school activities and to any day-care center which the children attend on the same basis that said records and access is legally permitted to the residential parent, unless a restrictive order has been obtained from the Court. It is the responsibility of the parent obtaining a restrictive order to serve it on the appropriate organization.

Notice to Change of Address: Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number, unless a restrictive order has been obtained from the Court. A copy of the notice shall also be provided to the Common Pleas Court, Domestic Relations Division, Third Floor, Courthouse, Eaton, Ohio (45320), Attention: Assignment Commissioner.

Court costs

It is further ordered that the costs of the foregoing Order shall be paid by _____ within 30 days of the date of filing to the Preble County Clerk of Courts, Domestic Relations Division, Third Floor Courthouse, Eaton, Ohio (45320).

DR.29 Disabled Persons - Special Accommodations

Any person who requires special accommodations because of a handicap or disability shall notify the Court of his or her special requirements at least 72 hours before a scheduled court appearance. The Court shall comply with all reasonable requests for assistance, including providing interpreters, without imposing additional costs.

DR 30. Domestic Violence

Civil Protection Orders and Stalking Protection Orders

Packets for processing civil protection orders and stalking protection orders are available online www.preblecountyohio.net. The Court shall hold a hearing on the same day as the filing of a petition for a civil protection order.

DR 31. Mediation

Effective January 1, 2007, the Court adopts the following local rules regarding mediation, which rule incorporates by reference the R.C. 2710 "Uniform Mediation Act" (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

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:

"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.

"Mediator" means an individual who conducts a mediation.

"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.

"Proceeding" means either of the following:

- Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery; or
- A legislative hearing or similar process.

Purpose

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of cases through the use of mediation.

Scope

At any time any action under the jurisdiction of this court may be referred to mediation by the Judge or Magistrate. The following actions shall be exempted from mediation upon request of any party:

- Cases in which one of the parties is mentally ill;
- In emergency circumstances requiring an immediate hearing by a jurist, or
- Cases in which the parties have achieved an executed Agreed Judgment Entry.

Case Selection/Referral Process

The court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation in whole or in part by Entry 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.

Eligibility of Cases

The Judge or Magistrate will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.

Mediator Selection and Assignment

The parties shall choose a mediator and they shall make arrangements for the payment of the mediator. The mediator, however, must have the following qualifications: comply with the qualifications set forth in Rule 16 of the Ohio Rules of Superintendence; adhere to the ethical standards of the mediation profession; and maintain appropriate liability insurance, specifically covering the activities of the individual as a mediator.

Procedures

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Judge or Magistrate, mediation will be scheduled. A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

The court shall utilize procedures for all cases that will:

Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

Screen for domestic violence both before and during mediation.

Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.

Prohibit the use of mediation in any of the following:

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

Nothing in this division of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

Mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children or delinquency or status offense cases 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 (H) of this rule and all of the following conditions are satisfied:

The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.

The parties have the capacity to mediate without fear of coercion or control.

Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.

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.

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.

Party/Non-Party Participation

Parties to informal cases may voluntarily attend mediation sessions.

Parties who are ordered into mediation in formal cases 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).

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).

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 the parties shall retain the services of a substitute mediator.

Termination

If the Mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

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.

Continuances

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown in accordance with the local rules regarding continuances. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

Guardian ad Litem

A *guardian ad litem* for the child shall be appointed by the court in all cases involving a child who was the subject of a prior abuse or neglect action, in all cases where one of the parties was the perpetrator of an act which resulted in an adjudication that any other child was abused or neglected and in other cases where the mediator believes it to be in the best interest of the child. A *guardian ad litem* appointed in these cases may participate in mediation depending on the recommendation of the mediator.

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.

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:

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

Qualifications

To be a court approved mediator the following qualifications apply:

General Qualifications and Training.

A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

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.

Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.

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.

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.

List of Qualified Mediators

The court will maintain a list of qualified Mediators.

All those on the list of qualified mediators shall submit to the Court a regularly updated Curriculum Vitae (including a list of training related to the field of dispute resolution and professional or association memberships) which CV shall be provided by the Court to those requesting information on an assigned Mediator's qualifications to mediate a dispute pursuant the requirements set forth in R.C. 2710.08(C).

The Court will review applications of person seeking to be added to the list of qualified Mediators.

Fees and Costs

The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the court shall determine the apportionment of the mediation costs to the parties. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party.

Sanctions

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

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 for in Rule 16 of the Supreme Court of Ohio Rules Superintendence for the Courts of Ohio.

DR 32. Report of *Guardian ad Litem*

The initial report, as well as any subsequent reports, of a *Guardian ad Litem* shall be filed with the Assignment Commissioner. The Assignment Commissioner shall provide a copy of said report or reports to counsel of record. Counsel are cautioned that while it is necessary for litigants to be aware of the contents of the report or reports, copies of these documents shall not be provided to the litigants.

DR.32A. *Guardian ad Litem* Fee Statements

All statements for fees for services of a *guardian ad litem* shall be submitted on the form provided by the Court.

DR 33. Special Projects Funds

This Court has determined that additional funds are necessary to defray the costs associated with the office of the Magistrate. Pursuant to ORC Section 2303.201(E)(1), a fee of **\$90.00 (\$45.00 per litigant)** in addition to the fees and costs authorized by law will be charged and collected by the Clerk of Courts upon the filing of each new domestic relations case and each post-decree motion. Petitions for civil protection orders, stalking civil protection orders and IV-D motions are exempt from this required fee. All fees paid under this Rule shall be paid to the Clerk of Courts for deposit with the County Treasurer for deposit into a general special projects fund. Monies from that fund shall be disbursed upon order of this Court in an amount no greater than the actual cost of the special project stated above or for any other special project which this Court from time to time might deem necessary for its efficient operation.

Further, the Clerk of Courts shall forward all fees collected by the Clerk for notary public examinations to the special fund for the office of the Magistrate pursuant to Section 147.02 and Attorney General Opinions at 1942 Ohio Att. Gen. Ops. No. 4882.

This Court has determined that additional funds are necessary to defray the costs associated with the efficient operation of the Court in matters including the acquisition of equipment, community control programs, mediation and dispute resolution services, magistrate, training and education of staff and the Court, and other related services as the Court may direct for the operation of the Court. Pursuant to ORC Section 2303.201(E)(1), a fee of **\$20.00 per case**, in addition to the fees and costs authorized by law will be charged and collected by the Clerk of Courts upon the filing of each new criminal, divorce, dissolution, legal separation, and civil case. Petitions for civil protection orders, stalking civil protection orders and IV-D motions as well as all re-opened cases are exempt from this required fee.

All fees paid under this Rule shall be paid to the Clerk of Courts for deposit with the County Treasurer for deposit into a general special projects fund. That fund shall be called "Special Projects Fund – Court Training and Services Fund". Monies from that fund shall be disbursed upon order of this Court in an amount no greater than the actual cost of the special project stated above or for any other special project which this Court from time to time might deem necessary for its efficient operation. (11/13)

DR. 33.5 Exhibit Retention Orders

In all trials before the Court or Magistrate, any exhibits admitted during trial shall be held by the Court Reporter until an appeal is filed and the exhibits are sent to the Court of Appeals. If no appeal is filed, the party seeking release of an exhibit or exhibits shall petition the Court for an order releasing said exhibit. No exhibit shall be released without a court order.

All unreleased exhibits in civil and domestic relations cases shall be held for a period of two years from the date of the hearing. All unreleased exhibits in criminal cases shall be held for a period of ten years from the date of the hearing, except in the instance of capital cases or in criminal cases where the Defendant is incarcerated for longer than ten years. In those cases the exhibits shall be held until ordered destroyed by the Court.