

**RULES OF THE COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION  
LORAIN COUNTY, OHIO**

**EFFECTIVE FEBRUARY 1, 2007**

**David A. Basinski, Judge  
Debra L. Boros, Judge  
David J. Berta, Judge**



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**RULES OF THE COURT OF COMMON PLEAS  
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**1. SCOPE OF RULES**

- A. The Domestic Relations Division of the Common Pleas Court for Lorain County, Ohio, adopts the following rules for the management of proceedings and other functions of the court pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio. The court may amend these rules from time to time as needed or as required by law.
- B. These rules are intended to supplement and complement the Ohio Rules of Civil Procedure, the Superintendence Rules of the Supreme Court of Ohio, and other controlling statutes.
- C. These rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings of this court. In their application, they shall be construed so as to provide fairness and to secure a just, expeditious and inexpensive determination of all proceedings. They shall apply to proceedings pending at the time they take effect.
- D. These rules shall be effective February 1, 2007, and supersede all previous rules promulgated by this court.

**2. SECURITY FOR COSTS**

**A. Costs Deposit**

The Clerk of Courts shall not accept any action or proceeding for filing without a deposit as security for costs in the sums set forth in the Clerk's Schedule of Costs. Child Support Enforcement Agency filings and Domestic Violence filings are exceptions to this requirement.

**B. In Forma Pauperis**

The deposit for costs shall be considered to be met if a party files a Poverty Affidavit to proceed In Forma Pauperis, swearing that the party is without funds or assets to pay the deposit, and there is a certification by the attorney, if any, that

no attorney fees have been paid. After the filing of such an Affidavit, the court may examine the party to determine if there are sufficient facts to support a conclusion that substantial justice requires that the party be relieved from liability for court costs. The court shall consider the guidelines set forth by the Ohio Public Defender's Office in making the determination. Nothing herein shall be construed to prevent the court from assessing costs.

C. Subsequent Deposit

If, during the course of a proceeding, the court determines that a party who has filed an Affidavit of Poverty is or has become able to pay the applicable costs deposit, the Court may order that party to pay the deposit within a reasonable period of time commensurate with the circumstances.

D. Responsibility for Costs

All judgment entries shall contain a provision allocating payment of costs. In the absence of any provision, after application of deposits, the balance of costs shall be paid as follows: by the Plaintiff in an uncontested divorce, legal separation or annulment proceeding; equally between the parties in a contested divorce proceeding or dissolution proceeding; by the Respondent in a domestic violence proceeding; the obligor in any proceeding relating to the enforcement or modification of a support order, and by the moving party in a post-decree proceeding. The court or Clerk of Courts may require an additional deposit during the pendency of an action.

E. Court Deposits Applied

Upon final judgment, the Clerk of Courts is directed to apply the deposit to the costs in the case, regardless of the party against whom costs are assessed. The Clerk shall assess the costs against the proper party, reimbursing the deposit when appropriate.

F. Court Deposit Schedule

1. Complaint or Petition - \$200.00
2. Post Decree Motion - \$100.00
3. Counterclaim or countermotion - \$100.00
4. Service by Sheriff - \$50.00

5. Notice of Appeal - \$125.00
  6. Additional deposit with minor children - \$50.00
  7. Minimum bond for ex parte orders - \$50.00
  8. Service of subpoena - \$20.00
  9. Subpoena if attorney makes service – No Charge
  10. Certified Copies - \$1.00 per page
- The Clerk may amend these costs from time to time.

### **3. REMOVAL OF PAPERS FROM CUSTODY OF THE CLERK**

#### **A. Removal**

No person, except a Judge or Magistrate or representative of either, shall remove any documents or case files from the custody of the Clerk of Courts. However, attorneys may be permitted to temporarily remove a file for a limited period of time for review, upon conditions set by the Clerk and/or the Court.

#### **B. Examination**

Upon request, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during the regular business hours of the Clerk.

#### **C. Duplication.**

Upon request and the payment of fees fixed by law, the Clerk shall provide copies of any original document maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk.

#### **D. Transcripts**

All transcripts of testimony that are filed with the Clerk of Courts may be examined and/or duplicated in accordance with the following procedures:

##### **1. Removal**

No filed original transcript of testimony may be removed from the Clerk's Office without an order of the Court.

2. Examination

Upon request, the Clerk shall allow any individual to examine, but not remove, any original transcript of testimony that has been filed with its office. Examination shall be allowed during the regular business hours of the Clerk.

3. Duplication

Upon request to the Official Court Reporter and the payment of fees fixed by the Court, copies of a filed transcript will be made available within a reasonable time.

**4. COURT DECORUM**

- A. At court hearings, all parties and witnesses shall be properly attired. If the parties are not properly attired, the Court may continue the hearing.
- B. Parents are encouraged not to bring children to any hearing, unless otherwise ordered by the Court.

**5. PLEADINGS AND MOTIONS**

A. Form

- 1. All pleadings, motions, briefs and other papers shall be legibly typewritten or printed on letter size paper (approximately 8 ½” x 11”), without backing or cover, and printed on only one side.
- 2. The caption in every complaint or petition shall state the name, address, Social Security Number and date of birth, if known, of each party.
- 3. The caption of subsequent pleadings, motions and other papers shall state the case number, the name of the Judge to whom the case is assigned, and the name of the first party Plaintiff and the first party Defendant.
- 4. All captions shall briefly describe the general nature of the action.
- 5. Every pleading, motion and other paper filed in the cause shall be identified by title and shall bear the name, address, telephone number, fax number, and business e-mail address of the attorney or the party filing the same. If the filing is made by an attorney, the Supreme Court Registration Number of the

attorney and the name of the firm with which the attorney is affiliated, if any, must also be included.

6. In all cases, a blank space of at least three (3) inches shall be left at the top of the first page.

**B. Parenting Proceeding Affidavit**

All parties involved in a proceeding concerning the allocation of parental rights and responsibilities shall file a Parenting Proceeding Affidavit pursuant to O.R.C. 3127.23. The affidavits shall be attached to and filed with each party's initial pleading or motion regarding parenting. A party who has filed no pleading, motion or other document regarding parenting shall nonetheless file the affidavit. All Parenting Proceeding Affidavits shall be served upon each of the parties as provided under the Civil Rules.

**C. Electronic transmission to the court (FAX) of pleadings and motions shall not constitute filing.**

**6. ASSIGNMENT OF CASES**

**A.** All cases filed on or after December 1, 1998, shall be assigned to a Judge by random generation through the computer of the Clerk of Courts. All cases filed prior to January 4, 1989, which are subsequently reopened shall be assigned as follows: Case Numbers ending in 1-3-5 - Judge David A. Basinski; Case Numbers ending in 2-4-6 – Judge David J. Berta; Case Numbers ending in 7-8-9-0 – Judge Debra L. Boros. All cases filed between January 4, 1989, and November 30, 1998, ending in case numbers 7-8-9-0, which are subsequently reopened, shall be assigned to Judge Debra L. Boros.

**B.** Any exceptions to or transfers of these assignments must be entered upon the docket and shall set forth specific reasons for the exception or transfer.

**C.** Where it happens that both parties have filed complaints for divorce, legal separation or annulment, the court, on its own motion or the motion of a party, shall consolidate the cases. The matter shall proceed under the case number of the complaint upon which service was first obtained, upon the docket of the Judge first assigned, and the other complaint shall operate as a counterclaim upon

service thereof. Any orders issued prior to consolidation remain in full force and effect.

## **7. SERVICE OF COPIES AND NOTICE**

- A. All service of copies and notice to parties must comply with Civil Rules 4 and 5.
- B. Waiver of service of summons by a party must be notarized.
- C. Pursuant to Ohio Rules of Civil Procedure, Rule 4.4(A)(2) Residence Unknown, the following locations have been designated for the posting of notices in accordance with this Rule:
  - 1. Lorain County Justice Center
  - 2. Elyria Municipal Court
  - 3. Lorain Municipal Court, Lorain City Hall
- D. Service of Post Decree Motions
  - 1. Service must be obtained in accordance with Civil Rule 4 through 4.6 and must be made directly upon all parties.

## **8. PARENTING SEMINAR**

- A. All parties filing initial actions in which there are any minor children shall attend an educational seminar for parents sponsored by the court. Seminar attendance may also be required by order of the court after the filing of motions concerning the modification of parental rights and responsibilities and modification or enforcement of parenting time.
- B. Initial actions include divorce, dissolution, and legal separation.
- C. Every party and/or attorney filing an initial action with minor children shall submit a completed “Notice of Parenting Seminar” for each parent, custodian or other interested party involved in the action. The Clerk of Courts shall not accept for filing any case that does not have the “Notice of Parenting Seminar.” The Clerk of Courts shall forward this notice to Family Divorce Services, who shall schedule attendance at the appropriate seminar and issue notice to the parties.

D. Should any party fail to attend the seminar within forty-five (45) days after the commencement of the action, notice of non-attendance shall be forwarded to counsel of record or the party, if unrepresented. Failure by any party to reschedule and attend a subsequent seminar within ninety (90) days of the original action shall be reported to the Court by Family Divorce Services.

- 1) No action shall proceed to final hearing until there has been compliance with this rule provided, however, that non-compliance by a party who does not enter an appearance or does not contest the action shall not delay the final hearing.
- 2) No person shall be designated residential parent and legal custodian of any minor child without attending the Parenting Seminar, except under extraordinary circumstances.
- 3) No Shared Parenting Plan shall be approved unless both parties have attended the seminar.
- 4) Parenting Time Orders shall be held in abeyance until such time as the parent seeking parenting time has completed the seminar.
- 5) The Court, for good cause shown, may waive this requirement.

E. Failure by any party to comply with this rule may result in the imposition of appropriate sanctions, including, but not limited to, those contained in this rule, contempt of court, or dismissal of their pleadings.

## **9. MATTERS SCHEDULED WITH JUDGE**

A. The following matters and hearings shall be scheduled with a Judge unless otherwise ordered:

1. All final hearings upon divorce, dissolution, and change of residential parent;
2. Motions for reinstatement of a dismissed case;
3. Motions for new trial;
4. Motions for relief from judgment (Civil Rule 60(B));
5. Final imposition of sentence;
6. Objections to Magistrate's Decision;
7. Any other motion as deemed appropriate by the Court.

## **10. MATTERS SCHEDULED WITH MAGISTRATES**

- A. Magistrates shall be appointed by the Court to hear cases referred in accordance with Civil Rule 53, and have all powers conferred by the rule. Pursuant to the General Order of Reference, Magistrates may hear:
1. Motions to establish or modify child support;
  2. Child support issues as referred by Child Support Enforcement Agency;
  3. Motions to establish or modify parenting time rights;
  4. Motions to show cause;
  5. Motions to set aside the Magistrate's Order;
  6. Motions concerning foreign decrees;
  7. Mistake of fact or appeals from administrative orders;
  8. Oral hearings pursuant to Civil Rule 75(N);
  9. Domestic violence and any other ex parte and review hearings;
  10. Motions to dismiss any matter pending before the Magistrate;
  11. Motions for attorney fees associated with any hearing before the Magistrate;
  12. Any other matter in conformance with the General Order or a Special Order of Reference;
- B. Magistrates may make appropriate referrals of a pending matter, as necessary.

## **11. EX PARTE ORDER PRACTICE**

- A. General Procedure
1. No ex parte order for temporary spousal support, exclusion from the marital residence, restraint from removal from the jurisdiction, or any other ex parte extraordinary relief shall be granted without a specific showing that serious and/or irreparable harm would result prior to the oral hearing.
  2. Every reasonable effort shall be made by counsel attempting to obtain an ex parte order to give advance notice to opposing counsel.
  3. Hearings for probable cause to grant request for ex parte orders and for review of ex parte orders shall take preference on the docket.

4. All hearings to grant and to review ex parte orders shall be on the record. The transcription of the record shall be provided upon request and payment of costs.
5. Except as provided in Section (B) below, the Court shall determine a reasonable bond and shall require the moving party to post bond prior to the journalization of the ex parte order. The Court shall retain said bond until the conclusion of the review hearing, at which time the bond may be forfeited to the responding party, released to the moving party, or retained by the court for costs.
6. The party requesting relief must be present to provide testimony subject to the provisions of Sections (D) and (E) of this rule.
7. The provisions of this rule do not apply to petitions for a civil protection order.

#### B. Mutual Ex Parte Restraining Orders

1. Upon request of counsel or an unrepresented party, the Court may grant mutual restraining orders, which shall then be served upon the opposing party.
2. The order shall be consistent with the Court's standard order.
3. The restraining orders shall take effect against the moving party upon filing, and against the responding party upon perfection of service, and shall remain in effect during the pendency of the case.
4. No bond shall be required.

#### C. Pleadings

1. Except as provided in Section (B) above, all requests for ex parte orders shall be made by motion and supported by affidavit.
2. Where the request for extraordinary relief is restraint of assets, the affidavit shall specify the nature of the asset and the reason for the request.
3. The affidavit of the moving party shall contain a statement as to whether the responding party is represented by counsel.
4. Counsel for the moving party shall present to the Court a proposed order, which may be altered by interlineation at the direction of the Court, and

which shall contain notice of the date and time of the review hearing, and notice that bond has been posted or waived. Additionally, if the moving party has been unavailable to the Court for examination, the entry shall contain specific findings as to the extraordinary reasons that have made the Affiant unavailable.

5. Briefs and affidavits in opposition to the ex parte orders may be filed on or before the date of hearing, together with any authorities or citations.

Reply or additional briefs may be filed with leave of Court.

#### D. Ex Parte Hearing

1. The party seeking ex parte relief shall appear and testify. Presence of the moving party may be excused only for extraordinary reason.
2. At the conclusion of the hearing the Court may take the following action:
  - a. Grant the relief requested, in whole or in part, and schedule a review hearing;
  - b. Deny the relief requested and dismiss the motion;
  - c. Deny the relief requested and schedule a full evidentiary hearing upon the regular court docket.

#### E. Review Hearing

1. Service of process of the motion and entry, with notice of hearing, shall be made by Sheriff's service or personal process server.
2. Review hearing shall be within ten (10) court days of journalization of the order, unless waived by the responding party or statutorily mandated to be heard at an earlier time.
3. Review hearing shall take precedence on the docket, shall be set immediately following the ex parte hearing, and a notice of the date and time of the hearing shall be contained in the body of the ex parte order.
4. The testimony shall be limited to whether the ex parte order was providently granted; whether the order should be continued in entirety, in part, or vacated; whether costs or fees should be awarded to either party; and whether bond should be continued, forfeited, modified, or released.

5. In those instances where ex parte relief was denied and the matter was referred for a full evidentiary hearing, the Magistrate may either grant immediate relief or dismiss the emergency motion and schedule any remaining motions for pretrial.

## **12. HEARING AND SUBMISSION OF MOTIONS**

- A. All motions, except motions for continuance, shall be subject to oral hearing, unless otherwise waived by Court Order. The party seeking the order shall schedule the hearing at the time of the filing. Failure to schedule the motion for hearing may result in dismissal of the motion.
- B. The first scheduled hearing upon any motion shall proceed as a pretrial and may be scheduled for a contested hearing, if necessary. The first scheduled hearing may proceed as a contested hearing with approval of the Court.
- C. The moving party shall serve and file with the motion a brief written statement of reasons in support of the motion or affidavit and citations of the authorities on which the movant relies. The motion and/or affidavit shall contain specific facts upon which the moving party relies in bringing their motion.
- D. All parties participating in a contested temporary orders hearing relating to support shall prepare and submit to the Court an exhibit of income and expenses.

## **13. CASE MANAGEMENT PROCEDURES**

- A. Case Management Conferences
  1. Scheduling
    - a. The Case Management Conference shall be scheduled at the time of filing all initial divorce complaints and all motions to modify the allocation of parental rights and responsibilities.
    - b. The party filing the initial action in a divorce shall obtain a date from the assignment commissioner and schedule the Case Management Conference no earlier than eight (8) weeks and no later than the end of ten (10) weeks

from the date of the initial filing. However, it may be scheduled or heard at an earlier date if both parties are represented by counsel and both parties agree.

- c. The party filing the initial action in a motion to modify the allocation of parental rights shall obtain a date from the assignment commissioner and schedule the Case Management Conference within four (4) weeks from the date of the filing.
  - d. The party filing the initial action shall cause the Notice of the Case Management Conference to be issued to all parties.
  - e. Failure to schedule a Case Management Conference may result in the Court dismissing the action for want of prosecution.
2. Hearing Procedure
- a. All Case Management Conferences shall be scheduled before a Magistrate.
  - b. All counsel and parties are required to attend the Case Management Conference. If a party has been excused for good cause shown, then that party must provide counsel with a phone number at which they may be reached during the Case Management Conference.
  - c. Failure to appear may subject the attorney and/or party to sanctions, including contempt, an award of expenses and/or attorney's fees to any party prejudiced by such conduct, or dismissal of their pleadings.
  - d. Failure to appear by the responding party, either personally or through counsel, shall result in the matter being scheduled for an uncontested final hearing. Should the matter not proceed to an uncontested final hearing, the Case Management Conference shall be rescheduled.
  - e. Attorneys (and unrepresented parties) shall be prepared to
    - i.) Narrow the issues in controversy;
    - ii.) Admit to facts not in dispute;
    - iii.) Advise the Court of the need and time required for discovery and to establish a binding discovery schedule. Discovery includes, but

is not limited to: depositions, appraisals, pension valuations and the exchange of tax returns or other wage information;

- iv.) Agree on a timetable for exchange of any expert reports;
- v.) Agree on a date for submission of proposed Qualified Domestic Relations Orders;
- vi.) Address issues of asset valuation;
- vii.) Discuss Alternative Dispute Resolution possibilities, including mediation;
- viii.) Discuss the allocation of parental rights and responsibilities, including shared parenting and the need for referral to Family Divorce Services;
- ix.) Schedule depositions and sign any appropriate releases;
- x.) Schedule the Status Conference and may schedule the Settlement Conference.

f. The Court shall file a Case Management Conference Order to become part of the record of the case.

#### B. Status Conference

1. To be held within fourteen (14) days of the completion of all discovery.
2. Counsel and unrepresented parties are required to attend and appear before the assigned Magistrate.
3. All discovery is to be completed and exchanged.
4. The Court may schedule additional Status Conferences, as needed.
5. The Court will issue an order for preparation and filing of the Settlement Conference Statement.

#### C. Settlement Conference

1. All counsel and parties are required to appear.
2. Counsel and parties shall be prepared to negotiate in good faith, to stipulate to items of evidence and admissions, and to discuss the issues of their case that remain in contention.
3. An additional Settlement Conference may be scheduled at the discretion of the Court.

4. Should the matter remain unresolved after the Settlement Conference, it shall be scheduled for Final Pretrial and Final Contested Hearing.
5. The Court will issue an order for preparation of the Final Pretrial Statement.

D. Final Pretrial

1. Counsel and unrepresented parties are required to appear.
2. All pending preliminary motions must be either heard or dismissed by the date of the Final Pretrial.
3. Parties are to exchange the names and addresses of all prospective witnesses and a list of all documents, records and other exhibits that may be offered as evidence at trial.
4. Parties are to exchange proposed judgment entries.
5. Parties shall be prepared to discuss any unusual legal issues that may require a trial brief.
6. Parties shall be prepared to agree to a witness schedule for professional and/or expert witnesses at trial.
7. The Court will issue an order for the preparation of stipulations, trial briefs, proposed judgment entries, marking of exhibits and any other trial preparation orders.

E. General Procedures

1. The parties must strictly adhere to the requirements of the above Case Management Schedule unless modified by the Court.
2. No continuance of any scheduled Case Management proceeding will be granted without the approval of the Court.

F. Pretrials may be scheduled at the discretion of counsel as may be necessary to meet the particular needs of each case. Pretrials may be scheduled at counsels' offices or any other place that may be convenient for the parties.

G. Should either party or counsel fail to adhere to the requirements of this rule or to the discovery schedule established by the Court, the Court may impose sanctions, including, but not limited to, dismissal of that party's pending action, attorney's fees, contempt of court or any other sanction allowed by the Rules of Civil Procedure.

#### **14. DISCOVERY**

- A. All discovery shall comply with Ohio Civil Rules 26 through 37.

Discovery is to be held in Lorain County unless otherwise ordered by the Court or agreed between the parties.

#### **15. INVESTIGATION**

- A. There will be no home study conducted unless requested by a party or ordered by the Court. An additional deposit of fifty dollars (\$50.00) is required for the home study.

- B. The report of the investigation shall be made available and accessible to the parties and any counsel of record upon completion as provided in R.C. 2317.39. Counsel and parties shall be notified in writing by Court order served upon counsel and parties by the Clerk of Courts that the report is available for examination. Counsel and parties may examine the completed report by presenting themselves to the Assignment Commissioner's office on the 2<sup>nd</sup> Floor of the Justice Center and presenting proper identification when necessary. Counsel and parties may not remove the report from the Court premises or make copies of the same.

- C. The investigator shall sign the report and shall be subject to cross-examination by either party or their counsel concerning the contents of the report.

- D. If a party misses an appointment and fails to reschedule it within two (2) days, it will be deemed as non-cooperation unless otherwise demonstrated.

- E. Failure to cooperate with Family Divorce Services may result in: (1) dismissal of action; (2) dismissal of request for custody by the noncomplying party; or (3) any other appropriate sanctions.

- F. A supplemental investigation may be ordered upon timely request and where appropriate. A deposit of additional court costs will be required.

## **16. GUARDIAN AD LITEM**

### **A. Appointment**

1. Upon the motion of any party or at the discretion of the Court, the Court may order a guardian ad litem when it deems it essential to protect the interests of a minor child of the parties or to represent an incompetent person. No motion for appointment of guardian ad litem shall be granted, except by leave of Court, once the matter has been set for trial.
2. The Court shall not appoint a guardian without payment of the deposit toward the guardian's fees. All deposits must be posted with the Clerk of Courts within ten (10) court days of the granting of the motion. Failure to post the deposit as ordered may result in the dismissal of the motion.
3. It shall be the responsibility of counsel in the case to copy the guardian ad litem with all pleadings, notices of hearings and depositions, entries and any other necessary documents. Any additional expense incurred by the guardian as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party or parties responsible for such failure.

### **B. Fees**

1. The party or parties requesting the guardian ad litem shall deposit sufficient funds, as determined by the court, toward the payment of the guardian's fees with the Clerk of Courts prior to the appointment of any guardian ad litem.
2. After the initial deposit, the Court may award fees to the guardian ad litem for services rendered through the completion of the guardian's employment. Fees may be taxed against any or all parties.

### **C. Duties**

1. Upon appointment, the guardian ad litem in every case has certain basic duties, identified below. The feasibility of some of the duties will depend upon the age(s) of the children and the specific circumstances of each case.

- a. Interview the children and parties and observe each party with the children;
- b. Review pleadings and consult with each attorney as to their client's position upon the issues;
- c. Interview any other necessary persons;
- d. Obtain relevant records, e.g., school, criminal, medical, psychological, child protective agency, etc.;
- e. Visit parties in their home;
- f. Attend depositions and hearings relating to the best interest of their ward.

D. Report

1. The guardian ad litem shall prepare a written report and submit it to the trial Judge not less than seven (7) days in advance of the trial date. The report of the guardian shall be available to counsel according to statute or Civil Rule 75.
2. The report of the guardian is considered confidential, and, in the best interest of the minor child, not part of the public record of the case.
3. The guardian ad litem shall also submit their final fee statement at this time.

E. If the guardian ad litem is also appointed as legal counsel and finds there is a conflict of interest in the appointments, he or she shall immediately file a motion to withdraw as counsel.

F. The final judgment entry shall provide for the allocation of payment of fees for the guardian ad litem and discharge of the guardian.

## 17. CONTINUANCES

A. Procedure

1. All requests for continuance of any proceedings shall be by written motion.
2. Requests for continuance of any trial before the Judge shall be filed no later than thirty (30) days prior to trial. All other requests for continuance

shall be filed no later than seven (7) days prior to the proceeding. This requirement may be waived by the Court for good cause shown.

3. The moving party shall first attempt to secure consent of the opposing party, set forth in the motion whether consent was obtained or denied, and shall state the number of prior continuances and who requested those continuances. The motion shall state the reason for the continuance and be signed by the party and counsel. The Court may waive this requirement for good cause shown, provided that the motion states the reason why the attorney has been unable to obtain the signature.
4. A copy of the motion shall be served upon the opposing counsel or opposing party if not represented. A copy of the motion shall also be presented to the Judge or Magistrate before whom the hearing is scheduled for a ruling.
5. If the request for continuance is approved, the party granted the continuance shall contact opposing counsel and the Assignment Commissioner to schedule a new date for the hearing.
6. The party granted the continuance shall submit an entry setting forth the new date, which shall be submitted in person or by facsimile transmission by the close of business on the day the continuance is granted.
7. Failure to comply with these rules shall result in the continuance being denied and the matter proceeding as originally scheduled.

B. Conflict of Trial Assignment Dates

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date, in the same court or a different court, the case that was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The Court will not consider any motion for continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty days prior to trial.

C. Engaged Counsel

If a designated trial counsel has such a number of cases assigned for trial in the courts as to cause undue delay in the disposition of such cases, the Administrative Judge may summon such trial attorney, who persistently requests continuances and extensions, to warn the attorney of the possibility of sanctions and to encourage the attorney to make necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may properly be imposed by the Administrative Judge on the number of cases in which the attorney may participate in at any one time.

**18. BANKRUPTCY STAYS**

A. Filing of Bankruptcy

1. Upon the filing of any bankruptcy, the parties or their counsel shall submit to the Court proof of the filing, which may be a time-stamped copy of the initial filing.
2. No stay of proceedings shall be granted until proof of filing is submitted to the Court.
3. Upon filing of the notice of the bankruptcy stay, there shall be no further proceedings that may affect the bankruptcy estate.
4. The automatic stay does not apply to the establishment, modification, or collection of spousal support or child support from property that is not property of the bankruptcy estate. 11 USC 362.
5. Counsel or parties shall be required to periodically report the status of the bankruptcy proceedings to the Court.
6. Upon being granted relief from the stay or final discharge of the bankruptcy, and upon submission of proof of the relief from stay or discharge, the pending matter will recommence.

## **19. MOTIONS TO SET ASIDE AND OBJECTIONS**

### **A. Motion to Set Aside a Magistrate's Order**

1. A Motion to Set Aside a Magistrate's Order shall be filed with the Clerk of Courts within ten (10) days of the filing of the order. The order is not stayed unless the Judge or Magistrate grants a stay. The Magistrate may continue to enter orders while a Motion to Set Aside is pending.
2. Motions to Set Aside a Magistrate's Order shall state with specificity the reasons for the motion. Unless otherwise ordered, a transcript of the proceedings is not necessary for a Motion to Set Aside a Magistrate's Order.
3. The party first filing the Motion to Set Aside shall obtain a hearing date on their motion. A copy of all motions shall be served upon all other parties.
4. Unless the Court orders otherwise, a Motion to Set Aside a Magistrate's Order will be determined by the Magistrate that issued the order. At the conclusion of the hearing, the Magistrate will issue a decision.

### **B. Objections to a Magistrate's Decision**

1. Objections to a Magistrate's Decision shall be filed with the Clerk of Courts within fourteen (14) days of the filing of the decision. The opposing party may file an objection or response within ten (10) days of the filing of the first objection. All objections shall be in compliance with the provisions of Civil Rule 53(D).
2. All objections shall be specific and state the grounds of objection with particularity. Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the Magistrate or an affidavit of that evidence if a transcript is not available.
3. The party first filing objections shall obtain a hearing date on their objections. A copy of all objections or responses shall be served upon all other parties.
4. The party filing objections shall file a praecipe for preparation of the transcript and serve a copy on the Court's Official Court Reporter. If a deposit for costs of a transcript is not made within seven (7) days of the filing of the objection, the objection may be dismissed.

5. The original transcript submitted with an objection becomes part of the official record of the case. Should preparation of a transcript result in delay of the final disposition of the case, the Court may make such temporary orders as it deems necessary and just.

## **20. WITHDRAWAL OR SUBSTITUTION OF COUNSEL**

### **A. Withdrawal**

After entering an appearance as counsel, no attorney shall be relieved of responsibility unless:

1. Counsel timely files a written motion stating the grounds for withdrawing from the case, together with certification that counsel has notified the client of all subsequent hearing dates and the necessity for attendance at same, and notified both the client and opposing counsel of the motion;
2. The motion is submitted to the Court along with a proposed entry containing the client's most recent mailing address and the name and address of any new counsel, if known;
3. The motion is scheduled for hearing, unless otherwise waived by the Court;
4. The Court grants the motion.

### **B. Permission to Withdraw**

Permission to withdraw may not be granted once the matter has been scheduled for contested trial, absent compelling circumstances.

### **C. Substitution of Counsel of Record**

Any attorney entering a case on behalf of a party who has had previous representation in the action shall do so by written notice of substitution filed with the Clerk of Courts. The notice shall contain the attorney's name, address, phone number, fax number, business e-mail address and Supreme Court Registration Number.

## **21. FAILURE TO APPEAR OR PROCEED**

### **A. Failure to Appear**

If a Plaintiff fails to appear as required, the Court may enter an order dismissing the action for want of prosecution. If a Defendant fails to appear as required, and the Plaintiff does appear, the Court may order the Plaintiff to proceed with the case and the Court shall decide and determine all matters ex parte.

**B. Failure to Proceed**

If a party or counsel appears but shows compelling reason as to why they are not prepared for trial, the Court may make such orders as it deems proper. If a party or counsel appears, but indicates that they are not prepared for trial, absent compelling reason for their not being prepared, the Court may enter such orders as it deems appropriate.

**22. DISSOLUTION OF MARRIAGE**

- A. At the time of final hearing, the Separation Agreement shall be re-executed by the parties in open court, shall be attached to the Judgment Entry for Dissolution, and shall be subject to approval of the Court.

**23. AGREED JOURNAL ENTRIES**

**A. Generally**

1. Agreed entries shall bear the signature of all parties and counsel.
2. In cases where a party is not represented by counsel and an agreed entry purports to deprive such party of a right or otherwise operates to the potential detriment of such party, a hearing on the merits of such matters may be conducted by the Court before such entry is accepted and journalized by the Court.

**B. Reducing Support or Arrearage**

1. All agreed entries to reduce or terminate child support payments or to reduce or waive arrearages shall be initiated by motion or a referral from the Child Support Enforcement Agency.

2. No more than one entry reducing the support arrearage due to direct payment will be accepted. Further direct payments after an entry has been accepted will be considered gifts.

## **24. JUDGMENT ENTRIES**

### **A. Uncontested Matters**

1. In those cases where neither party is represented by counsel, judgment entries must be presented to a Magistrate for review prior to submission to the Court. The Magistrate will review the entry to determine that all mandatory information has been provided and that all exhibits are attached. Upon approval by the Magistrate, the matter will proceed to hearing before the Court. A party who does not have the proper information or exhibits shall not proceed to final hearing.
2. Copies of the Separation Agreement or proposed judgment entries shall be presented to the Court and reviewed at the time of the uncontested hearing. Any party or their counsel shall be prepared to explain and show justification for provisions proposed in the judgment entry or Separation Agreement.

## **25. QUALIFIED DOMESTIC RELATIONS ORDERS/ DIVISION OF PROPERTY ORDERS**

### **A. Filing.**

In cases involving Qualified Domestic Relations Orders or Division of Property Orders, both parties shall file a proposed order prior to, or no later than the time of the final hearing. If the parties are in agreement, they may submit one QDRO/DPO signed by all parties and counsel.

- ### **B. Amended Qualified Domestic Relations Order/ Division of Property Order.**
- Amended QDRO's/DPO's may be filed for the actual cost of journalization with leave of Court. If copies are not furnished, the party filing the amended QDRO/DPO shall pay the cost of copies at the time of filing. The Clerk of Courts shall not accept any amended QDRO/DPO without submission of a

deposit sufficient to cover costs. Amended QDRO's/DPO's, or those filed post decree, shall be filed with a motion for approval, served pursuant to the Rules of Civil Procedure, and scheduled for hearing. Notice and hearing may be waived by agreement of all parties, as evidenced by signature on the QDRO/DPO.

## **26. DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS**

### **A. Filing a Petition**

1. The petition shall be on a form approved by the Ohio Supreme Court for issuance of Civil Protection Orders.
2. The Petitioner shall inform the Court of any other case involving the Petitioner and Respondent, pending or decided, in this or any other court.
3. Should the Respondent in any Civil Protection Order file a petition against the Petitioner of that order, Respondent's petition shall be filed as a counterclaim. The original Petitioner must be notified of Respondent's counterclaim at least forty-eight (48) hours prior to any hearing.
4. There is no jurisdiction to address the issues of custody, parenting time, or support under the Civil Protection Order if any court has issued orders relating to the custody, parenting time, or support of the parties' children.

### **B. Ex Parte Hearing**

1. The Court shall hear the Petitioner's statement of the facts under oath.
2. If there is a pending Domestic Relations or Juvenile Court matter between the same parties, Petitioner shall notify counsel for Respondent, if any, of their intent to file for a Civil Protection Order. Counsel for Respondent may observe the ex parte hearing, but may not participate.
3. If the Court issues an ex parte order, it shall schedule a full hearing within ten (10) court days. If the Court orders Respondent to vacate the residence, the full hearing shall be scheduled within seven (7) court days.
4. If the Court denies the petition, it may schedule the matter for a full hearing on the regular court docket.

C. Full Hearing

1. Petitioner and Respondent are both afforded the opportunity to testify, present evidence and request appropriate relief.
2. The Court may continue the contested hearing once to enable Respondent to obtain counsel, during which time all ex parte orders shall remain in effect.
3. Failure of the Petitioner to appear at the full hearing may result in the Petitioner's request and ex parte order being dismissed.

D. Victim Advocate

1. Pursuant to O.R.C. 3113.31(M), a victim advocate may accompany a Petitioner in all stages of any proceeding in this court. No victim advocate may be called as a witness, nor be required to disclose a surname in any proceeding in this court without written leave of the Court.

E. Duration of Civil Protection Order

1. The Civil Protection Order is valid to a date certain, but no longer than five (5) years. A Civil Protection Order may be renewed in the same manner as the original. Once a protection order expires, all orders contained within that protection order also expire.
2. A protection order allocating parental rights and responsibilities, parenting time, and/or support shall terminate on the date the Court issues such orders in a divorce, legal separation, annulment, dissolution, parentage, custody, or support action.

F. Subsequent Motions

1. Either party may file any appropriate motion after the issuance of a protection order.

**27. REGISTRATION OF FOREIGN DECREES**

A. Procedure

1. A certified copy of the parenting decree shall be attached to the Petition to Register a Foreign Decree, and filed. The decree shall be filed along with a UCCJEA affidavit, per O.R.C. 3127.23.

2. The party seeking enforcement or modification of an appropriately filed parenting decree shall cause notice to be delivered to the responding party in accordance with O.R.C. Section 3127.19 and 3127.07.
3. Any request for modification or enforcement shall set forth sufficient facts, sworn to by the moving party, to establish the Court's jurisdiction in accordance with O.R.C. Section 3127.15(A)(1-4).
4. The initial hearing shall be to resolve the jurisdictional issue and shall serve as a pretrial conference on the issues presented to the Court.

B. Motions

1. A motion requesting relief shall be filed at the same time as the Petition to Register the Foreign Decree.

**28. PRO SE MEDIATION**

A. Procedure

Any party may request mediation by completing the "Pro Se Mediation Request" form.

- 1) The request will be reviewed to determine whether it meets the criteria of this program and is appropriate for mediation.
- 2) Upon acceptance for mediation, both parties shall be notified by the court of the date, time and nature of the mediation.

B. Scope

The following issues may be referred to the Pro Se Mediation Program;

- 1) The return, exchange or transfer of property as previously ordered by the Court;
- 2) Providing, exchanging, or modifying medical insurance information, including responsibility for coverage, as previously ordered by the Court;
- 3) Payment of uninsured medical bills as previously ordered by the Court;
- 4) Compliance with a court-ordered parenting time schedule;
- 5) Establishment of a parenting time agreement where there is an existing administrative or court-ordered determination of paternity.

C. Exceptions

Cases in which any of the following indicators are present are not suitable for mediation:

- 1) Chronic or severe domestic violence, where one party has been convicted of or pled guilty to a violation of R.C. 2919.22, or where one party is genuinely in fear of the other;
- 2) Severe alcohol and/or drug abuse exists;
- 3) Mental illness of one of the parties;
- 4) Physical distance between the parties being so great that it is not feasible for them to attend or maintain a consistent mediation schedule;
- 5) One of the parties has been determined to be the perpetrator of an act which resulted in an adjudication that a child was abused or neglected;
- 6) Excessive levels of conflict and hostility between the parties.

D. Cost

No fee shall be charged for the court's mediation service, however, the Court may order a deposit for any costs that may be associated with the filing of a journal entry or the opening of a new Juvenile Court case from an administrative determination of paternity.

E. Agreements

Agreements reached by the parties during mediation shall become an order of the Court after review and approval by the Mediation Magistrate and journalization by the Court.

F. Confidentiality

Statements made during the course of mediation shall not be admissible as evidence in any subsequent proceeding in this Court. This Rule does not require the exclusion of any evidence, which is otherwise discoverable, merely because it is presented during the course of mediation. Further, this rule shall not preclude the mediator from testifying as to a crime committed in their presence or from their statutory duty to report child abuse pursuant to R.C. 2151.421.

## **29. GUIDELINES FOR PARENTING TIME**

These guidelines are designed to provide assistance to parents in the resolution of issues relating to parenting time and to provide assistance to the Court in formulating parenting time orders when the parents are unable to reach an agreement. The underlying purpose of any such agreement or order is to provide for the best interest of each child after giving full consideration to the facts and issues that are relevant to each family.

These guidelines are based on the premise that:

- A. Both parents are suitable;
- B. Both parents desire to have an ongoing relationship with each child;
- C. Both parents are able to carry out the childcare plan;
- D. Any negotiated solution between parents is preferred to a court imposed solution;
- E. It is usually in the children's best interest for each parent to have frequent, meaningful and continuing access to the children;
- F. That children need reliability, predictability and consistency on the part of each parent.

A number of common sense guidelines should be followed in every case. Except as otherwise ordered by the court:

- A. Both parents are entitled to access to records and information on the medical care of the children directly from the health care provider as well as from the other parent. Each parent should notify the other promptly of any significant medical treatment;
- B. Both parents are entitled to access to all school records of the children directly from the school as well as from the other parent. School reports should be photocopied promptly after receipt and supplied to the other parent. Both parents should be notified promptly of all child-related activities which encourage or allow parental participation;
- C. Both parents are reminded that parenting time and child support, while they may be emotionally connected, are separate legal issues. Parental access may not be denied due to failure to pay child support and child support may not be withheld due to failure of a parent to allow access to the children;

- D. Parents should share with each other their residence and work addresses and phone numbers;
- E. Each parent should encourage the children to initiate telephone, email, and/or mail contact with the other parent on a regular basis, and allow the other parent reasonable contact with the children while in their care;
- F. Parents should not discuss their problems with the other parent with the children, nor should they speak ill of the other parent in the presence of the children;
- G. Parents should not attempt to buy the favor of the children with presents, special treatment or privileges, or promises;
- H. Parents should not make their children choose between the two parents;
- I. Parents should not question their children regarding the activities of the other parent;
- J. Parents should be prompt with appointments with their children. Children should not be kept waiting, nor should they suffer the disappointment of a parent failing to show up. When unforeseen circumstances prevent arrival within approximately 30 minutes of the scheduled time of exchange, immediate notification should be given, if possible, and appropriate alternative arrangements should be made;
- K. Parents should coordinate plans regarding bedtime, discipline, homework schedule and other household rules;
- L. Any clothing accompanying the child should be returned in the same condition as it was sent;
- M. The parent exercising parenting time is responsible for transporting their children to and from the other parent's residence. If the parent is unavailable for the pick-up or return of their children, an alternate driver may be used, provided that driver has a valid driver's license and is known to the children. Any person transporting children must adhere to all child restraint laws. Both parents are expected to have their own child restraint devices. No person transporting children may be under the influence of drugs or alcohol;
- N. When either parent's plans include travel out of the area, a travel schedule including destination and emergency phone numbers (if available) should be

forwarded to the other parent prior to departure, with one week notification being preferred.

### **SUGGESTED PARENTING TIME PLAN**

- A. Alternating weekends from Friday at 6:00 p.m. to Sunday at 6:00 p.m., commencing the first weekend after the date of filing the journal entry.
- B. One midweek day from 5:00 p.m. to 8:00 p.m. If the parties cannot agree upon a day for the midweek parenting time it shall be Wednesday.
- C. For the purpose of parenting time, there are ten (10) holidays as follows:
  - 1. New Year's Day
  - 2. Martin Luther King Day
  - 3. President's Day
  - 4. Easter
  - 5. Memorial Day
  - 6. Fourth of July (Noon 7/4 until noon 7/5)
  - 7. Labor Day
  - 8. Thanksgiving
  - 9. Christmas Eve
  - 10. Christmas

In the odd-numbered years, the mother/father shall have the children on odd-numbered holidays; and the father/mother shall have the children on the even-numbered holidays. In the even-numbered years, the father/mother shall have the odd-numbered holidays; and the mother/father shall have the even-numbered holidays. Holiday parenting time shall supersede regularly scheduled parenting time and is from 9:00 a.m. to 8:00 p.m., unless otherwise noted above.

- D. The alternating weekend parenting time sequence shall not be interrupted as a consequence of the holiday schedule. If the weekend immediately preceding a Monday holiday and the holiday parenting time are both scheduled with the same parent, holiday parenting time shall commence Friday at 6:00 p.m. and end Monday at 8:00 p.m. Should the parent having the Thanksgiving holiday also have the weekend immediately following the holiday, holiday parenting time shall commence Thursday at 9:00 a.m. and end Sunday at 6:00 p.m.

- E. On Mother's Day and Father's Day, no matter whose weekend for parenting time, children will be with the appropriate parent.
- F. For children of school age, the parents shall split the Winter vacation from school in the following manner: The parent designated to have the Christmas Eve holiday shall have the children for the first half of the winter vacation, beginning 9:00 a.m. the day immediately following the last day of school until December 24<sup>th</sup> at 8:00 p.m. The parent designated to have the Christmas Day holiday shall have the second half of the winter vacation, beginning 8:00 p.m. December 24<sup>th</sup> until 8:00 p.m. December 31<sup>st</sup>.
- G. For children of school age, the parents shall alternate the Spring vacation from school in the following manner: The parent designated to have the Easter holiday shall have the children from 9:00 a.m. the day immediately following the last day of school until 8:00 p.m. the day prior to reconvening of school. Spring vacation parenting time will supersede any regular weekend visitation.
- H. Four (4) weeks of parenting time each summer. Notice shall be given to the other parent of the dates of intended parenting time thirty (30) days in advance of such parenting time. The parent exercising extended summer parenting time has priority in scheduling over the other parent's choice provided the thirty (30) days notice is given, unless the other parent's vacation choice is an annual mandatory shutdown of their place of employment. If either parent chooses to exercise extended summer parenting time for three or more consecutive weeks, the other parent is entitled to exercise their alternating weekend parenting time schedule during that time period, unless the extended summer parenting time involves travel out of the local area.
  - 1. Children are to be in the residential home for school purposes one week before commencement of the school year. No extended summer parenting time is to be scheduled by either parent for the week prior to commencement of school.
  - 2. Children not of school age may go for extended parenting time throughout the year, provided the parents comply with the thirty (30) day notice requirement.
- I. Children shall celebrate their birthday in the home of the residential parent for school purposes, unless it falls on a day when the other parent is exercising

parenting time. The other parent may make up for the birthday with a separate birthday party if desired.

- J. Such additional times as may be agreed between the parties.
- K. Absent reasonable notice and good cause for delay, children and/or the other parent have no duty to wait for the other parent for more than thirty (30) minutes of a scheduled parenting time. A parent who is later than thirty (30) minutes without reasonable notice and good cause for delay shall forfeit that scheduled parenting time.
- L. If either parent intends to move from their current residence, that parent shall file a notice of intent to relocate with the court pursuant to Ohio Revised Code Section 3109.051(G)(1).

#### **JURY USE AND MANAGEMENT PLAN**

(THE FOLLOWING IS PROPOSED PURSUANT TO THE RULE OF THE SUPREME COURT OF OHIO REQUIRING A PLAN UTILIZING THE OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS AS A GUIDLINE.)

##### STANDARD 1. Opportunity for Service

- A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Lorain County.

##### STANDARD 2. Jury Source List

- A. The names of potential jurors should be drawn from a jury source list compiled from one of more regularly maintained lists of persons residing in the court jurisdiction.
- B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

- C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

STANDARD 3. Random Selection Procedures

- A. The jury source list from Board of Elections shall be printed out on address labels, which shall be cut into individual names and addresses. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.
- B. Random selection procedures should be employed in:
  - 1. Selecting persons to be summoned for jury service;
  - 2. Assigning prospective jurors to panels; and
  - 3. Calling prospective jurors for voir dire.
- C. Departures from the principle of random selections are appropriate only to comply with lawful exceptions.
  - 1. To exclude persons ineligible for service in accordance with Standard 4;
  - 2. To excuse or defer prospective jurors in accordance with Standard 6;
  - 3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
  - 4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

STANDARD 4. Eligibility for Jury Service

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;

- D. Are not able to communicate in the English Language; or
- E. Have been convicted of felony and have not had civil rights restored.

STANDARD 5. Term of and Availability for Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. A term of service of three weeks.
- C. Persons should not be required to maintain a status of availability for jury service longer than three weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

STANDARD 6. Exemption, Excuse, and Deferral

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
- B. Eligible persons who are summoned may be excused from jury service if:
  - 1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
  - 2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or specifically authorized court official.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

STANDARD 7. Voir Dire

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

- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.
- C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purposes of the voir dire process.
- E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.
- F. Rules on Voir Dire
  - 1. The case may not be argued in any way while questioning the jurors.
  - 2. Counsel may not engage in efforts to indoctrinate jurors.
  - 3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
  - 4. Jurors may not be asked what kind of verdict they might return under any circumstances.
  - 5. Questions are to be asked collectively of the entire panel whenever possible.

STANDARD 8. Removal from Jury Panel for Cause

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

STANDARD 9. Peremptory Challenges

- A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.
- B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between the parties on the same side, the court may allow each conflicting party up to three peremptory challenges.
- D. In criminal cases, the number of peremptory challenges should not exceed:
  - 1. Six for each side when a death sentence may be imposed upon conviction;
  - 2. Four each side when a sentence of imprisonment (state institution) may imposed upon conviction; or
  - 3. Three for each side in all other prosecutions. On additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.
- E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.
- F. At all times rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil Rules and the Ohio Criminal Rules that are presently adopted or adopted in the future by The Supreme Court of Ohio and applicable statutory authority.

STANDARD 10. Administration of the Jury System

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

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

STANDARD 11. Notification and Summoning Procedures

- A. The notice summoning a person to jury service and questionnaire eliciting essential information regarding that person should be:
  - 1. Combined in a single document;
  - 2. Phrased so as to be readily understood by a individual unfamiliar with the legal and jury systems; and
  - 3. Delivered by ordinary mail.
- B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
  - 1. Determining whether a person meets the criteria for eligibility;
  - 2. Providing basic background information ordinarily sought during voir dire examination; and
  - 3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

STANDARD 12. Monitoring the Jury System

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

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The costs-effectiveness of the jury management system.

STANDARD 13. Juror Use

- A. Courts should employ the services of prospective jurors so as to achieve optimum use with minimum of inconvenience to jurors.
- B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both.
- C. Courts should coordinate jury management and calendar management to make effective use of jurors.

STANDARD 14. Jury Facilities

- A. Courts should provide an adequate and suitable environment for jurors.
- B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors should be accommodated in a pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.
- E. To extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

STANDARD 15. Juror Compensation

- A. Persons called for jury service should receive a reasonable fee for their service and expenses.
- B. Such fees should be paid promptly.
- C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

STANDARD 16. Juror Orientation and Instruction

- A. Orientation programs should be:

1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
  2. Presented in a uniform and efficient manner using a combination of written, oral and audio-visual materials as determined by the Court to which the juror is assigned.
- B. Courts should provide some form of orientation or instructions to persons called for jury service:
1. Upon initial contact prior to service;
  2. Upon first appearance at the court; and
  3. Upon reporting to a courtroom for voir dire.
- C. The trial judge should:
1. Give preliminary instructions to all prospective jurors.
  2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
  3. Prior to commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
  4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
  5. Recognize utilization of written instructions is preferable.
  6. Before dismissing a jury at the conclusion of a case:
    - a. Release the jurors from their duty of confidentiality;
    - b. Explain their rights regarding inquiries from counsel or the press;
    - c. Either advise them that they are discharged from service or specify where they must report; and

- d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and give the opportunity to be heard.

STANDARD 17. Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio laws and as may be amended in the future.

STANDARD 18. Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during the deliberations in accordance with Standard 16C.
- C. The deliberation room should conform to the recommendations set forth in Standard 14C.
- D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

STANDARD 19. Sequestration of Jurors.

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

- D. Standard procedures should be promulgated to:
  - 1. Achieve the purposes of sequestration; and
  - 2. Minimize the inconvenience and discomfort of the sequestered juror.
- E. Training shall be provided to personnel who escort and assist jurors during sequestration.

Effective: February 1, 2007

Approved as of this 31st day of January, 2007.

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David A. Basinski, Judge

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Debra L. Boros, Judge

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David J. Berta, Judge

