

**COURT OF COMMON PLEAS OF TRUMBULL COUNTY, OHIO  
DIVISION OF DOMESTIC RELATIONS AND JUVENILE DEPARTMENT**

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**COURT OF COMMON PLEAS OF TRUMBULL COUNTY, OHIO  
DIVISION OF DOMESTIC RELATIONS AND JUVENILE DEPARTMENT**

**LOCAL RULES OF COURT**

**RULE 29      GENERAL**

**29.01** A. The Domestic Relations and Juvenile Courts may be severally identified as the Court of Common Pleas of Trumbull County, Ohio, adding thereto the following as applicable:

1. Division of Domestic Relations;
2. Juvenile Division; or
3. Division of Domestic Relations and Juvenile Court
4. Trumbull County Family Court

B. These Rules shall apply in said Courts in all proceedings, both Domestic and Juvenile.

**29.02** The Ohio Rules of Civil Procedure and the Ohio Rules of Juvenile Procedure shall apply in all proceedings before the Courts, by attorneys and pro se litigants. In the event of conflict between the Trumbull County Local Rules and the aforesaid Rules of the Supreme Court, those Rules promulgated by the Ohio Supreme Court shall control and govern.

**29.03** The Rules of the General Division of the Court of Common Pleas of Trumbull County, Ohio, shall apply to all proceedings before this Court, except TO THE EXTENT THAT THOSE GENERAL DIVISION RULES ARE IN CONFLICT WITH THESE RULES, OR TO THE EXTENT THAT THE GENERAL DIVISION RULES ARE INAPPLICABLE.

**29.04** No attorney shall make an appearance or file any pleading unless that attorney is licensed to practice law and is in good standing under Ohio law. An attorney representing a client has an affirmative duty to notify the Court if, for any reason, the attorney is no longer in good standing.

**RULE 30      COURT COSTS**

**30.01** The deposit to secure Court Costs in Domestic Relations cases shall be required as follows:

Complaints .....	\$251.00
Petitions or Dissolution of Marriage.....	\$251.00
Annulment.....	\$251.00
Answers and Counterclaims with or without service of summons requested .....	\$100.00
Answers Only.....	No Cost
Any post-divorce motion (with or without service of summons).....	\$100.00
Praecipe to the Clerk to Issue Rule 58 Notice by Certified Mail.....	\$ 20.00

Release of Lien .....	\$ 5.00
Certificate of Dissolution or Divorce.....	\$ 2.00
Authentication.....	\$ 5.00
Any Motion for Continuance (Except For Domestic Violence).....	\$ 10.00
Objections/Motion to Set Aside.....	\$ 50.00
Agreed Judgment Entry (Without Motion pending).....	\$ 50.00
Appeal.....	\$150.00
Expungement of Domestic Violence.....	\$ 50.00
Mediation .....	\$100.00
Partners in Parenting .....	\$ 20.00
Solace Center intake .....	\$ 25.00
Parenting Coordinator, in Court, retainer per person.....	\$100.00
Registration of a Foreign Order .....	\$251.00

The deposit to secure Court Costs and fees in Juvenile Court cases is as follows:

Complaints .....	\$140.00
Motions .....	\$100.00
Agreed Judgment Entry (Without Motion pending).....	\$ 50.00
Objections/Motion to Set Aside.....	\$ 50.00
Appeals .....	\$181.00
Publication of Complaints and Motions.....	\$ 50.00
Motions for Continuances.....	\$ 10.00
Criminal/Delinquency/Unruly Complaints.....	\$ 75.00

**Traffic**

Moving Traffic Violation.....	\$ 90.00
Non-moving Traffic Violation.....	\$ 75.00
Seat Belt violation-Drive .....	\$ 30.00
Seat Belt Violation-Passenger.....	\$ 20.00
Driver’s Intervention Program/Moving Violation.....	\$115.00
Driver’s Intervention Program/Non-Moving Violation.....	\$100.00

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**All costs are subject to change as the Court deems necessary.**

**30.02** Waiver/defer of deposit: The Court may, for good cause shown, waive or defer the deposit of court costs upon filing with the clerk a satisfactory affidavit identifying the assets and earnings of the party who wishes the Court to waive or defer the deposit. If a

party is represented by counsel, counsel shall submit a statement that counsel has received no fees for representation in the matter now before the court. In the alternative, counsel may submit, in lieu of the aforementioned statement, a letter from a duly authorized legal aid corporation indicating that the party who wishes the court cost deposit to be waived is entitled to legal aid with counsel on a contractual basis with a partial fee to be paid to said counsel.

In either event, regardless of whether the affidavit by the party is submitted with a statement by counsel or with a letter from legal aid, the party shall deposit the court costs prior to the hearing on the merits. Upon Motion, the Court may determine that a trial without costs is necessary in the interest of substantial justice.

The Clerk is further instructed not to accept post decree motions from a moving party with an unpaid balance due from that party in the instant case.

## **RULE 31 SERVICE**

**31.01** In any cause for relief in Court, service of summons shall be as per the Ohio Civil Rules, and service shall be deemed complete as specified by said Rules. In post decree motions, certification upon counsel or party shall **not** be sufficient service in the initial Motion.

**31.02** Pursuant to Ohio Civil Rule 4.4 (A)(2), in a divorce, annulment, and legal separation actions, if the residence of the Defendant is unknown, service by publication shall be made by posting and mail, and the following procedure shall be observed:

1. Counsel, or the party acting pro se, shall file all necessary documents as required in Ohio Civil Rule 4.4 (A), and follow all procedures designated therein.

2. Where authorized, posting shall be made in a conspicuous place in the following locations for all cases:

The Clerk's Office - Family Court at 220 S. Main Street, Warren, Ohio or at such other conspicuous place at said Courthouse as the Clerk shall direct; or

The Clerk's Office - General Division, main Trumbull County Courthouse on High Street, Warren, Ohio or at such other conspicuous place at said main Courthouse as the Clerk shall direct.

3. In addition, counsel or the party acting pro se, will select two (2) additional sites from the following list:

- i. Warren Municipal Court;
- ii. Niles Municipal Court;
- iii Girard Municipal Court;
- iv Newton Falls Municipal Court;

- v. Central District Court in Cortland;
- v. Eastern District Court in Brookfield.

4. In selecting the sites for posting, counsel or the movant shall select a site reasonably associated with the person intended to be served.

### **31.03 PRIVATE PROCESS SERVERS**

#### **A. Appointment of special process server (one-time appointment)**

Pursuant to Ohio Civil Rule 4.1(B), if a party desires personal service to be made by special process server, that party may apply for appointment of a special process server. That party must file with the Clerk of Courts an application and entry appointing a process server. The following must be stated in the entry of appointment:

1. The name of the person to be appointed as process server;
2. That the person to be appointed as process server is 18 years of age or older;
3. That the person to be appointed as process server is not a party or counsel for a party in the action.

The cost for filing this application is \$10.00.

#### **B. Process server (continuing appointment)**

1. A person may apply to be designated a “Standing Special Process Server” for cases filed in this Court by filing an application supported by an affidavit setting forth the following information:

- a. The name, address and telephone number of the applicant;
- b. That the applicant is eighteen (18) years of age or older;
- c. That the applicant agrees not to attempt service of process in any case in which the applicant is a party or counsel for a party; and
- d. That the applicant agrees to follow the requirements of Civil Rules 4 through 4.6 of the Ohio Rules of Civil Procedure, and any applicable local rules, and specific instructions for service of process as ordered by the Court in individual cases.

2. The applicant requesting designation shall also submit an order captioned: “In Re: The Appointment of (name of applicant) As Standing Special Process Server”, and further stating as follows: “It appearing to the Court that the following applicant has complied with the provisions of Local Rule 4.14 (Name of applicant) is hereby designated as a Standing Special Process Server authorized to make service of process in all cases in this Court, to serve until further order of Court.”

3. The order shall be signed by the Administrative Judge and shall valid for **one year** from the date signed.

- a. The Clerk shall record such appointment on the Court's Special Docket and shall retain the original applications and entries.
- b. In any case thereafter, the Clerk of Courts shall accept a time stamped copy of such an order as satisfying the requirements of Civil Rule 4.1(B) for designation by the Court of a person to make service of process.
- c. The cost for filing this application is \$30.00.

#### **31.04 ELECTRONIC FILING**

Electronic transmission to the Court (FAX or E-MAIL) of pleadings, motions, and other papers shall not constitute filing, except as follows:

**At such time as the Trumbull County Clerk of Courts Domestic Relations Division and/or the Trumbull County Juvenile Court is able to accept such filings, documents subsequent to the initial pleading may be filed with the Domestic Relations and/or the Juvenile Court by electronic means, subject to the following provisions: (This rule will be modified to comply with the Supreme Court Filing Standards when the mechanism to accept such filings is completed)**

1. A document filed by electronic means shall be accepted as the effective original and shall be filed by the party or their attorney of record. All risks of transmission shall be borne by the sender. The sending party must maintain possession of the source document and make them available for inspection to the court upon request.
2. Any signature on electronically transmitted documents shall be considered that of the attorney or party that it purports to be for all purposes. If established that the documents were transmitted without authority, the Court may order the filing stricken.
3. The filing date of any electronically transmitted documents shall be the time and date the document was received by the receiving device of the Court in which it was received. This time and date shall serve as the Court's time stamp for the document.
4. Any document filed electronically that requires a filing fee may be rejected unless the filer has complied with the mechanism established by the Court for payment of filing fees.
5. Electronically transmitted documents may be received at any time.
6. Papers, pleadings and other documents that are incomplete may be refused, or if filed, may be stricken.

**ADDITIONAL SECTIONS TO BE ADDED WHEN THE E-FILING IS IN PLACE.**



## **RULE 32 PLEADINGS AND MOTIONS**

### **32.01 PLEADINGS AND FILING REQUIREMENTS**

1. In Domestic Relations pleadings, the caption must include each party's name, address (unless protected or unknown), date of birth, and employment.
2. In any complaint, counterclaim, or pleading filed in the Family Court, the names and dates of birth of all children conceived or born as issue of the parties shall be included.
3. All pleadings shall have a signature line which includes a typed or printed name of the attorney or party filing the pleading and shall include an address and phone number of the attorney or party.
4. All motions and objections shall be certified as provided by the Ohio Civil Rules. Said certification shall be to the opposing party and counsel of record. Where counsel of record is the prosecutor's office, certification shall be to both the opposing party and the prosecutor's office. When the objection is a citation by the Trumbull County Child Support Enforcement Agency, the certification shall be to the agency, the opposing party, and to the prosecutor's office.

### **32.02 MUTUAL EX PARTE TEMPORARY RESTRAINING ORDERS (TRO)**

A. In all cases, upon the filing of the initial complaint for divorce, annulment, or legal separation, both parties shall be restrained from:

1. Intentionally causing harm to any of the parties or minor children of this action.
2. Obstructing or interfering with the other spouse's parenting time or communication with the minor child(ren), or concealing the whereabouts of the minor child(ren), except where a Civil Protection Order has been issued.
3. Selling, removing, transferring, encumbering, mortgaging, pledging, damaging, hiding, assigning, gifting, or disposing of any property, real or personal, which was accumulated by either party or a child of the party, during the marriage, without consent of the other party or by order of Court.
4. Voluntarily changing the terms, names, or coverage on any utilities, health, life, home, automobile or any insurance, or removing the other party as a beneficiary on any life insurance policy or retirement benefit, without further Order of this Court.
5. Voluntarily liquidating, encumbering, borrowing against, cashing in, changing beneficiary, terms or conditions of any retirement or pension plan or program that provides any benefit to a spouse or child of the parties.
6. Withdrawing funds from any joint or individual account or fund, except if the accounts are business accounts used in the daily operation of a business. A party may use assets for usual and customary living expenses. **THIS MUTUAL RESTRAINING ORDER IS NOT INTENDED TO RESTRAIN MONIES RECEIVED IN THE FORM OF WAGES.**

7. Filing state or federal income taxes separately without prior approval of Court agreement of the parties.
8. Incurring debt on existing credit lines of credit or credit cards in the name of the other spouse or in the joint names of the parties without prior approval of Court or agreement of the parties.

B. This Mutual Restraining Order equally binds the Plaintiff and Defendant, and is a Court Order subjecting the parties to punishment for contempt. Counsel for Plaintiff shall inform Plaintiff of this rule and its effect prior to the filing of any action for divorce, legal separation or other action that utilizes the Order. This Court's Mutual Restraining Order is the only authorized Mutual Restraining Order to be used unless one is developed by the Ohio Supreme Court.

A standardized Mutual Restraining Order will be available at the Magistrate's counter.

C. Ex Parte Temporary Restraining Order

1. A request for an Ex Parte Temporary Restraining Order not covered by the Court's Mutual Restraining Order above may be made by Motion.
2. The Motion may be contained in the prayer of a Complaint, Counterclaim or Answer in an action for divorce, annulment or legal separation ("pleading"), or by separate motion in an action.
3. The Motion must be supported by an affidavit of the party seeking the order, which states with specificity the facts to support the request.
4. The person or entity to be restrained must be a party to the action.
5. A proposed Judgment Entry shall be presented for signature to the assigned Judge or Magistrate.
6. If signed, the Judgment Entry shall be returned to the Clerk of Courts to be journalized, and the pleading or motion and Judgment Entry shall be served on all opposing parties or their counsel.

D. Ex Parte Motion to Prevent the Return of a Spouse to the Marital Residence

1. An Ex Parte Temporary Restraining Order may be obtained to prevent a spouse from returning to the marital residence to reside, if such spouse no longer resides in the marital residence and has been voluntarily absent from there for more than thirty (30) continuous days immediately prior to execution of the Affidavit required in paragraph 3 below.
2. A request for a restraining order pursuant to this Section shall be by separate motion (not combined with other requests for restraining orders) and shall be filed in accordance with these rules. A proposed Judgment Entry shall be submitted with the motion.
3. A motion seeking an Ex Parte Temporary Restraining Order to prevent a spouse from returning to the marital residence shall state with specificity the reasons for the motion and shall be supported by an Affidavit of the movant which states all of the following:

- a. The date on which the absent spouse left the marital residence; and
- b. That the spouse has voluntarily left the residence with the intent to no longer reside there; and,
- c. That the movant has resided in the marital residence during the entire 30 day period immediately preceding execution of the Affidavit.

E. Disclosure of Other Orders: All requests for ex parte orders in a pleading or motion shall disclose any other Orders issued by this Court, or by any other Court, which are currently in effect and relevant to the relief requested in the motion. A copy of any journalized Order shall be attached to the pleading or motion.

F. Modifying or Dissolving Ex Parte Temporary Restraining Order: A party may file a motion to modify and/or dissolve any Ex Parte Temporary Restraining Order. The motion shall be supported by the Affidavit of the moving party setting forth the specific facts which support the motion. In the absence of an agreement of the parties as to the terms and conditions for modifying and/or dissolving such Orders, the matter shall be set for a hearing. A motion to dissolve a Restraining Order preventing a spouse from returning to the marital residence shall be set for a hearing within fourteen (14) days, if possible, of the date the motion to dissolve is filed.

### **32.03. PARENTING PROCEEDING AFFIDAVIT**

All parties involved in a proceeding concerning the allocation of parental rights and responsibilities, companionship, or parenting time shall file a parenting affidavit pursuant to O.R.C. 3127.23(A). The affidavit shall be attached to, and filed with, each party's initial pleading or motion.

### **32.04 CONCURRENT JURISDICTION WITH OTHER COURTS**

A. Obligation to Notify. It shall be the obligation of the party initiating an action involving parenting or support of minor children to inform the Court of the status of any prior or pending action in any domestic relations or juvenile court, including the amount of any prior support orders. If any parenting or support order has been entered by any other court in this state, no order regarding such issue(s) will be entered by this Court except upon order from the court previously acquiring jurisdiction to this Court.

B. Jurisdiction with courts outside the state. If any parenting or support order has been entered by any court outside this state, an order regarding such issue(s) will be entered only upon a showing that jurisdiction properly lies with this Court pursuant to the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) and the Federal Parental Kidnapping Protection Act (PKPA).

## **RULE 33 ASSIGNMENT AND SCHEDULING FOR TRIAL**

### **33.01 ASSIGNMENT OF JUDGE**

If both parties file complaints, whether for divorce, legal separations, or annulment, the Court on its own Motion or on the Motion of a party, shall consolidate the cases. The case shall proceed under the case number of the complaint upon which service was obtained first and the other complaint shall operate as a counterclaim when served. Any orders in either filing shall remain in full force and effect.

In a divorce, dissolution, legal separation, annulment, or domestic violence petition, if a case was previously filed and dismissed involving the same parties, the court shall reassign the case to the previously assigned judge, provided that judge is still on the bench.

### **33.02 SCHEDULING OF CASES**

The scheduling of cases for trial or hearing shall be done at the direction of the judge or the magistrate to whom the case is assigned. The commitments of attorneys in other courts shall be considered when setting a trial date. Attorneys with large caseloads may, upon notification by the Court, be required to submit detailed calendar information to the assigned judge or magistrate for the purpose of scheduling.

#### **A. Scheduling**

1. It is the responsibility of the movant to schedule sufficient time with the Court for purposes of hearing the matters to be presented before the Court.
2. Unless otherwise arranged and reserved, hearings before the Magistrate are set for one hour on temporary support hearings with children and one-half (½) hour on all other issues.
3. A party wishing to present a counter-motion or motion on their own behalf must contact the Court Assignment Officer to ensure that there is sufficient time on the schedule for the opposing motion(s), or to obtain another date and time for the hearing of their motion.

B. The Movant shall advise the Assignment Officer of the names and addresses of the persons who are to receive Notice of Hearing. The direction shall be by written instruction, and contain the names and current addresses of all persons who are to be notified.

C. The attorney and/or client must appear at the scheduled hearing unless a continuance has been granted or an agreed entry settling all issues is tendered to the Judge or Magistrate prior to the hearing date.

### **33.03 CONTINUANCES AND ADVANCEMENTS.**

A. No case shall be advanced out of its regular order except upon order of the judge or magistrate to whom the case is assigned. All Motions to Advance must cite in detail the reason for the request.

B. Requests for continuances shall be made in accordance with Ohio Supreme Court Rules of Superintendence Rule 41 and Ohio Rules of Juvenile Procedure Rule 23.

1. Motions for continuances shall be made as far in advance of the scheduled hearing date(s) as practicable.

2. Continuances will be considered only after notice to all parties involved, payment of court costs, and no case will be continued on the day of the scheduled hearing except for good cause shown.

3. All Motions for continuances must be in writing. The Motion shall contain specific language as to the type of proceeding and shall state the reason for the request. If the request for continuance is being made due to a conflict with another case, the movant shall attach a copy of the conflicting scheduled case which contain the other case's caption, the type of case (civil or criminal), the Court where the case is to be heard, and when the conflicting case was assigned for trial.

4. The Motion must contain an affirmation that opposing counsel was contacted and does/does not have an objection to the continuance.

5. The Motion must be served upon opposing counsel, or opposing party if not represented, prior to submission to the assigned judge or magistrate.

6. An attorney, or party if unrepresented, shall prepare a judgment entry granting the Motion for Continuance and submit to the Court along with the Motion. A space for the new hearing date and time shall be included in the judgment entry.

### **33.04 UNCONTESTED CASES**

A. When a case is no longer in dispute, or if a Defendant is in default for lack of filing a responsive pleading or failing to make a court appearance, either party may file a written "Request for Assignment" or orally notify the Assignment Officer to set the case for an uncontested hearing.

B. Unless the Assignment Officer receives communication to set a matter as contested, the matter will be scheduled for an uncontested hearing after service pursuant to the Ohio Civil Rules.

C. Failure of a Movant or counsel to appear may result in a dismissal of the action. Failure of Defendant to appear, may result in the Court permitting Plaintiff to proceed with the presentation of evidence necessary for the Court to issue an appropriate Order.

### **33.05 CONTESTED CASES**

A. If there has been a Complaint and an Answer or Counterclaim filed, the Assignment Commissioner shall set the case for a pretrial.

B. Upon scheduling of a contested matter, no continuance will be granted for another scheduling conflict except for good cause and only upon written request pursuant to Rule 33.04 of these Rules. All matters are to be heard within the time guidelines as set by the Ohio Supreme Court.

### **33.06 WITHDRAWAL OF LEGAL COUNSEL**

A. An attorney requesting to withdraw from representation of a client shall file a motion to withdraw stating the reason(s) for withdrawal. The motion shall comply with the Ohio Supreme Court Rules of Professional Conduct and the Ohio Rules of Civil Procedure. The motion shall certify that:

1. Notice has been given to the client advising the client of all orders and all upcoming assignment dates affecting the client; and
2. Notice has been given to all counsel of record, or if unrepresented, to the parties.

B. The attorney seeking to withdraw shall serve the motion to withdraw from representation on the client and all parties or their counsel.

C. No attorney shall be permitted to withdraw from a case later than twenty (20) days prior to hearing except for extraordinary circumstances, subject to the Court's discretion.

D. If a case is scheduled for hearing before a Magistrate, the request to withdraw should be approved by the assigned Magistrate prior to being submitted to the assigned Judge.

## **RULE 34 CONDUCT OF HEARINGS & TRIALS, JUDGMENT ORDERS & JOURNALS**

### **34.01 COMMUNICATIONS WITH JUDGES AND MAGISTRATES**

A. No party or attorney shall discuss the merits of a case either orally or in writing with any judge or magistrate presiding over the matter without the presence of opposing counsel of party.

B. If it is determined that an issue in a pending action needs to be discussed with a judge or magistrate prior to a scheduled hearing, the attorney or party may, with notice to the opposing attorney or party, request a conference with the judge or magistrate.

### **34.02 CONDUCT IN COURT**

A. In Court proceedings, all parties and witnesses shall be properly attired. If the parties are not properly attired, the Court may continue the hearing or exclude that party from participating in the hearing.

B. Parents are encouraged not to bring children to any Court proceeding unless otherwise ordered by the Court.

C. No telecommunication, recording, or telephones shall be permitted in the Courtroom, except upon consent of Court and in accordance with the Ohio Supreme Court Rules of Superintendence.

### **34.03 SPECIAL NEEDS/INTERPRETER SERVICES**

Individuals with disabilities, special needs, or the need for an interpreter should make requests for reasonable accommodations to the Court's Administrator's Office (330) 675 2601 at least 2 weeks prior to any scheduled hearing date.

If the interpreter is no longer needed, or if the matter is continued, the parties **must** immediately notify the Court's Administrator's Office to cancel or reschedule the service. Failure to notify the Office of the cancelled or reset hearing may result in an assessment of the fee for the service.

### **34.04 PRETRIALS**

A. Pre-trials are not intended to be a time of presenting evidence and testimony. Pre-trials are intended to narrow the issues in controversy, admit to facts not in dispute, advise the Court on discovery, address issues of asset valuation, discuss allocation of parental rights and shared parenting, and any other matter that may aid in the disposition of the case and determine the appropriate time to be set aside for the final trial. A pretrial will be held as soon as possible after an answer or counterclaim has been filed.

B. The Pre-Trial Form, available at the website [www.familycourt.co.trumbull.us](http://www.familycourt.co.trumbull.us), at the Family Court, or The Supreme Court website, shall be completed prior to the pre-trial. In a divorce, legal separation, or annulment, the pretrial form shall include an itemization of the party's income and expenses and a description of the nature and value of the assets of the parties and the nature and amount of the liabilities.

C. The Pre-Trial Form shall be photocopied prior to the pre-trial in sufficient quantities to be distributed to each party or counsel, as well as one copy for the Court.

### **34.05 ATTENDANCE AT STATUS, PRE-TRIAL HEARINGS, OR TRIALS**

A. All counsel of record, including the Guardian ad Litem, and all parties, except minor children, if subject to the jurisdiction of the Court, shall be present at any status or pre-trial conference, unless excused in advance by the Judge or Magistrate. If a party has been excused by the Court, that party shall provide his/her attorney with the telephone number(s) at which she/he may be reached. Counsel attending must have complete authority to discuss and settle all issues involved in the case, and to enter into stipulations regarding resolved issues.

B. Failure of an attorney to be prepared for a status or pre-trial conference, and failure of a party or attorney to appear, or to cooperate in good faith in the conduct of said conference, may result in dismissal of the pleadings of the defaulting party and may subject said attorney or party to any sanctions provided in Ohio Rule of Civil Procedure 37, including, but not limited to, an award of expenses and/or attorney fees to any party prejudiced by such conduct.

C. Any agreement reached shall be immediately reduced to writing, or placed on the record and signed by both parties and their counsel. The Agreement shall be filed with the Court and shall be binding on all parties in any subsequent hearing on the case.

D. If a party and/or counsel appears on the scheduled trial date and shows good cause why they are not ready for trial or hearing, the Court shall make such orders as are proper. If a party and/or counsel appears, but is not ready for trial or hearing and fails to show good cause for not being ready, the Court may enter an order dismissing the action for want of prosecution, if the party is the person seeking relief, or proceed with the case to determine all matters, if the party is the person not seeking relief.

#### **34.06 DISCOVERY**

All discovery shall comply with Ohio Civil Rules 26 through 37 and Juvenile Rules 25 and 25.

#### **34.07 HEARINGS**

All trials and hearings, of every kind and description will be heard by a Judge of the Division, by a visiting Judge, or by any Magistrate appointed by this Court. A special order of reference is not required. The Magistrate shall perform such tasks and execute orders. If the parties agree, they may waive in writing the requirements of a Magistrate's Order or Decision and agree to the issuance of an immediate Judge's Order.

If the parties do not waive a Magistrate's Order or Decision, the Magistrate shall proceed as required by law or as directed by the Judges.

#### **34.08 MAGISTRATE'S POWERS**



A. Magistrates shall be awarded all of the powers set forth in Ohio Civil Rule 53, 65.1, and Juvenile Rule 40. The Magistrates are awarded all other powers as set forth in the statutes of the State of Ohio, the Ohio Civil Rules, and the local Rules of this Court.

B. If the parties agree, they may waive in writing the requirements of a Magistrate's Order or Decision and agree to the issuance of an immediate Judge's Order

C. Effective dates

1. A Magistrate's Order shall become effective when filed with the Clerk of Courts.

2. A Magistrate's Decision shall become effective when approved by the Judge.

### **34.09 APPEAL FROM MAGISTRATE'S ORDER (MOTION TO SET ASIDE)**

A. An Order of a Magistrate may be appealed to the Judge following the procedures set forth in Civil Rule 53(D)(2)(b) and/or Juvenile Rule 40 (D)(2)(b) and stating with particularity the parties' objections, and attaching a copy of the Magistrate's Order to the Motion. The appeal shall be captioned MOTION TO SET ASIDE and must be filed no later than ten (10) days after the Magistrate's Order is filed.

B. The filing of a MOTION TO SET ASIDE shall not automatically stay the Magistrate's Order. A separate MOTION TO STAY with a proposed Judgment Entry may be filed, and may be approved or modified by either the reviewing Judge or the Magistrate who issued the Order. A bond or other form of surety may be required for the issuance of the Stay Order.

C. For good cause shown, the time for filing a MOTION TO SET ASIDE may be extended by the Court, and shall be treated as a Motion for Relief from Judgment. Upon review of the MOTION TO SET ASIDE, the Court will determine if a hearing before the Court is necessary, and if so will schedule a time and date for the hearing. The Clerk is directed to accept the MOTION TO SET ASIDE without a Notice of Hearing or hearing date.

### **34.10 OBJECTION TO MAGISTRATE'S DECISION**

A. Decision of a Magistrate may be appealed to the Judge following the procedures set forth in Civil Rule 53 (D)(3)(b) and/or Juvenile Rule 40 (D)(3)(b) and stating with particularity the parties' objections, and attaching a copy of the Magistrate's Decision to the Objection. The appeal shall be captioned OBJECTIONS TO THE MAGISTRATE'S DECISION.

1. Objections to a Magistrate's decision shall be filed and served upon all opposing parties within fourteen (14) days after the date the decision is filed.

2. Any objections by an opposing party shall be filed within ten (10) days after the first objections are filed.

3. A party filing objections that require a transcript must file his or her objections within the fourteen (14) day time period set forth above, and must include notice of intent to file supplemental objections after the transcript has been filed, for which leave will automatically be granted.
4. For good cause shown, the time for filing an Objection may be extended by the Court.
5. The filing of an Objection shall automatically stay the Magistrate's Decision, unless the Judge issues a final or interim Order.
6. Objections shall be specific and state the grounds with particularity. They shall identify the relevant law and the facts in contention, and reference pages of the transcript in support of the objections.
7. A party may have an additional fourteen (14) days following the filing of the transcript within which to file supplemental objections, provided that notice was filed as set forth in (3) above.
8. A party opposing the objections and/or supplemental objections may file a brief in opposition within fourteen (14) days from the date the objections or supplemental objections are filed. If supplemental objections are filed, the opposing party should file only one brief in opposition.
9. If no objections are filed within the initial 14-day period, the decision of the Magistrate will become final.

#### B. Requirement of Transcript

1. If a party is objecting to factual findings in the Magistrate's Decision, a transcript of the record of proceedings before the Magistrate must be filed. If a transcript is not available, the party must file an affidavit of all evidence submitted to the Magistrate.
2. The party filing objections shall order the transcript from the Court Reporter. The deposit for the transcript must be paid to the Court Reporter.
3. Upon its completion, the Court Reporter shall file with the Clerk of Courts a notice of the availability of the transcript. Payment in full will be required before the transcript will be released.
4. Requests for extensions of time to file the transcript shall include the endorsement or affidavit of the Court Reporter indicating the reason that the transcript has not been completed and the expected date of completion.

C. Upon review of the Objections to the Magistrate's Decision in accordance with Civil Rule 53(D)(4) and Juvenile Rule 40(D)(4), the Court will determine if a hearing before the Court is necessary, and if so, will schedule a time and date for the hearing.

D. The Clerk is directed to accept the Objections to the Magistrate's Decision without a Notice of Hearing or hearing date.

E. There shall not be an automatic right to a hearing on matters appealed from a Magistrate's Order or Decision, and the same, if warranted, will be set by the Court.

### **34.11 RECORD OF PROCEEDINGS**

A. In hearings before the Court, the record shall be by mechanical, video, or audio recording, or as otherwise specified by the Court, Civil Rule 53(D)(7) and Juvenile Rule 37 and 40(D)(7). Such records shall be preserved as required by law.

B. A request for a copy of a transcript shall be made by completion of the designated form and payment of the fee presented to the designated person for the purpose of preparing said transcript.

### **34.12 JUDGMENT ENTRIES**

A. At the commencement of the hearing on a dissolution, uncontested divorce, or other final hearing, the Judicial Officer shall be given the proposed final judgment entry or separation agreement, unless for good cause the Court authorizes a later date.

B. If minor children are involved, the names and dates of birth shall be included in the Judgment Entry. The Dependent Health Care Orders (DHCO), ORC Child Support Computation Worksheet, Child/Spousal Support Information Sheet and the Form IV-D shall be submitted with the proposed final decree or judgment entry. If the case involves Shared Parenting, the Shared Parenting Plan shall also be included.

C. If a pension or qualified retirement benefit is involved, and a Qualified Domestic Relations Order (QDRO) is required, the QDRO shall be prepared as instructed in the Court's Order, or if said Order is silent, by the Alternate Payee. All final judgment entries of divorce ordering a QDRO shall include a provision reserving the jurisdiction of this Court to enforce pension rights by issuing amended QDROs, or for other equitable relief.

D. The person so designated by the Court, shall prepare the final judgment entry.

1. Unless extended by the Court, final decrees and final judgments shall be filed on or before the thirtieth (30th) day after the final hearing on that matter.

2. When so directed by the Court, such party or counsel shall prepare a Judgment Entry and submit same to the opposing party, or to the party's counsel. The opposing counsel or party shall have ten (10) days in which to approve or reject same. The party or counsel who has prepared the order shall sign the Judgment Entry and approve it as to form. If a transcript of proceedings is required, then the specific objections to the proposed Judgment Entry are due seven (7) days after receipt of the transcript. A reasonable deposit for the transcript shall be deposited within five (5) days of request.

3. Failure of the opposing party or counsel to approve or reject any submitted Judgment Entry as provided above, will permit the preparer of the Judgment Entry to unilaterally present said Judgment Entry for journalization by certifying thereon that the provision requiring submission to opposing counsel or party has been completed and stating the date the proposed Judgment Entry was delivered (not mailed) to the opposing party or counsel. The Court can then either sign the Judgment Entry or set the matter for hearing.

4. Failure to comply with this rule will result in the Court acting in any one or more of the following manners:

- i. Issuance of a citation of contempt to the counsel of record;
- ii. Granting of attorney fees and court costs;
- iii. Dismissal of the action; and/or
- iv. The Court placing its own Judgment Entry of record.

5. All Judgment Entries/Orders must comply with requirements of Ohio Civil Rule 58, and counsel shall either instruct the Clerk to issue Rule 58 Notice, or have Rule 58 Notice waived by all parties of record.

E. When an Order or Decision modifies, deletes, or creates an obligation of child support, that Order or Decision shall have attached to it a completed Child Support Computation Worksheet.

1. It shall be the responsibility of the payee or payee's counsel to see that a completed Trumbull County Child Support Enforcement Agency (TCCSEA) Child/Spousal Information Sheet and the Form IV-D are completed in full, and filed with the person so designated by the Court to receive same.

2. Similarly, the payee or payee's counsel shall prepare in full and file with the Clerk of Courts (either Domestic or Juvenile, as applicable), a completed Dependent Health Care Order (DHCO).

## **35.00 OTHER PROCEEDINGS**

### **35.01 ATTORNEY FEES**

A. How Requested:

1. A request for attorney fees and expenses to prosecute an action shall be made by motion or other pleading that gives rise to the request for fees.

2. A request for attorney fees and expenses to defend an action shall be by motion filed at least 14 days prior to the hearing on the motion being defended.

3. No oral motion for fees shall be entertained unless good cause is shown why the provisions of this rule could not be complied with and jurisdiction is reserved in any order resulting from the hearing.

B. Evidence in Support of Motion. At the time of the hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking such fees shall present:

1. An itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time;
2. Testimony as to complications of the case;
3. Testimony regarding the attorney's years in practice and experience in family court cases; and
4. Evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing.

C. Expert testimony is not required to prove reasonableness of attorney fees.

### **35.02 PARENTING EDUCATION**

All parents may be required by the Court to attend a parenting education class.

### **35.03 MEDIATION**

A. In any action the Court may, upon its own motion or upon the motion of either party, refer the case to mediation. Attorneys may also refer cases to mediation upon agreement of parties.

B. All referrals to mediation shall note the responsibility of parties for payment of the mediation fee or whether the fee has been waived. Parties responsible for fees shall comply with the order regarding payment prior to the first joint session.

C. Mediations shall be conducted by the court mediator or any other mediator who has successfully completed requirements of Rule 16 Section (C) of the Rules of Superintendence for the Courts of Ohio.

D. Scheduling and Conduct of Mediation Sessions

1. Parties shall contact the mediator within seven (7) days of the referral to schedule an appointment.
2. The mediator shall meet with each party individually to provide a thorough orientation to the mediation process and to screen the case for appropriateness including but not limited to matters of domestic abuse. Throughout the process, the mediator shall continue to identify any situations or behavior involving possible domestic abuse.
3. The mediator shall notify the Court of any case that will not be mediated or be terminated as a result of being deemed inappropriate.
4. Once both parties have met individually with the mediator, within two (2) weeks of the individual session, the initial conjoint session shall be scheduled. The mediator and parties will schedule additional sessions as needed to complete

resolution of the issues. Upon the request of the parties, their attorneys or other individuals may also attend and participate in sessions.

E. The Court shall prohibit referrals to mediation in any of the following:

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

F. Nothing in division (D) of this rule shall prohibit the use of mediation in a subsequent divorce or matter regarding allocation of parental rights and responsibilities even though that case may result in the termination of the provisions of a protection order.

G. Privacy - The provisions of O.R.C. 3109.052(C) and O.R.C. 2710 shall apply to any case ordered to mediation pursuant to this local rule.

H. Mediation Report; Conclusion of Mediation.

1. Immediately upon the conclusion of the mediation, the mediator shall submit a mediation report to the court. Per O.R.C. 3109.052, the report shall state only that the mediation is concluded and whether agreement has been reached. Copies of the report shall be provided to attorneys of record as well as guardians ad litem.
2. Upon request of the parties, the mediator shall prepare a memorandum of understanding detailing the terms as agreed by the parties in mediation within twelve (12) days of the conclusion of the process. No agreement developed in mediation shall be final until reviewed and approved by parties and their attorneys. Agreements may be submitted to the Court together with an agreed judgment entry or as part of a final decree.

## **35.04 PARENTING COORDINATOR PARENTING COORDINATION**

**Rule 35.04.** Parenting Coordination.

The Trumbull County Family Court adopts Rule 35.04 effective November 1, 2014.

1.01 Definitions

As used in this rule:

(A) Domestic abuse

“Domestic abuse” means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.

(B) Domestic violence

“Domestic violence” has the same meaning as in R.C. 3113.31(A)(1).

(C) Parenting coordination

“Parenting coordination” means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. “Parenting coordination” is not mediation subject to R.C. Chapter 2710, R.C. 3109.052, or Sup.R. 16 nor arbitration subject to R.C. Chapter 2711 or Sup.R. 15.

(D) Parenting coordinator

“Parenting coordinator” means an individual appointed by the Court to conduct parenting coordination.

1.02 Purpose

This rule allows for the earliest possible resolution of disputes related to parental rights and responsibilities or companionship time orders.

1.03 Scope

At any point after a parental rights and responsibilities or companionship time order is filed, the Court may order parenting coordination except to determine the following:

- (A) Whether to grant, modify, or terminate a protection order;
- (B) The terms and conditions of a protection order;
- (C) The penalty for violation of a protection order;
- (D) Changes in the designation of the primary residential parent or legal guardian;
- (E) Changes in the primary placement of a child.

1.04 Appointment

(A) Reasons for Ordering Parenting Coordination

The Court may order parenting coordination, sua sponte or upon written or oral motion by one or both parties, when one or more of the following factors are present:

- (1) The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;
- (2) There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
- (3) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- (4) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- (5) One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;
- (6) Any other factor as determined by the Court.

(B) Parenting Coordinator Qualifications

The Court may appoint an individual as a parenting coordinator who meets all of the following qualifications:

- (1) A master's degree or higher, a law degree, or education and experience satisfactory to the Court;
- (2) At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;
- (3) Has completed the following training approved by the Dispute Resolution Section of the Supreme Court:
  - (a) At least twelve hours of basic mediation training;
  - (b) At least forty hours of specialized family or divorce mediation training;
  - (c) At least fourteen hours of specialized training in domestic abuse and dispute resolution;



- (d) At least twelve hours of specialized training in parenting coordination.

(C) Parenting Coordinator Qualifications in Abuse, Neglect and Dependency Cases

In addition to the qualifications under 1.04(B) of this rule, the Court may appoint a parenting coordinator to an abuse, neglect, or dependency case, provided the parenting coordinator meets both of the following qualifications:

- (1) Significant experience working with family disputes;
- (2) At least thirty-two hours of specialized child protection training that has been approved by the Dispute Resolution Section of the Supreme Court.

(D) Parenting Coordinator Continuing Education

To maintain eligibility for appointment, a parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children that has been approved by the Dispute Resolution Section of the Supreme Court.

(E) Parenting Coordinator Appointment Order

The Court's appointment order shall set forth all of the following:

- (1) The name of the parenting coordinator and any contact information the Court may choose to include;
- (2) The specific powers and duties of the parenting coordinator;
- (3) The term of the appointment;
- (4) The scope of confidentiality;
- (5) The parties' responsibility for fees and expenses for services rendered by the parenting coordinator;
- (6) Parenting coordination terms and conditions;

(F) Selection of Parenting Coordinator for Appointment

The parenting coordinator who meets the qualifications in division 1.04(B) of this rule and, if applicable division 1.04(C), shall be selected using one of the following:

- (1) Use of a Court employee;

(2) Random selection by the Court from the Court's roster of parenting coordinators;

(3) Specific appointment based on the type of case and the qualifications and caseload of the parenting coordinator;

(G) Prohibited Parenting Coordinator Appointments

The Court shall not appoint a parenting coordinator who does not possess the qualifications in division 1.04(B) of this rule and, if applicable division 1.04(C), or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role to any family member; or attorney for either party. Parties may not waive this prohibition.

(H) Appointment of Mediator as Parenting Coordinator

With written consent of the parties, the Court may appoint a mediator to serve as the parenting coordinator with the same family.

(I) Termination or Modification of Parenting Coordinator Appointment

Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.

## 1.05 Parenting Coordinator Responsibilities

(A) Ability to perform duties

A parenting coordinator shall withdraw from a case in the event of any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(B) Compliance with appointment order

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the Court.

(C) Independence, objectivity, and impartiality

A parenting coordinator shall maintain independence; objectivity; and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(D) Conflicts of interest

(1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

(2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise counsel and the parties of the action taken to resolve the conflict and, if unable to do so, shall withdraw from the case.

(E) Ex parte communications

A parenting coordinator shall not have ex parte communications with the Court regarding substantive matters or issues on the merits of the case.

(F) Legal advice

A parenting coordinator shall not offer legal advice.

(G) Reporting

(1) A parenting coordinator shall submit a resume to the Court documenting compliance with division 1.04(B) and, if applicable, division 1.04(C); provide an updated resume to the Court in the event of any substantive changes; and notify the Court of any changes to name, address, telephone number and, if available, electronic mail address contained in the resume.

(2) On or before January 1st of each year, a parenting coordinator shall report to the Court a list of all continuing education training completed during the previous year pursuant to division 1.04(D), including the sponsor, title, date, and location of each training. A parenting coordinator shall not be eligible for appointment until this requirement is satisfied. The parenting coordinator shall complete three hours of continuing education for each calendar year of deficiency.

1.06 Parenting Coordination Procedures

(A) Screening for and disclosure of domestic abuse and domestic violence

(1) All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.

(2) All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.

(3) When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, a parenting coordinator shall do each of the following:

(a) Fully inform the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process and the option to have a support person present at parenting coordination sessions;

(b) Have procedures in place to provide for the safety of all persons involved in the parenting coordination process;

(c) Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

(B) Disclosure of abuse, neglect, and harm

A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

(C) Attendance and participation

(1) Parties shall attend parenting coordination sessions. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.

(2) A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

(D) Referrals to support services

A parenting coordinator may provide information regarding appropriate referrals to resources including legal counsel, counseling, parenting courses or education, and other support services for all parties, including, but not limited to, victims and suspected victims of domestic abuse and domestic violence.

(E) Parenting coordination agreements, reports, and decisions

- (1) Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.
- (2) Upon request by the Court, the parenting coordinator shall prepare a written report including, but not limited to, all of the following:
  - (a) Dates of parenting coordination session;
  - (b) Whether the parenting coordination session occurred or was terminated;
  - (c) Requests to reschedule a parenting coordination session, including the name of the requestor and the whether the request was approved;
  - (d) Whether an agreement was reached on some, all, or none of the issues;
  - (e) Who was in attendance at each session;
  - (f) The date and time of a future parenting coordination session;
- (3) The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be immediately filed with the Court and include all of the following:
  - (a) Case caption, including the case number;
  - (b) Date of the decision;
  - (c) Facts of the dispute and facts upon which the decision is based;
  - (d) Reasons supporting the decision;
  - (e) The manner in which the decision was provided to the parties;
  - (f) Any other necessary information.
- (4) A party may file written objections to a parenting coordinator's decision with the Court and serve all other parties to the action within fourteen days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action not later than ten days after the first objections are filed. A hearing may be scheduled, upon request, at the discretion of the Court. A judge or magistrate shall issue a ruling on the objections within thirty days from the date of the last objection filed.
- (F) Parenting coordinator evaluations and complaints
  - (1) A parenting coordinator shall provide participants with the Parenting Coordinator Evaluation form, provided by the Court, prior to the first

parenting coordination session and at the end of the term of the appointment.

- (2) The Court shall complete a review of the parenting coordinators on the Court's roster in January of each year.
- (3) A party to a case appointed to parenting coordination may file a complaint regarding the parenting coordinator within one year from the termination of the appointment. The complaint shall be submitted to the Court Administrator, and include all of the following:
  - (a) The case caption and case number;
  - (b) The name of the parenting coordinator;
  - (c) The name and contact information for the person making the complaint;
  - (d) The nature of any alleged misconduct or violation;
  - (e) The date the alleged misconduct or violation occurred;
- (4) The Court Administrator shall provide a copy of the complaint to the parenting coordinator;
- (5) The parenting coordinator has fourteen days from the date of the receipt of the complaint to respond in writing to Court Administrator.
- (6) The Court Administrator shall conduct an investigation into the allegations and shall issue a response within thirty days from the date the complaint was received.

(G) Fees

The parties shall each pay an initial deposit of \$250.00 to the parenting coordinator. The parenting coordinator shall charge an hourly rate as established at the initial meeting with the parties. Further deposits shall be made at the direction of the parenting coordinator.

If the Family Court Parenting Coordinator is used, the parties shall each deposit \$250.00 with the clerk of courts. The Family Court Parenting Coordinator shall charge an hourly rate as determined by the Court and included in the appointment order.

Fees shall be waived for indigent parties.

(H) Stay of Proceedings

Unless otherwise provided by court order, referral of a case to parenting coordination stays a case until further notice. The Clerk of Court shall not accept

for filing any documents while a case is in parenting coordination with the following exceptions:

- (1) An objection to a parenting coordinator's decision;
- (2) A motion to lift the stay;
- (3) A response to a motion to lift the stay;
- (4) An application to dismiss the case;
- (5) A notice related to counsel;
- (6) A motion for changes in the designation of the primary residential parent or legal guardian;
- (7) A motion for changes in the primary placement of a child;
- (8) A motion regarding matters unrelated to the issues referred to the parent coordinator, i.e. property issues, spousal support.

#### 1.07 Confidentiality and Privilege

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

#### 1.08 Public Access

The files maintained by a parenting coordinator but not filed with the Clerk of Court or submitted to the Court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

#### 1.09 Model Standards

The Court and a parenting coordinator shall comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the "Guidelines for Parenting Coordination" and this rule, this rule shall control.

#### 1.10 Court Reporting Requirements

On or before February 1st of each year, the Court shall file with the Dispute Resolution Section of the Supreme Court all of the following:

- (A) A copy of this rule;
- (B) A copy of the Court's current roster of parenting coordinators;
- (C) A copy of each new or updated resume received by the Court from a parenting coordinator during the previous year;
- (D) A copy of each list of continuing education training received by the Court from each parenting coordinator.

#### 1.11 Sanctions

The Court may impose sanctions for any violation of this rule which may include, but is not limited to, attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the Court

### **35.05 CONTEMPT MOTIONS AND DETERMINATION OF ARREARS**

A. Any Motion for Contempt shall state with specificity each provision of a prior court order with which a party has failed to comply, the date of the order, and the facts constituting the noncompliance.

1. The motion shall include an affidavit setting forth the reason for the contempt and the date and/or place of said contempt.
2. Said motion for contempt must be personally served upon the party, or service may be via certified mail actually signed by the alleged contemnor.
3. Certification on counsel of record shall not be deemed sufficient service for contempt.
4. If there is an alleged arrearage of child support or spousal support, the motion shall set forth the date of the last order of support, the amount of the order, the amount which should have been paid and the amount actually paid, and the amount of arrearages that existed prior to the filing.
5. If the motion is for failure to pay a medical or health care obligation, or failure to pay a creditor, the motion shall itemize the expenses, the movant shall provide copies of the bill(s) not paid and the dollar amount alleged owing to opposing party prior to the hearing, and state whether demand for payment has been made prior to the filing of the motion.

B. A motion for unpaid medical bills shall:

- a. Have a summary of the bill(s) not paid
- b. Have the dollar amount alleged owing
- c. Have an affidavit signed by the Movant verifying that the actual copies of the bills were sent to the opposing party as part of the motion.



No actual bills are to be placed in the court's file, but are to be submitted as evidence at hearing.

C. When a party is cited for contempt, and punishment for contempt is requested by the movant, statutory warnings of the potential punishment by the Court shall be signed by a judge or a magistrate and attached to the motion, as per Ohio Revised Code 2705.031 and/or 2705.05.

### **35.06 IN-CAMERA CHILD INTERVIEWS**

A. No statements of any kind will be taken from the minor child(ren) by counsel or the parties.

B. If ordered by the Court, the minor child(ren) will be brought to Court by the residential parent/custodian at a time scheduled, and the in-camera hearing will be conducted and recorded as required by the Ohio Revised Code.

### **35.07 MODIFICATION OF PARENTAL RIGHTS PROCEEDINGS**

A. Any request for modification of an existing parenting order shall be made by motion. The motion shall set forth the last existing order of parenting and the reasons for requesting the change.

B. The movant shall provide and file with the motion seeking an allocation or modification of parental rights, a Parenting Affidavit pursuant to Ohio Revised Code Section 3109.27.

C. If a movant requests shared parenting, the movant shall file the proposed plan of shared parenting with the clerk no later than thirty (30) days prior to the hearing pursuant to Ohio Revised Code Section 3109.04(G), with copies to be served pursuant to law.

D. The first hearing on any motion to establish or modify a parenting order shall be a pretrial conference. At the pretrial conference the appointment of a Guardian ad Litem shall be considered, and an order of payment of the GAL fee shall be made.

### **35.08 EMERGENCY, EX-PARTE CUSTODY MOTIONS**

A. Post Decree Motions requesting Ex Parte Orders that affect children are discouraged. However, the Court will issue such Orders only where it is shown that irreparable harm will occur to the child unless immediate action is taken, and the moving party has also filed and scheduled a hearing on a Motion Requesting the Allocation of Parental Rights. Such Motions shall have supporting affidavits that clearly delineate the expected harm.

B. The moving party shall file with the Court the CSB information sheet provided at the Magistrate's desk. Absent emergency circumstances, the Court will not consider the Ex Parte Motion until the CSB form has been faxed and returned to the Court.

### **35.09 EMERGENCY COURT ORDERS**

A. Emergency Orders, ex-parte, may be issued by a Judge or Magistrate, contemporaneous with the filing of an action for:

1. Divorce, legal separation, or motion for post-final hearing pursuant to Civil Rules 75(I)(2) and 75(N)(1) duly served with the original complaint or motion under the continuing jurisdiction of the Court per Civil Rule 75(J);
2. Change of custody from an earlier Juvenile Court Order of custody, or an action for a dependent, neglected, or abused child pursuant to Juvenile Rules 6 and 13, as are applicable to the situation; or
3. Domestic violence pursuant to Civil Rule 75(G) and ORC 3113.31(D).

B. Attached to the Motion for Emergency Custody shall be the following:

1. A Complaint (divorce, legal separation, custody) or Petition (domestic violence) if there is no prior court file. (A court file cannot be opened with a Motion);
2. If the file in which a request for custody does not show paternity, then requests for custody shall have attached an Administrative Decision, birth certificate, or other documentation such as a CSB report that shows paternity or attempts at paternity.
3. UCCJEA Parenting Affidavit, properly completed;
4. FAX form to CSB, completed;
5. An affidavit by the movant in support of the relief requested;
6. If the emergency request alleges police action, a police report shall be attached.
7. If the emergency request alleges physical harm, a medical report shall be attached.
8. If the emergency request alleges CSB action and CSB support, a report from CSB shall be attached; and
9. Disclosure shall be affirmatively set forth if the child is subject to an Independent Education Program (IEP).

C. Included in the request, either in the Motion or by separate sheet, shall be the following information:

1. The current address of the mother;
2. The current address of the father or punitive father;
3. If the request for custody is by a non-parent, then the movant must provide for each parent the name and address of the school district that they reside (School District of Residence); and

4. The current address of the custodian AND the school district in which the child attends (School District of Residence).

D. All emergency, ex-parte orders of custody issued after the adoption of this Local Rule shall provide for termination dates in the order itself. If an emergency order for custody is issued after the adoption of this Local Rule which does not provide a termination date, the emergency order shall be subject to dismissal for non-prosecution upon service of seven day notice of hearing and motion for dismissal filed by a parent. It shall be presumed that all emergency, ex-parte orders are not being prosecuted after ninety days of filing. The sole purpose of the hearing on a motion to dismiss for non-prosecution shall be the reasonableness of the scheduling of the shelter care and legal custody hearing.

E. Service of Summons:

1. Personal service is required on the parent having possession of the child;

- a. Publication is required on parent(s), alleged parent(s), unknown parent(s) whose names and addresses are unknown;
- b. All parents must be served according to law and these Local Rules; and
- c. Service must be completed before an Order of Legal Custody is issued.

### **35.10 AGREED PARENTING ORDERS**

A. Parents may file an Agreed Motion or Judgment Entry to Modify Parenting Order which shall contain the Parenting Proceeding Affidavit, an order of child support and the accompanying child support worksheet, and a Health Care Order. There shall be an Agreed Judgment Entry granting the Motion.

B. The Agreed Judgment Entry shall address:

1. The allocation of parental rights for the care of the child(ren) and a designation of residential parent and legal custodian.;
2. Child support with the appropriate child support worksheet attached;
3. An allocation of the income tax dependency exemption;
4. Disposition of arrearages or overpayments;
5. Visitation agreement, the parties may attach as an exhibit and incorporate this Court's visitation guidelines;
6. A Shared Parenting Plan if appropriate;
6. A Health Care Order.

C. Failure to comply with the provisions of this rule shall result in the denial of a request for attorney fees, unless jurisdiction to determine the issue of fees is expressly reserved in any order resulting from the hearing.

### **35.11 NON PARENT CUSTODY ORDERS**

## A. SCHOOL TUITION

The general rule in Ohio is that the child that lives with a custodial parent will be enrolled in the parent's school district. A transfer of custody from a parent to the other parent does not create a tuition problem for the school districts. The following language in the proposed decree or equivalent language is required:

<b>Language if a child is being placed with a parent in Ohio or another state.</b>
<i>"As the child will be residing with a parent, the school district of attendance will be responsible for the child's tuition."</i>

Transfer of custody to a non-parent creates a legal issue of school district reimbursement from one Ohio school district to another. If a child has an Individual Educational Plan (IEP), the tuition reimbursement can be substantial.

The following legal issues can arise when placement is made with a custodial non-parent:

1. When a child living in Ohio is placed with a non-parent who also lives in Ohio, Ohio Law requires the Ohio school district of the child's last custodial parent to reimburse tuition to the school district of attendance. *See Ohio Revised Code Section 2151.362.*
2. When a child has an IEP, the responsible Ohio school district can change as the parent's residence changes. *See Ohio Revised Code Section 3313.64.*
3. As a pre-condition to placement with an Ohio non-parent, the Trumbull County Family Court requires a child welfare history check; and if the proposed placement is not a biological grandparent, a criminal background check through the Trumbull County Sheriff and a CSB site safety/home safety audit.
4. If a child is coming from an out-of-state parent to an Ohio non-parent, besides school tuition concerns, there are FULL home study requirements AND financial guarantees required prior to custody being considered. *See Ohio Revised Code Section 2151.39 and the section dealing with the interstate placement of children.*

The following language or equivalent is required:

<b>Language if a child is being placed from an Ohio parent to an Ohio non-parent</b>
<i>"At the time of the adjudication, the minor child resided with a parent at **address and city, state** in the **school district name**. Said school district will be responsible for tuition reimbursement to the school district of attendance, subject to Ohio Revised Code Section 3313.64 determination, and Ohio Revised Code Section 2151.362 appeal and process of correction."</i>

<b>Language if a child is coming from out of state to an Ohio non-parent</b>
<i>"At the time of the placement, the parents reside out of state at **address, city, state**."</i>

*The applicant for custody has demonstrated the ability to financially provide for the child, passed a home study, and given financial guarantees for the child's expenses. Said applicant for custody will be responsible for school tuition reimbursement if required by the school district of attendance."*

**Reminder: if there is a child welfare reason that a child was removed from parental care, a home study or other investigation may be required to return custody to the parent.**

### **35.12 SUPPORT MOTIONS**

A. The party seeking a modification or establishment of child or spousal support shall bring with them to the hearing, documents and information to support Movant's position, which documents shall include, but not be limited to, the following:

1. Income and Expense Affidavit (Uniform DR Form Affidavit 1)
2. Health Insurance Affidavit (Uniform DR Form Affidavit 4)
3. The latest pay stub of movant and/or the opposing party
4. Written summary or proof as to the year-to-date gross income from all sources of Movant and/or the opposing party
5. Copies of the federal and/or state income tax returns, with all schedules attached thereto, for at least the prior tax year for the movant and/or the opposing party; and/or.
6. Any and all other documents or information related to the income of movant or any other factors to be considered in the preparation of the child support computation worksheet pursuant to Ohio Revised Code Section 3119.

B. Corroborating information and income calculation is required for both parties.

C. If needed, subpoenas must be issued prior to the scheduled hearing with sufficient time for service to be completed and/or for the subpoenaed party to respond to the subpoena pursuant to Civil Rule 45.

### **RULE 36 GUARDIAN AD LITEM**

A. **WHEN APPOINTED:** Whenever the Court finds that it is necessary to appoint a Guardian ad Litem (hereinafter referred to as GAL), to protect the interest of the child or when the Court is required to do so by statute or rule, it shall appoint a GAL pursuant to these Rules.

B. **QUALIFICATIONS:**

1. A GAL shall have the following qualifications:

- a. Possess a law degree;
- b. Be an attorney licensed to practice in the State of Ohio and be in good standing with the Supreme Court of Ohio;
- c. Completion of GAL training that concentrates solely on the duties of a GAL, as established by the Ohio Supreme Court;
- d. Completion of continuing GAL training annually, to begin twelve (12) months immediately following the training required in subparagraph (iii) above, as established by the Ohio Supreme Court; and
- e. Maintenance of appropriate malpractice insurance;
- f. Annually certify that there are no circumstances, criminal or civil, which would disqualify the individual from service.

2. Attorneys who meet these criteria and desire to be placed on the Court's GAL appointment list must submit an application to the Administrative Judge, or the Judge's designee for approval.

3. Once the Court has placed an attorney on the appointment list, the Attorney shall provide the Court with a statement indicating compliance with all continuing educational and training requirements to remain on the appointment list for the next twelve months.

- a. The compliance statement shall include information detailing the date, location, contents, and credit hours of any relevant training or education received by the GAL.
- b. The GAL must annually certify that there are no circumstances criminal or civil which would disqualify the individual from service.

#### C. HOW APPOINTED:

1. When a judge or magistrate wishes to appoint a GAL, the request shall be forwarded to the magistrate's secretary who shall identify the next three (3) qualified GAL's from a list maintained by the secretary. The judge or magistrate shall appoint one of the GALs from that selection and advise the secretary. When it is determined that a unique set of circumstances exists, the judge or magistrate may appoint any individual from the qualified GAL list. Notice of such selection shall be sent to the secretary.
2. The Court shall notify the Assignment Office of the appointment of a GAL. The Assignment Office shall notify the GAL of all proceedings.
3. If there is a previously appointed GAL on a reopened case, that GAL shall be reappointed, unless for good cause shown, a new GAL should be appointed.

#### D. COMPENSATION:

1. A GAL shall be compensated at the rate established by the Ohio Public Defender's Office. A cap on GAL fees for each case shall be \$1,000.00.

Extraordinary fees in excess of \$1,000.00 may be considered by the Court upon the filing of a motion and an affidavit.

2. At the time of the GAL's appointment, the Court may order one or both of the parties to pay an initial retainer directly to the GAL, and the Court will designate how additional fees incurred by the GAL will be allocated.

3. Upon motion for payment of GAL fees, the Court shall determine if the fee sought by the GAL is reasonable and necessary and determine the amount each party shall contribute toward the fee.

4. No later than seven days after the final hearing in the matter on which the GAL has been appointed, the GAL shall submit an affidavit of fees to the Court. If said fees are approved by the Court, the Court will seek to make the payment of the approved fees as a part of the final entry. Nothing herein shall delay the filing of said entries, and they shall be filed in accordance with the Rules of Supreme Court as to Civil Procedure and Superintendence.

#### E. CONFLICTS:

1. When appropriate, the Court may also appoint an attorney to be the child's legal counsel. When the Court makes such an appointment, the attorney shall advocate for the child's best interest and the child's wishes in a vigorous manner conforming to the Ohio Rules of Professional Conduct. When an attorney serving in this dual role determines that a conflict exists between the child's best interest and the child's wishes, the attorney shall, at the earliest practical time, request the Court to promptly resolve the conflict by entering appropriate orders. The GAL shall immediately move for permission to withdraw (as legal counsel or GAL). In the event of such withdrawal, the Court may appoint a successor (legal counsel or GAL), from the list of qualified attorneys maintained in accordance with this rule.

#### F. POWERS and RESPONSIBILITIES:

1. The GAL shall have all powers and responsibilities as set forth in Ohio Rules of Superintendence, Rule 48.

2. The powers of the GAL shall be wide-ranging, including, but not limited to, the right to file motions and to review all confidential records involving the child by request, subpoena, and/or through deposition. The GAL may subpoena and examine independent witnesses.

3. All filing fees and court costs are waived as to GALs.

#### G. Immunity:

Any GAL who makes a recommendation or conducts an investigation concerning the interests of the child in a proceeding in which the GAL is appointed shall be immune from civil or criminal liability as to that investigation or recommendation unless the GAL has acted in bad faith or with malicious purpose.

#### H. Guardian Ad Litem Complaint Procedure:

If a person has a complaint about a Guardian Ad Litem's performance and the person is not able to first resolve the issue with the Guardian Ad Litem, the following procedure shall be used to address the complaint.

1. The Magistrate's Secretary shall be the person appointed by this court for accepting written complaints regarding the performance of Guardians Ad Litem practicing before this court as required by Rule 48 of the Ohio Rules of Superintendence.
2. The complaint shall be in writing and signed by the complainant.
3. The complainant shall identify the Guardian Ad Litem with whom there is a concern and the full details of the issue or concerns.

#### I. Procedure:

1. The written complaint shall be tendered to the Magistrate's Secretary on the second floor of the Family Court Building, 220 South Main Avenue, Warren, Ohio 44482.
2. The Magistrate's Secretary shall deliver a copy of the complaint to the Judge not assigned to the case.
3. Upon receipt of the complaint, the Judge shall review the complaint for appropriate action and meet with the Guardian Ad Litem at the earliest possible opportunity.
4. The Judge shall notify the complainant and the Guardian Ad Litem of the disposition of the complaint.
5. The Judge shall also place a written record in the Guardian Ad Litem's file regarding the nature and disposition of the complaint.

### **RULE 37 ABUSE, DEPENDENCY AND NEGLECT CASES**

All cases alleging dependency, neglect and/or abuse of a child shall proceed as follows:

#### **37.01 SHELTER CARE HEARING**

If an order of ex-parte custody is granted, a shelter care hearing shall be held the next business day, but no later than seventy-two (72) hours after the removal of the child. Request for appointment of counsel and/or a Guardian ad Litem shall be reviewed by the Judge or Magistrate assigned. A shelter care hearing may be adjourned for the taking of testimony and/or evidence. A hearing so adjourned shall be rescheduled within ten (10) days before the Judge or a Magistrate by the Assignment Officer. Notice of the date, place and time on which the shelter care hearing shall reconvene shall be given to the parent, guardian or custodian at the time of adjournment.

#### **37.02 ADJUDICATORY HEARING**



A hearing to adjudicate the issues raised in the complaint shall be scheduled within thirty (30) days after the earlier of the date of filing of the complaint or the date of removal of the child. The adjudicatory hearing may be adjourned for perfection of service or retention of counsel pursuant to statutory provisions. If the parties stipulate to the allegations in the complaint or admit that the child is neglected, dependent, or abused, the Judge or Magistrate shall make a ruling as required by statute.

### **37.03 DISPOSITIONAL HEARING**

A dispositional hearing shall be scheduled according to law. The parties may request that the adjudicatory hearing and dispositional hearing be separated.

### **37.04 CASE PLANS**

Case plans shall be submitted in accordance with applicable statutes and administrative regulations.

### **37.05 DISPOSITIONAL REVIEWS/ANNUAL REVIEWS**

If the Court issues an order of temporary custody, permanent custody, or protective supervision, the Court will conduct a dispositional review not less than five (5) weeks prior to the statutory time limit for the annual review.

### **37.06 SEMI-ANNUAL REVIEW (SAR)**

Trumbull County Children Services Board (“CSB”) will conduct its administrative hearings as required by law, and file said reports with the Court as therein specified. Pursuant to statute, objections to the SAR report may be filed with the Court.

### **37.07 CUSTODY INVESTIGATION**

Prior to each hearing where a child is in the custody of CSB, or in the custody of a parent under protective supervision, or in the temporary custody of a relative, CSB is directed to do a home study of the children’s present and proposed placement to ensure the child’s needs are being met and that the placement is safe and appropriate.

### **37.08 SPECIALIZED DOCKET PROGRAM**

#### **A. Establishment of Trumbull County Family Dependency Treatment Court Docket**

1. Commencing June 1, 2009, Trumbull County Family Court shall create a specialized docket pursuant to Sup. R. 36.20 – 36.29 for the purpose of improving the safety and welfare of children while supporting the recovery of their parents from alcohol and drug addiction through comprehensive treatment services and judicial supervision. This docket shall be known as the “Trumbull County Family Dependency Treatment Court” (FDTC).

2. The target population of FDTC is Trumbull County parents with alcohol and drug addiction who have lost, or are in danger of losing permanent custody of their children due to their addiction.
3. The goals of the specialized docket are (1) to establish a permanent placement for the child(ren) in a timely fashion while providing comprehensive and intensive substance abuse treatment and holistic services, (2) to help addicted parents achieve sobriety, receive appropriate treatment, and make positive changes in their lives and the lives of their child(ren), and (3) to enable parents to function better in their families and communities, thereby being less likely to have future involvement with the courts and the child welfare system.

#### B. Placement in Family Dependency Treatment Court.

Referrals to the FDTC originate with the Trumbull County Children Services Agency through their dedicated treatment court caseworker. The caseworker meets with the client to determine if the client meets the eligibility criteria. If so, the caseworker and the CSB attorney initiate the referral to the court through the FDTC Facilitator.

1. Referrals may be made to CSB for FDTC from CSB clients, treatment providers, probation officers, or attorneys. Referrals become formal at the time the potential participant signs the Magistrate's Order of Referral to FDTC.
2. To be eligible for FDTC, parents must be currently involved in a CSB initiated abuse, neglect, or dependency case in Trumbull County Family Court in danger of losing permanent custody of their child(ren), be willing to work with CSB and comply with a case plan, and be residents of Trumbull County. Clinically, parents must be assessed with a DSM IV diagnosis of drug and /or alcohol dependency or a DSM V diagnosis of addiction.
3. Disqualifying legal factors are severe physical abuse, sexual abuse or history of violent criminal acts. Long term noncompliance with mental health and/or chemical dependency treatment is a disqualifying clinical criterion.

#### C. Case Assignment in Multi-judge Courts

A Trumbull County Family Court magistrate shall preside over the FDTC docket. A different magistrate shall preside over the child dependency docket. Upon acceptance to FDTC, an order reflecting the acceptance is docketed in the dependency case. The dependency case remains open for purposes of contempt and review hearings. The FDTC proceedings run concurrently. Upon termination from FDTC for any reason, an order is filed in the dependency case and the matter continues on the dependency docket.

#### D. FDTC Docket Case Management.

1. FDTC is conducted weekly in two parts. Each Friday at 10:00 a.m., the treatment team, made up of treatment providers, child welfare and other service providers, facilitator and magistrate meet to discuss the progress of the participants. Each Friday at 11:00 a.m., court convenes with the treatment team

and participants at a status review hearing. Participants attend according to their current phase schedule, initially every week.

2. Participants comply with CSB case plans and treatment recommendations.
3. The FDTC program description, participant handbook and participation agreement are available by request.
4. The proceedings in the FDTC shall be retained separately from the dependency case by the Facilitator and shall be confidential.

#### E. Termination from FDTC Docket.

A participant shall be terminated for continued noncompliance with the CSB case plan, mental health and/or chemical dependency treatment, or program requirements. Upon termination from FDTC, an order is filed in the dependency case and the matter continues on the dependency docket, with further dispositional hearing and possible motion for permanency by CSB.

### **37.09 JUVENILE DRUG COURT**

#### A. Establishment of Juvenile Drug Court (JDC)

Trumbull County Family Court on July 3, 2014, created a specialized docket pursuant to Sup.R.36.20 through 36.29 for the purpose of serving court involved youth with substance abuse issues through comprehensive treatment services and judicial supervision. This docket shall be known as "Juvenile Drug Court." The goals of the program are to have youth become substance abuse free, maintain compliance with court orders, complete probation, and become productive members of the community.

#### B. Placement in Juvenile Drug Court

Court involved youth that have been identified through an Ohio Youth Assessment System as moderate to high risk with the specific substance abuse domain registering high risk, will be considered for the program. To be eligible the youth must meet Intensive Out-Patient level of care, be a resident of Trumbull County, be between the ages of 13 to 17 upon entering the program, and have a pending felony or first or second degree misdemeanor charge. Discretion can be used when evaluating age of youth, OYAS score criteria, and charge when applicable.

Disqualifying legal factors are any felony 1 & 2 charges, gun specification charges, drug trafficking charges, Sex Offenders, any Burglary charge that does not have the victim consent to enter the program, offenses of violence, or any youth eligible for bind over/SYO. Disqualifying clinical criteria includes individuals with severe mental illness that affects the ability to complete the program or developmentally does not have the capacity to complete the program.

#### C. Juvenile Drug Court Docket Case Management

Juvenile Drug Court is conducted weekly in two parts. Each Thursday at 3:00pm, the treatment team, made up of treatment providers, coordinator, magistrate, and prosecutor meet to discuss the progress of the participants. Each Thursday at 3:30pm, court convenes with the treatment team and participants. Participants attend according to their current phase schedule.

The Juvenile Drug Court program description, participant handbook, and participation agreement are attached and incorporated herein.

**D. Termination from the Juvenile Drug Court Docket**

A participant shall be terminated for continued non-compliance with program requirements, and/or treatment plan. Any new criminal adjudications or failure to follow probation rules are also factors in termination from the program. Upon termination, the case will be set for disposition and returned to the regular docket.

**RULE 38 DOMESTIC VIOLENCE**

**A. PLEADING:**

1. An action may be initiated by filing a Petition of Domestic Violence as provided by the Ohio Supreme Court.
2. The pleading must set forth all information required to be included by Ohio Revised Code 3113.31 and must be supported by an affidavit of the party seeking relief.
3. Any other case(s) pending or decided, in this Court or another, involving custody, support, companionship, divorce, legal separation, CSB, or criminal disputes involving the parties and family members covered by the requested CPO must be disclosed in the Petition.

**B. PROCEDURE:**

1. If an ex-parte temporary civil protection order (CPO) is being sought, the petition must first be filed with the Clerk of Courts. A time-stamped copy of the Petition and a proposed journal entry granting the relief requested under the Petition must be presented to the Court for review at the ex-parte hearing.
2. If the requested relief is granted, the Court shall set a date and time for a full hearing within seven (7) court days of the ex-parte hearing if the order issued is one described in Ohio Revised Code 3113.31(E)(1)(b),(c). For an order issued under division (E)(1)(a), (d), (e), (f), (g), and (h), a full hearing shall be scheduled within ten (10) days after the ex-parte hearing.
3. After a date and time for the full hearing have been assigned, by the Assignment Officer, the temporary protective order shall be presented for journalization with the Clerk of Courts. The aforesaid temporary protective order being in the nature of a civil protection order, the same shall be stamped CPO and enforced as such by area law enforcement.

4. Once the temporary protective order is granted, a copy of the petition shall be served on the Respondent. A copy of any protective order issued (whether it results from an ex-parte or full hearing) shall also be served on Respondent and on any appropriate local law enforcement agency pursuant to Ohio Revised Code 3113.31(F)(1).

5. Upon hearing duly had, the Judicial Officer will issue any appropriate order under the domestic violence section of the Ohio Revised Code. If there are any orders dealing with restraining conduct or exclusive occupancy of a residence, or custody of minor children, said order shall be filed as a civil protection order and stamped CPO and enforced as such by area law enforcement.

### C. DURATION OF CIVIL PROTECTION ORDERS (CPO)

1. Any order issued subsequent to a full hearing on the petition shall be effective for:

- a. The maximum period of time permitted by statute; or
- b. A lesser period as set by the Court.

2. Unless otherwise modified by court order or statute, any portion of a domestic violence or civil protection order (CPO) pertaining to custody, visitation or support shall terminate after the filing of an action for divorce, dissolution or legal separation and the issuance of an order in said domestic relations case. However, the portion of the protective order dealing with conduct, exclusive occupancy of the residence and harassment shall remain in full force and effect until vacated by court order. A CPO shall remain in effect and continue to be enforced by law enforcement until clearly vacated by another court order or the order expires under law.

## **RULE 39 FULL FAITH AND CREDIT**

### **39.01 REGISTRATION OF A FOREIGN DECREE FOR ENFORCEMENT OR MODIFICATION OF PARENTING OR PARENTING TIME ORDER UNDER THE UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT (UCCJEA)**

A. A foreign decree may be registered with this Court pursuant to Ohio Revised Code 3127.01 for the purpose of enforcing or modifying any provision therein pertaining to parenting or parenting time. The registration of a decree pursuant to this Rule does not vest this Court with jurisdiction to act with regard to any provision pertaining to child support, spousal support or property division. If a party is seeking enforcement or modification of a parenting or parenting time order, this Court must be able to exercise jurisdiction in accordance with the conditions of Ohio Revised Code 3127, and the Federal Parental Kidnapping and Prevention. (PKPA).

B. The party seeking to register the foreign decree under the UCCJEA shall file and serve on the opposing party a Petition requesting such registration. The Petition, with a

certified copy of the foreign decree attached and a parenting custody affidavit, shall be filed with the Clerk, where it shall be entered and assigned a case number.

Once this is done and the Court has determined that it is able to exercise jurisdiction in accordance with the conditions of Ohio Revised Code 3127, 2303.01, and the federal PKPA the decree may be acted upon as if it were a decree of this Court. No petition for registration of a foreign decree will be accepted without an accompanying motion for relief.

C. Any motion(s) to be filed on the foreign decree, may be filed at the same time the decree is registered and filed. The motion must be served on the opposing party. The matter shall then be set for a hearing by the Assignment Officer.

### **39.02 REGISTRATION OF A FOREIGN DECREE FOR ENFORCEMENT OR MODIFICATION OF SUPPORT**

A. A foreign order may be registered with this Court pursuant to Ohio Revised Code 3115.39 for the purpose of enforcing or modifying any provision therein pertaining to support.

B. The party or attorney seeking to register a foreign support or income withholding order shall also file and serve upon the nonregistering party a notice of registration of a foreign support order pursuant to Ohio Revised Code 3115.42.

C. Any complaint or motion to be filed on the foreign decree may be filed at the same time as the request for registration of the foreign order. The motion must also be served on the opposing party in accordance with the Civil Rules.

## **RULE 40 JUVENILE COURT RULES OF PRACTICE FOR DELINQUENCY/UNRULY HEARINGS AND ADULT CONTRIBUTING HEARINGS**

### **40.01 COURT RECORDS**

A. Reports and records of the Probation Department and Trumbull County Children Services Board shall be considered confidential information and shall not be made available to the general public. The inspection of Court records by attorneys and other interested parties shall be governed by Rule 32(c) of the Ohio Rules of Juvenile Procedure. Any probation, social history, physical, or mental examination prepared at the direction of the Court shall not be copied by any party without leave of the Court. The Court may limit or deny the inspection of said documents for good cause pursuant to Rule 32(c).

B. Family history files shall be considered confidential information and shall not be made public. Inspection by attorneys or any interested parties may be allowed by leave of the Court.

C. Record checks by counsel, law enforcement, and other agencies shall be directed to the Intake/Delinquency Department of this Court, which shall provide reasonable access to public records.

#### **40.02 APPOINTMENT OF COUNSEL**

A. The Court shall maintain a file with the names of attorneys who have requested or volunteered to accept appointments. The Court shall provide the name and telephone number of the appointed counsel to the party for whom counsel is appointed. The Court shall also provide notice of all future hearings to the appointed counsel.

B. Rates of compensation shall be determined by the Supreme Court or the Public Defender's office. In addition, reasonable and necessary expenses may be allowed, upon prior approval of the trial Judge or Magistrate. These expenses may include, but not be limited to, expert witness fees, polygraph costs, long distance telephone charges, photocopying, certain travel expenses, and other necessary items previously approved by the Court. The trial Judge and/or Magistrate may not allow reimbursement for fixed overhead expenses, court transcripts or depositions except as required by law.

C. Requests for extraordinary fees must be made by written motion and should be submitted with supporting information, including, but not limited to, all regular billing documents, to the assigned Judge or Magistrate.

D. All applications for fees and/or expenses are to be submitted on the forms approved and provided by the Court, within thirty (30) days of counsel's last activity on the case. It also is the responsibility of counsel to have an affidavit of indigency filed with the application for payment of fees. Any interim bills must be approved by the Judge.

#### **40.03 DETENTION/SHELTER CARE HEARINGS**

A. All juveniles received into detention or shelter care shall be brought before a Magistrate or Judge for a Detention/Shelter Care Hearing within twenty-four (24) hours except on weekends and holiday admissions, and then within seventy-two (72) hours.

B. An objection to detention may be filed in writing requesting a review by a Judge. The Judge shall set the matter as soon as possible.

C. Request for Detention/Shelter Care Hearings based upon new information shall be in writing and will be heard on the next court date, or as soon as practicable.

#### **40.04 MEDIA, PHOTOGRAPHING AND BROADCASTING OF COURT PROCEEDINGS**

A. For the purposes of these rules, the term "Media" shall be understood to encompass representatives from any print or broadcast media

B. Hearings that are governed by the Ohio Rules of Civil Procedure or by the Ohio Rules of Criminal Procedure shall be open to the public, subject to closure by the Court. Hearings that are governed by the Ohio Rules of Juvenile Procedure are neither presumptively open nor presumptively closed to the public and the media.

C. Written requests to permit the presence of the public or the media shall be made by the person or media representative seeking to be present for any hearing not generally open to the public. The request shall specify the case, date, the name, address, telephone number of the person or media company seeking to be present along with the number of persons and the type of equipment expected to be brought into the courtroom. Any request shall be made to the Judge as far in advanced as reasonably practicable, but in no event, later than twenty four (24) hours prior to the courtroom session to be broadcast, recorded or photographed, unless otherwise permitted by the assigned Judge for good cause shown.

Members of the media or public shall not be permitted to enter the courtroom or chambers without judicial approval.

Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client; and between the judge or magistrate and counsel at the bench.

The Court shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed. Upon objection, the witness or victim shall not be recorded.

D. In the event the assigned Judge approves the media request, the Judge shall prepare and sign a journal entry setting forth the conditions of the media broadcasting, televising, recording or photographing. This entry shall be made a part of the record of the case.

E. No portable recording devices may be used by the news media without the permission of the assigned Judge.

F. No juvenile shall be photographed, videotaped or televised from the front or the side. All juveniles shall be photographed, videotaped, or televised only from behind.

G. Upon the failure of any of the media representative(s) to comply with the conditions prescribed by the assigned Judge, the Rules of Superintendence of the Ohio Supreme Court, or this Rule, the Judge may revoke permission to broadcast, photograph or record the trial or hearing.

#### **40.05 TRANSCRIPTS/RECORDING OF PROCEEDINGS**

A. Pursuant to Rule 37 of the Ohio Rules of Juvenile Procedure, a complete record of all testimony or other oral proceedings shall be taken in shorthand, stenotype, or by any other adequate mechanical or electronic recording device.



B. No public use shall be made by any person, including a party, of any record or transcript thereof except in the course of the proceeding, an appeal, or as authorized by the Court.

C. The request for making of transcripts shall be filed with the Clerk of Courts pending the filing of a Notice of Appeal. The cost of same shall be as the Court determines at a per page amount, or an amount per tape. At the time of ordering the transcript, the ordering counsel or party shall arrange payment.

D. Requests for transcripts for the benefit for indigent parties shall be submitted to the Court and supported by an Order of the Court directing the transcript be prepared at public expense. This Order shall serve in lieu of the deposit otherwise required.

#### **40.06 DETAINERS**

A detainer for a juvenile will be issued only upon the authorization of a Judge or Magistrate.

#### **40.07 TRAFFIC OFFENDERS/MISDEMEANOR CITATIONS**

A. Traffic matters shall be heard by a court Magistrate, unless a hearing before a Judge is requested in writing, and the request is approved by the assigned Judge.

The following offenses require an appearance before the Court for adjudication:

1. Minor misdemeanors filed on citations;
2. Second and subsequent moving violations within one year of the first citation and all third moving violations;
3. Reckless operation of a motor vehicle;
4. Leaving the scene of an accident;
5. Fleeing a police officer;
6. Operating a motor vehicle while under the influence of drugs and/or alcohol.
7. Passing a loading or unloading school bus;
8. Operating a motor vehicle without a valid driver's license;
9. Operating a vehicle while under suspension or revocation;
10. Offense involving serious injury or property damage;
11. Speeding in excess of fourteen (14) m.p.h. over the posted speed limit;
12. Drag racing;
13. Riding/transporting outside the vehicle; and
14. The Court reserves the right to set a hearing on any matter before a Judge or Magistrate.

B. Upon determination of the Juvenile Clerk's office that a mandatory appearance is not required, a juvenile traffic offender may elect to proceed without a court appearance upon the following conditions:

1. That a parent, guardian or attorney must be present with the offender and a waiver must be executed.
2. Said waiver shall constitute an admission to the facts as alleged in the complaint and to the traffic violation. It further will constitute a waiver of the right to trial, the right to confront and cross-examine witnesses against the offender, the right to remain silent, and the right to counsel. Upon said admission and waiver, a fine shall be assessed by the Court in accordance with the schedules established by the Court.

#### **40.08 EXPUNGEMENTS AND SEALING OF RECORDS**

A. All expungements shall be made in accordance with Section 2151.358 of the Ohio Revised Code. Any person seeking expungement of juvenile matters shall file a Motion of Expungement with the Clerk of Courts.

B. After notice to the Prosecutor's office, the Court shall conduct a hearing to determine whether the expungement should be granted. If the Motion for Expungement is granted, the Clerk of Courts shall notify all appropriate court departments and law enforcement agencies.

#### **40.09 MAGISTRATE HEARINGS**

A. Magistrates shall conduct arraignments in adult criminal proceedings under criminal Rules 10 and 19, and shall conduct hearings in complaints initiated in the Juvenile Branch for custody, delinquency, unruliness, parentage, juvenile traffic offenses, and for abuse, neglect and dependency. In addition to the above duties, Magistrates shall hear the following matters:

1. All Motions, except probable cause and amenability hearings, conducted in proceedings to transfer jurisdiction for purposes of criminal prosecution pursuant to Juvenile Rule 30 and Ohio Revised Code 2151.26;
- 2 Applications to expunge or seal a juvenile record; and/or;
- 3 Any other hearing the Judge deems appropriate and is allowed by law.

#### **40.10 JURIES AND JURORS**

A. The Trumbull County Family Court will participate in the jury system as established, administered and operated by the Trumbull County Court of Common Pleas.

#### **RULE 41 SECURITY**

Pursuant to Rule 9 of the Rules of Superintendence for Ohio Courts, the Court has implemented a local security policy and procedure plan, which addresses the Ohio Court Security Standards adopted by the Supreme Court of Ohio.

All persons entering the Court shall pass through a security checkpoint and have all packages large enough to conceal a weapon or dangerous ordinance pass through an x-ray machine. No weapons or other instrument, ordinance or device which may cause bodily harm will be permitted into the Court, except that law enforcement officers acting within the scope of their employment as a witness or on official business shall be allowed to carry their official sidearm. Law enforcement officers appearing on their own case will be not allowed to carry a weapon or dangerous ordinance into the Court.

#### **RULE 42 THE USE OF RESTRAINTS IN JUVENILE COURT PROCEEDINGS**

The use of any physical restraints on any child appearing before the court shall only occur if the judge or magistrate has made a determination on the record that there is no less restrictive alternative to the use of physical restraint and is necessary because:

- 1) The child poses a current and significant threat to the safety of the child or others present in the courtroom, and/ or
- 2) There is a significant risk that the child will flee the courtroom

The court shall permit any party, as defined under Juv.R 2(Y), to be heard on the issue of whether the use of physical restraint is necessary for the child at that specific hearing.

If physical restraint is found necessary by the court, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.