

RULES OF PRACTICE

MORROW COUNTY COURT OF COMMON PLEAS DOMESTIC RELATIONS DIVISION

Revised: November 1, 2015



**MORROW COUNTY RULES OF PRACTICE
COMMON PLEAS COURT
JUVENILE DIVISION
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RULE 1

Seminar for Separating Parents

All parents in Divorce, Legal Separation, or Dissolution actions in which there are minor children shall attend an educational seminar for separating parents prior to the date of the final hearing. No action shall proceed to final hearing until this rule is complied with, however, the court may waive the requirement for good cause shown.

Seminar attendance may be required by court order in connection with post-decree motions seeking a change of parental rights or visitation.

One such program is the P.E.A.C.E. program. (offered in the Marion County Court of Common Pleas). Attendance at other similar programs may be acceptable to the court, but parents should contact the court's administrative assistant for domestic cases to assure that the program meets with court approval.

RULE 2

Local Model Parenting Time Rule

Parenting time is a time for children to do things with the parent they do not reside with. Activities you can do with them or skills you can teach them help the time be rewarding. Helping the children find friends in your neighborhood also helps make it like home for them.

Liberal parenting time arrangements are encouraged, as contact with both parents is important to the children. Specific items in the Journal Entry take precedence over this schedule. Changes or modifications can be made by the Court if need for such action is shown. This schedule does not affect support payments.

Please be advised that this schedule is merely a guideline for parenting time. It is each party's responsibility to tailor this schedule as necessary to meet the best interests of their children. The Ohio Supreme Court's guide, "Planning for Parenting Time: Ohio's Guide for Parent's Living Apart" that contains guidelines for parenting schedules is a good resource for alternate arrangements that consider the age and the circumstance of a particular child.

PARENTING TIME BETWEEN THE CHILDREN AND THE PARENT WHO IS NOT THE RESIDENTIAL PARENT SHALL TAKE PLACE AT SUCH TIMES AND PLACES AS THE PARTIES AGREE BUT WILL NOT NORMALLY IS LESS THAN:

1. **Weekends:** Alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. This alternating weekend schedule shall not change, even if interrupted by holiday and birthday, summer and/or vacation parenting time.
2. **Weekdays:** One weekday evening per week from 5:00 p.m. to 8:00 p.m.

3. Extracurricular Activities: Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, shall continue uninterrupted. It shall be the responsibility of the parent with whom they are residing at the time of the activity to provide the physical and economic cost of transportation to these activities. The residential parent shall provide the parent who is not the residential parent with notice of all extracurricular activities, school related, or otherwise, in which the children participate, schedules of all extracurricular activities (handwritten by the residential parent if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available to the residential parent).

4. Pre-School Age Children: Pre-school age children follow the same schedule of school age children in the school district where they live regardless of whether or not other school age children live in the family.

5. Holidays and Birthdays: In odd-numbered years, mother has New Year's Day, Spring Break, Memorial Day, Labor Day, Christmas Eve and the first half of Christmas break. In odd-numbered years, father has Martin Luther King's Day, Easter, Fourth of July, Thanksgiving, Christmas Day, and the second half of Christmas break. In the even-numbered years, the schedules are reversed.

a. In the event of a conflict between regular visitation and holiday visitation, holiday visitation prevails. The alternating weekend visitation shall be suspended as a consequence of the holiday schedule and shall recommence with the same rotation the first weekend immediately following. For example: If the weekend immediately preceding a holiday was mother's weekend, the holiday weekend would be celebrated with the parent entitled to the holiday. The weekend rotation would recommence the weekend after the holiday as father's weekend. This occurs even though one parent may have the children two weekends in a row.

For any holiday falling on a Monday or Friday, if the immediately preceding or following the holiday visitation is spent with the same parent, there is no need for that parent to return the children that evening and then pick them up the next morning. For holidays falling on a Friday, parenting time commences Friday evening and continues to Monday evening.

b. Mother's Day and Father's Day and the parent's birthdays, only when they fall on a Saturday or Sunday, to be spent with the appropriate parent. These are as agreed, or 10:00 a.m. to 7:00 p.m. These do not have to be made up.

c. Other days of special meaning, such as religious holidays, etc., (i.e., New Year's Eve and Day, Kwanzaa, Passover, Easter, Rosh Hashana, Christmas Eve, Christmas Day) should be decided together as follows:

These do not have to be made up.

d. Hours for parents who can not agree are:

1. New Year's Day.....9:00 a.m. to 7:00 p.m.
2. Martin Luther King Day.....9:00 a.m. to 7:00 p.m.
3. Spring Break.....6:00 p.m. ON THE DAY school is out to 7:00 p.m. the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school.)
4. Memorial Day and Labor Day..... 6:00 p.m. Friday to 6:00 p.m. Monday
5. July 4th 9:00 a.m. to 9:00 a.m. the next day
6. Thanksgiving.....6:00 p.m. Wednesday to 6:00 p.m. Sunday
7. Winter Break..... (first half commences at 6:00 p.m. the last day of school before Winter Break begins, until December 25 at noon; Second half commences at noon December 25 until 6:00 p.m. the day before school recommences.)

e. 48-hour notice should be given by the parent with whom the holiday is being spent for any arrangements for out of town travel on the holidays or of a change in pick-up/return times.

f. The children's birthdays should be alternated per child, between the parents and on an annual basis. Hours for parents who can not agree are 4:00 p.m. to 8:00 p.m. Brothers and sisters attend the birthday event. These do not have to be made up.

6. Transportation: The parties shall divide the transportation equally. The parent who is exercising their parenting/visitation rights shall pick up the child.

7. Waiting: Neither parent shall be more than 30 minutes late picking up the children. If the non-residential parent has not arrived to pick up the children within the 30 minute period, parenting time is forfeited and shall not be made up.

8. Cancellation: The parent who is not the residential parent should give 24 hour notice to cancel. The time canceled by the parent who is not the residential parent is forfeited.

9. **Illness:** If a child is ill, the residential parent should give 24 hour notice, if possible, so appropriate plans can be made. However, if more than one day of any visitation, weekend, holiday/birthday, or vacation is missed due to non-emergency.

10. **Summer:** The non-residential parent shall have parenting time with the children for the last half of the summer each year. The summer school vacation commences the day after the children are out of school and continues until seven (7) days before school begins. The number of intervening weeks (full and/or partial) shall be divided in half, and the non-residential parent shall have the last half of the summer vacation with the children.

During the summer visitation, the residential parent receives weekday and alternating weekend visitation as afforded the non-residential parent the rest of the year.

11. **Vacations:** Each parent may arrange an uninterrupted vacation of not more than two weeks with the children. Each parent shall schedule this vacation during his/her half of the summer. A general itinerary of the vacation shall be provided for the other parent, including dates, locations, addresses, and telephone numbers. Holiday and birthday celebrations with either parent shall not be missed, requiring scheduling of the vacation around these events or that the missed occasion is made up. Alternate weekends are missed during vacation, and are therefore not required to be made up.

12. **Moving:** Upon either parent learning that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by R.C. 3109.051 (G), and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information necessary to effectuate a smooth move for the children. The parents shall attempt, in good faith, to renegotiate an appropriate and beneficial new parenting time schedule.

13. **Telephone Access:**

a. **As Between Parents:** Telephone communication between the children with the parent with whom they are not residing shall occur not less than three (3) times per week for not less than fifteen (15) minutes. Children may call the other parent as often as the parent and child agree, at reasonable times, so long as the call is collect if it is a long distance call. The non-possessory parent shall be allowed to communicate with children not less than one time per week for not less than ½ hour by either calling or having the children call him/her. Possessory parent shall not interfere with or stop the telephone communication.

b. At school, day care facilities, extracurricular activities, or all other public locations: Provision 13a., above, shall not in any way contravene the statutory directives granting equal access by both parents to their children at any and all times while the children are at school, at a day care facility, babysitter, attending extracurricular activities, etc.

14. Make-up Parenting Time: Any make-up parenting time required by this schedule shall occur the first weekend of the other parent immediately following the missed parenting time and shall continue during the other parent's weekends until made up in full, including partial weekends.

15. Current Address and Telephone Number: Except as provided in the Court order, each parent shall keep the other informed of his/her current address and telephone number at all times.

a. **Emergency Contact:** Both parents shall at all times, regardless of whether the children are with him/her, provide the other parent with a telephone number for contact in the event of an emergency.

16. Car Seat: For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as parenting time exchanges occur.

17. Clothing: The parents shall cooperate in the exchange of the children's clothing prior to and following parenting time.

MODEL PARENTING TIME RULE FOR PARENTS TRAVELING OVER 90 MILES ONE WAY

Parenting time is a time for children to do things with the parent they do not live with. Activities you can do with them or skills you can teach them help the time to be rewarding. Helping the children find friends in your neighborhood also helps make it like home for them.

Liberal parenting time arrangements are encouraged, as contact with both parents is important to the children. Specific items in the Court Order take precedence over this schedule. Changes or modifications can be made by the Court if need for such is shown.

AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE.

This will not normally be less than:

1. Christmas: Christmas vacation will be divided in half and alternated annually, by half, between the parents.

2. **Spring Break:** School vacation (the day school is out to the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school) in odd-numbered years.

3. **Alternate Holiday Plan:** Those who desire more frequent contact, and who develop a plan to pay for the transportation, can have half of Easter vacation, half of summer, alternate year Thanksgiving, an half of Christmas vacation each year. The holidays themselves must be alternated, as the parties agree, or Easter and Thanksgiving in the odd-numbered years and Christmas in even-numbered years, for the parent who is not the residential parent.

4. **Summer:** One half of the school summer vacation. Summer school necessary for the child to pass to the next grade must be attended. The residential parent shall notify the parent who is not residential parent by March 15 of when the summer vacation begins and ends. The parent who is not the residential parent must notify the residential parent as to their intentions by April 15.

a. If the parties cannot agree which half of the summer they prefer, in the even-numbered years, the first half of the summer shall be spent at the home of the parent who is not the residential parent, and in the odd-numbered years, the second half.

b. The children must be allowed to communicate by telephone, one time per week, with both parents, regardless of with whom the child is currently residing. Both parents shall permit no less than one half hour conversations. The calling party shall bear the expense. The children may call either parent, collect, at any and all reasonable times as he or she wishes.

c. A general itinerary should be provided either parent if more than 2 days will be spent away from either home when the children are in that parent's care.

5. **Vacations:** Each parent may arrange an uninterrupted vacation of not more than two weeks with the children. A general itinerary of the vacation shall be provided for the other parent including dates, locations, addresses, and telephone numbers.

a. A vacation is defined as a trip away from the parent's home. It does not include a parent's vacation time off from work where the parent spends it at home.

b. Summer school necessary for the child to pass to the next grade must be attended.

6. **Additional Parenting Time:**

a. **Weekend:** A once-a-month weekend visit to the parent who is not the residential parent will be permitted if the child's traveling time does not exceed three (3) hours one way. The residential parent must be notified at least one week in advance.

b. Father's Day and Mother's Day can always be spent with the appropriate parent.

c. The parent who is not the residential parent shall notify the residential parent at least two days in advance of any time the parent who is not the residential parent will be in the area and wants a visitation period. Absent extraordinary circumstances, this visitation shall occur.

d. The residential parent must notify the parent who is not the residential parent at least two days in advance when the residential parent and child will be in the area of the parent who is not the residential parent, and visitation must be allowed.

7. **Transportation:** Responsibility for transportation costs should be decided in advance and a plan written into an Order of the Court. The costs of transportation, in the appropriate case, may be a basis for deviation from the child support schedule.

8. **Moving:** Upon either parent learning that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by R.C. 3109.051(G), and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information necessary to effectuate a smooth move for the children. The parents shall attempt, in good faith, to renegotiate an appropriate and beneficial new parenting time schedule.

9. **Current Address and Telephone Number:** Except as provided in the Court order, each parent shall keep the other informed of his/her current address and telephone number at all times.

a. **Emergency Contact:** Both parents shall at all times, regardless of whether the children are with him/her, provide the other parent with a telephone number for contact in the event of an emergency.

10. **Car Seat:** For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as parenting time exchanges occur.

11. **Clothing:** The parents shall cooperate in the exchange of the children's clothing prior to and following parenting time.

RULE 3

1. CASE MANAGEMENT PLAN

The Court hereby establishes the following plan for the filing, assignment, and hearing of matters in the Domestic Relations Division. The time frame established for each phase is to be followed as closely as possible with the primary goal to move each case as expeditiously as possible. It is the responsibility of each party to be prepared in advance of any scheduled hearing. The Court may at any time refer a case for Mediation in order to seek a timely and equitable resolution of the case. The inability of the Court to meet these guidelines shall not be grounds for the dismissal of a case.

Schedule of events by the type of case-scheduling starts with the date of filing the Complaint and continues sequentially.

Divorce	
1-28 Days ---after service on opposing party	Temporary Orders
3 Months	Pre-Trial
6-9 Months	Trial if No Children
6-12 Months	Trial with Children
Dissolution	
4-6 Weeks	Hearing
Motions	
1-2 Weeks	Temporary or Initial Hearing
1-2 Months	Pre-Trial
2-6 Months	Trial
Change of Custody	
1-2 Weeks	Temporary hearing
2-4 Months	Pre-Trial
6-9 Months	Trial

Divorce

(A) Upon the filing of a Complaint for Divorce, legal separation, or annulment, the Administrative Assistant for Domestic Cases shall assign the case for a date and time certain for a Pre-Trial hearing which shall be no more than three (3) months from the date of filing.

If service has not been perfected by twenty-eight (28) days prior to the date of the pre-trial, the case shall be dismissed.

(B) All Complaints shall contain the following Notice Provision after the operative, factual paragraphs and before the request for service:

Notice of Hearing

If no answer is filed to this Complaint or if the parties have entered into a written separation agreement, this matter will be heard as an uncontested trial on the ____ day of _____, 20__, at ____ o'clock _____ .M. in the Morrow County Common Pleas Court, Domestic Relations Division, 48 E. High Street, Mt. Gilead, OH 43338.

All other matters will be heard on the ____ day of _____, 20__, at ____ o'clock _____ .M. This hearing will be a pre-trial if an Answer has been filed by the Defendant and the parties have not reached an agreement. Otherwise, this matter will be the final hearing. Both parties are to be present at the pre-trial.

(C) Failure to Answer. A divorce or legal separation case shall be deemed to be uncontested unless an answer, motion or stipulation for leave to plead, is filed within twenty-eight (28) days after completion of service. When such a case has been set down for final hearing as an uncontested case, the Defendant may not introduce evidence on his behalf except by leave of Court for good cause shown.

(D) Trial or Hearing Date.

(1) Pursuant to Ohio Rule of Civil Procedure 75(J), no action for divorce, legal separation, or annulment may be heard and decided until the expiration of forty two (42) days after service of process or twenty-eight (28) days after the service of a counterclaim, which may be designated a cross-complaint, unless the plaintiff files a written waiver of such twenty-eight (28) day period.

(2) Pursuant to ORC 3105.64, in the case of dissolution of marriage, the hearing shall be not less than thirty (30) days or more than ninety (90) days after the filing of the petition for dissolution of marriage.

(E) Any case coming before the Court as uncontested trial because the Defendant has failed to file an Answer, may not be heard by the court, unless a proposed Judgment Entry is submitted to the Court at the time of the trial.

Dissolution

Upon the filing of a Petition for Dissolution, the Administrative Assistant for Domestic Cases shall immediately assign a date which is approximately six (6) weeks from the date of filing of the Petition.

Motions

When a motion for a temporary order, modification of a prior order or contempt is filed, the Administrative Assistant for Domestic Cases shall immediately assign a hearing date.

Pretrial Hearing

(A) For the purpose of this rule, pretrial shall mean a court supervised conference, chiefly designed to produce an amicable settlement.

(B) A pretrial conference shall be held at a date and time certain in all contested cases (approximately three (3) months from filing). Said date and time shall be assigned to all cases when a Complaint for Divorce, Legal Separation, or Annulment is filed. All parties, except those joined for the sole purpose of being enjoined from releasing assets during the pendency of the case, and their counsel shall appear at the pretrial. Any application for continuance of the conference shall be made by written motion to the Magistrate or Judge assigned to the case.

Failure to appear at the pretrial hearing may result in sanctions, including, but not limited to, payment of attorney fees to the adverse party.

In the event that neither the Defendant nor his/her attorney appears for the pretrial, the court, at Plaintiff's request, may hear evidence and decide the case on the pretrial date.

If neither the Plaintiff nor his/her attorney appears at the pretrial and no counterclaim has been filed, the court may dismiss the action.

(C) Exchange of Settlement Offers.

(1) The Plaintiff or his/her attorney shall submit to the Defendant or his/her attorney, in writing, a good faith offer of settlement no later than thirty (30) days prior to the scheduled pretrial.

(2) The Defendant or his/her attorney must likewise submit to the Plaintiff or his/her attorney, in writing, a good faith offer of settlement no later than fourteen (14) days after receipt of the Plaintiff's Offer of Settlement.

(3) A Notice of said submission, but not the Settlement Offer, shall be filed with the Clerk of Courts and served in compliance with Rules 5 and 6 of the Ohio Rules of Civil Procedure.

(1) Each settlement offer shall deal with:

- (a) The division of all marital assets and liabilities including items of personal property and pensions.
- (b) Spousal support where applicable.
- (c) Allocation of Parental Care, support and parenting time where applicable.

(2) Each offer of settlement required by this rule shall be accompanied by an updated financial statement for each party. In addition to being served on

the adverse party, that financial statement shall be filed with the Clerk of Court.

(3) If a party, without good cause, fails to submit an offer of settlement, fails to submit an offer in good faith, or is untimely in submitting said offer, the Court, in its discretion, may order an award of attorney fees to the adverse party or grant such other relief that is equitable and just.

(D) All discovery shall be completed no later than thirty (30) days prior to the scheduled pretrial date, unless otherwise permitted by leave of Court.

(E) At pretrial conferences, the following shall be considered:

- (1) Settlement of the case;
- (2) Agreement upon and simplification of the issues;
- (3) The number of witnesses to approximate length of trial;
- (4) Establishment of a trial date;
- (5) Any other matters as may aid in the disposition of the case.

(F) At the conclusion of the pretrial conference, a pretrial order shall set the matter for a date and time certain for trial. That order shall be given to each counsel or to any party not represented by counsel and shall be filed with the Clerk.

2. Case-Flow Management Procedure

In compliance with the Rules of Superintendence for Courts of Common Pleas and for the purpose of maintaining and improving the timely disposition of domestic relations cases, the following case-flow management procedure is adopted. It is not intended that this procedure supersede any present rule, but only that it spells out the duties and responsibilities of counsel and the case management procedure.

Active Cases

All active cases shall be indexed by case number on the court's docket. Each active case shall be periodically reviewed. The periodic review shall include review of deadline dates established by time limitations taken from the court's rules for proof or failure of service, pretrial hearings, motion responses, hearing dates, objections to Magistrate's Decisions, preparation of entries, filing of entries, and case inactivity.

Complaints

After the Complaint is filed, service of summons shall be checked in thirty (30) days. If service is complete and no Answer has been filed, the case shall be assigned before the Magistrate for an uncontested action.

If service is incomplete, Notice shall be served on Plaintiff's counsel directing that unless service is obtained, the case will be dismissed. If after fourteen (14) days no effort has been made to obtain service, the case shall be dismissed.

Counsel of record shall be notified of any Complaint that has been dormant for three (3) months. If, after notification to counsel of record, the case file reflects nothing has been done or no pending court date has been set, the case may be dismissed by the court without prejudice.

Temporary Orders

Along with the Complaint for Divorce and/or Answer filed, the parties shall each submit the general information, financial affidavits and child support guidelines worksheets. In all cases in which temporary orders are being requested the court for "Proposal for Temporary Orders" shall also be filed, which will then be considered in drafting the temporary orders, covering temporary custody, child support/or spousal support. Collateral matters which the parties wish for the court to consider in the temporary orders (i.e. exclusive use of marital home, other property, autos, bank accounts, etc.) must be specifically requested in that party's proposal with sufficient reasons to enable the court to properly draft equitable temporary orders. If fourteen days have elapsed from the filing of an affidavit and no response has been filed, the party requesting the temporary order shall file a Notice to the Clerk, and the court shall enter an order based upon the affidavits filed.

Temporary Orders shall be determined based upon the affidavits filed by the parties. Either party may object to the temporary orders, once filed, and may request an oral hearing before the Magistrate. Motions for hearing on temporary orders made more than fourteen (14) days after the filing of the temporary orders must be based upon a change of circumstances relating to facts contained within the initial affidavits which facts were not reasonably known to the parties at the time the affidavits were filed. All motions for hearing on temporary orders must contain sufficient details as to the basis for the request for hearing such that the court and the other counsel may properly prepare for the actual hearing.

Pre-Trial Conference

After an Answer is filed, the case will be assigned for a pretrial before the Magistrate. Each case that is reported as settled will be given an uncontested hearing date, and each case that is not settled will be given a final trial date.

Dissolutions

Counsel of record or the parties shall be notified of any inactivity after sixty (60) days from the filing of the Petition. Unless for good cause shown, the matter will be set for final hearing or dismissed within thirty (30) days.

Post-Decree Motions

Post-decree motions shall be brought to the Administrative Assistant for Domestic Cases for the Magistrate before filing to be assigned a hearing date.

Continuances

Continuances shall not be granted orally, must be in writing and must comply with Rule 12 of the General Rules of this Court. A request for continuance, before it is granted, shall contain the new date for hearing, the reason for the request, whether or not opposing counsel consents, and must be approved by the Magistrate or the Judge assigned to the Case.

Magistrate's Decision

After a hearing, a Decision shall be approved by the Magistrate before being submitted to the Court with the Judgment Entry. If any party makes a request for findings of fact and conclusions of law or findings and conclusions are otherwise required by law, the Magistrate's Decision shall either include findings of fact and conclusions of law or the party requesting the findings of fact and conclusions of law shall submit proposed findings as requested by the Magistrate. Counsel and/or a party have fourteen (14) days in which to file written objections to the Magistrate's Decision. Upon objections being filed, the Judgment shall be automatically stayed. The report shall be reviewed by the Judge, and if no changes are necessary, an Entry shall be issued stating that the Decision is approved as written. If changes are necessary, an amended entry shall be issued.

Judgment Entries

In actions where the parties have resolved the matter by agreement prior to Magistrate Hearing, the parties shall reduce their agreement to writing and shall submit their written Memorandum of Agreement to the Court. A formal Entry shall be submitted and signed by the parties within fifteen (15) days after the Memorandum of Agreement for the Judge and Magistrate to sign. Failure to comply with this Rule will result in a fourteen (14) day Notice to Dismiss. Upon no response with the additional fourteen (14) days, the Court will dismiss the motion.

Orders for child support and cash medical support shall be stated in terms of a monthly amount payable weekly, bi-weekly, semi-monthly, or whenever the payor is paid. The Entry shall also require one or both of the parties to maintain health insurance for the children and the amount for extraordinary medical, dental, optical, etc., shall be included. The Entry shall also provide for the child support and/or spousal support to be paid through the Ohio Child Support Payment Central with the appropriate processing fees included by wage withholding.

Copies

Counsel shall prepare for use by the child support enforcement agency one copy of each judgment entry filed with the clerk; and in cases involving minor children, one copy of any motion and/or order filed with the clerk shall be provided for the Magistrate.

RULE 4:

Witnesses

Only one corroborating witness, who has personal knowledge of the facts, shall be required.

RULE 5:**Investigations**

A home investigation concerning the best interests of the child/ren shall be made in any domestic relations action when ordered by the Court and the parties shall bear the costs of said investigation.

RULE 6**Pleadings**

All pleadings filed with the Court must contain the name of the Court, proper style of the case and number.

RULE 7**Entries**

Unless subject to the Uniform Judgment Entry and Magistrate Report forms promulgated by the Supreme Court, or unless the Trial Judge or Magistrate otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five (5) days thereafter prepare the proper journal entry, and submit it to the counsel for the adverse party, who shall approve or reject the same within three (3) days after the receipt thereof. Name of counsel, counsel's Ohio Supreme Court registration number, and the Judge shall be typed or printed upon the Entry. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge who made the decision for approval and if signed by he or she shall then be filed with the Clerk. If counsel is unable to agree upon the entry, each counsel shall prepare his/her version. Counsel who prepared the initial entry shall forthwith notify the other counsel of when he intends to submit the entry to the Judge or Magistrate, which entry shall be submitted within fourteen (14) days after the Decision is rendered. The Judge shall direct which entry shall be filed.

RULE 8**Restraining Orders**

A temporary mutual restraining order shall be issued without notice upon the filing of a complaint for divorce, legal separation, or annulment and shall remain in force during the pendency of the action unless vacated or modified.

The restraining orders shall accompany the Complaint at the time of filing. Attorney for the Plaintiff shall forthwith deliver a copy of the restraining orders to the Plaintiff. The Family Court shall serve Defendant a copy of the restraining orders along with the Complaint pursuant to Civil Rule and place a file stamped copy in the file. The mutual restraining orders shall be in the same format as appended to these rules.

Upon Motion and supporting affidavit, additional restraining orders may be issued, with or without bond, against financial institutions or other parties that are joined as parties.

A party against whom a temporary restraining order has been granted may file a motion, supported by affidavit, requesting that such an order be vacated. A motion to vacate a mutual or ex parte restraining order may be set for hearing before the Magistrate/Judge.

All other motions for ex parte orders shall be handled in accordance with these rules.

Rule 9

Guardian Ad Litem

The Court of Common Pleas, Domestic Relations Division, and the Juvenile Division may appoint Guardians Ad Litem to represent the best interest of the minor child(ren)/incompetents in matters regarding the allocation of parental rights and responsibilities, arising out of abuse, neglect or dependency filings, wherein said Branch has jurisdiction.

Eligibility - The Court will maintain a list of attorneys and qualified individuals who have completed the required training and are eligible to serve as a Guardian ad Litem.

In order to be eligible, potential Guardian Ad Litem shall attend a three-hour training program concentrating solely on the duties of a Guardian ad Litem. Attending an Ohio approved Continuing Legal Education course on the subject of Guardians ad Litem or viewing a video of such shall automatically qualify attorneys for eligibility. Other equivalent training may be approved by the Court. Upon completion, a letter verifying completion and a copy of the certificate of attendance from said training shall be sent to the Court. In sending a letter requesting placement on the list of eligible attorneys, an attorney is indicating a commitment to the acceptance of an appointment on a pro bono basis at least once a year. This does not apply to non-attorneys.

All Guardian Ad Litem shall notify the court of changes in their status, address or telephone number.

Appointment - In any action over which the Court has jurisdiction, the Court may appoint a Guardian ad Litem upon its own motion or the motion of either party. Appointments may be in the dual capacity of attorney and Guardian ad Litem for the child, as long as those roles do not conflict. Said appointment shall be made by the required Entry.

Counsel for the party requesting the Guardian ad Litem shall be required to notify the Administrative Assistant for Domestic Cases of said appointment. The Administrative Assistant for Domestic Cases and all counsel shall notify the Guardian ad Litem of all proceedings. 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, shall be charged to the party(ies) responsible for such failure.

Fees/Deposit to Secure Fees - The Court shall require the parties to post a deposit to secure the fees of the Guardian ad Litem in a proceeding involving custody, or parenting time, at the time of the filing of the motion. The total deposit shall be at least \$500.00 unless otherwise agreed upon by the Guardian ad Litem, to be applied toward the satisfaction of the fees. No deposit for fees shall be required in cases alleging a child to be dependent, neglected, or abused. If any party has filed an affidavit of indigency, the court may, in its discretion, not require that party to pay an initial deposit.

Additional sums may be ordered and apportioned to the respective parties upon the Court's own motion or motion of the Guardian ad Litem, who may submit to the Court a request for an additional deposit, or a monthly affidavit of fees for approval and an order regarding payment of said deposit/fees. Said request shall be served on the parties or their counsel if they are represented, and if there is no objection, an order regarding payments of said deposit/fees may be issued after seven days.

No later than seven (7) days after final hearing in the matter on which the Guardian ad Litem has been appointed, the attorney/Guardian ad Litem shall submit an affidavit of fees to the Court. If approved by the Court, said fees shall be made 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 the Supreme Court as to Civil Procedure and Superintendence. In order to protect the fee for the services of the attorney/Guardian ad Litem, the Court may require additional deposits, and shall have the discretion to issue a lump sum Judgment against the party or parties for the attorney fees due and owing at the time of the final adjudication.

Duties of the Guardian ad Litem - Upon appointment, the Guardian ad Litem in every case should perform certain basic duties, identified below. The feasibility of some of the duties will depend upon the age(s) of the child (ren) and the specific circumstances of each case. Therefore, it is within the discretion of the Guardian ad Litem to tailor each to the facts of the individual case.

- a. Meet with the child, parents, guardian or legal custodians and determine the wishes and concerns of the child, parents, guardians or legal custodians;
- b. Perform home visits;
- c. Interview all significant persons, which may include caseworkers, complainants, medical professionals, school officials, social workers, counselors, etc.;
- d. Review all pleadings and make appropriate requests for information and discovery;
- e. Obtain relevant records e.g., school, criminal, medical, psychological, child protective agency, investigation reports, etc.;
- f. Evaluate the necessity, if any, of psychological evaluations or counseling; and file a motion requesting the same;
- g. Maintain communication with any protective services worker, probation officer, or diversion coordinator, involved with the child;
- h. Attend all pre-trials, hearings, depositions and reviews, concerning the best interest of the child(ren);
- i. Be cognizant that the duty of the attorney to his/her client and the duty of the Guardian ad Litem to his/her ward are not always identical and, in fact, may conflict. The role of the Guardian ad Litem is to investigate the ward's situation and then to ask the Court to do what the Guardian ad Litem feels is in the ward's best interest. The role of the attorney is to zealously represent his/her client within the bounds of the law. The first and highest duty of an attorney appointed in a dual capacity is to zealously represent his client within the bounds of the law and to champion his client's cause. When appointed in the dual capacity of Attorney and Guardian ad Litem for the child or solely as Guardian ad Litem for the child, notify the Court and counsel when a conflict arises.

Powers - The powers of the Attorney/Guardian ad Litem shall be wide-ranging, including, but not limited to, the right to file motions and to review all confidential records involving the child (ren) by request, through deposition, and by subpoena.

Reports and Court Appearances - The Guardian ad Litem shall prepare and file written reports detailing observations and recommendations on both an interim basis and at the conclusion of the hearing, but in all cases shall be present

at all hearings pertaining to the children. The Attorney/GAL may subpoena and examine independent witnesses.

The Guardian ad Litem has a duty to notify the Court and counsel if the child's wishes are in opposition to the Guardian's recommendation.

Filing Fees and Court Costs - All filing fees and court costs are waived as to the Guardian ad Litem.

Termination of Appointment - The Guardian ad Litem shall represent the best interest of the minor child (ren) until discharged by the court. At the conclusion of the litigation, the attorney/Guardian ad Litem shall prepare an Entry withdrawing as the Guardian ad Litem.

RULE 10

Termination of Inactive Cases

An inactive case is a case which has been on the docket for six (6) months and which (1) has not been tried, (2) is not awaiting trial assignment, and (3) is not stayed by order of the Court. Inactive cases shall be set for hearing to be tried or dismissed after written notice to counsel of record for failure to proceed, unless good cause is shown to the contrary.

RULE 11:

Affidavits required at time of filing

1. Upon the filing of an action for dissolution, divorce, legal separation, or an answer or counterclaim thereto, the party filing, in addition to any other affidavits, shall file affidavits listing all income, assets and liabilities of the parties, whether jointly or separately held, together with any other relevant information concerning such listing that is within their knowledge.

Such affidavits may be supplemented by further affidavits any time prior to trial.

The affidavit required by this Rule may be submitted upon a form provided by the Court, or in a format consistent therewith.

2. Upon the filing for an action for dissolution, divorce, legal separation, answer or counterclaim involving minor children, or post-decree motions involving parental rights of minor child a child custody affidavit shall be filed which identifies the minor child of the parties, the ages of the children, and the current place of residence, and where and with whom they have resided for the past five (5) years. The affidavit must also notify the court of the following:

a. If the affiant has participated as a party, witness, or in any other capacity in an other litigation in this or any other state that concerned the allocation between the parents of

the same child, of potential rights and responsibilities for the care of the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child/ren.

b. Whether the affiant has information of any parenting proceeding concerning the child/ren pending in a court of this or any other state.

c. Whether affiant knows of any person who is not a party to the proceeding that has physical possession of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or parenting time right with respect to the child.

d. Whether affiant previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or previously has been determined, in a case which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication.

The affidavit required by the Rule may be submitted upon a form provided by the Court.

3. In any Petition for Dissolution or Complaint for Divorce or Legal Separation involving minor children, any post-decree motion regarding parental rights or modification of support, motion for health insurance coverage, paternity, or answer or counterclaim the pleading shall be accompanied by a Health Insurance Disclosure Affidavit which identifies the health insurance available to each party, if any, the address and telephone number of the carrier, and whether there is a participant and/or prescription card available.

The affidavit required by this Rule may be submitted upon a form provided by the Court.

RULE 12:

Child Support Worksheets

A. Dissolution of Marriage and Uncontested Divorces

Child support worksheets shall be filed with any petition for dissolution of marriage or any request for assignment of an uncontested divorce hearing in which there are minor or otherwise unemancipated children who are issue of the marriage. If the child support provided for in the separation agreement filed with the petition for dissolution or the proposed judgment entry decree of divorce deviates from the child support guidelines, the proposed judgment entry or decree of dissolution shall contain or have attached findings of fact sufficient to substantiate the deviation. General recitals that the deviation is fair or equitable, or words of similar import, shall not be sufficient to substantiate the deviation.

B. Contested Divorces

Each party shall file a proposed child support worksheet with the complaint for divorce.

C. Temporary Child Support, Motions to Modify Child Support, and All Other Actions in which Child Support is an issue

Proposed child support worksheets, along with affidavits, memoranda or documents in support or opposition to child support motions, shall be filed by each party at the time of filing a Divorce, Legal Separation, Answer or Counterclaim, Requests for Temporary Orders or any Post-Decree Motions involving the issue of child support.

RULE 13:

Child Support and Spousal Support Modifications

Upon a filing of a motion requesting modification of child or spousal support, each party shall file an affidavit setting forth their current income and itemized expenses. If a party has remarried he/she shall also set forth their spouse's current income.

The affidavit required by this Rule may be submitted upon a form provided by the Court.

RULE 14

Magistrate Hearings

Magistrates shall be appointed in accordance with Civil Rule 53, and shall have all powers conferred by said Rule. Magistrates shall hear the following matters:

A. Pre-Decree Motions

In actions for Divorce, Legal Separation, or Annulment, Magistrates shall hear all pre-decree motions for allowance of spousal support, child support, and custody pendent lite filed pursuant to Civil Rule 75(N).

B. Final Hearings

Magistrates shall conduct final hearings in actions for Divorce, Legal Separation, Annulment, or Dissolution, or a bifurcated portion of said hearing upon an order of reference from the Judge assigned to the case.

C. Post-Decree Motions

Magistrates may hear all post-decree motions in actions for Divorce, Legal Separation, Annulment, or Dissolution, whether the action originated in the Court or was transferred to the Juvenile Branch of the Court by a Court of another state or county. Motions filed pursuant to Civil Rule 59 or 60 shall be heard by the Judge or Magistrate who heard the matter originally or their successor.

D. Contempt and Discovery Motions

Contempt and Discovery Motions may be scheduled before a Judge or Magistrate.

E. CSEA Hearings

All CSEA hearing required under Chapters 3111, 3113, 3115, 3119, 3121, or 3123 of the Ohio Revised Code, and motions for relief from judgment which was journalized by the Court without hearing following a MCCSEA administrative hearing may be heard by a Magistrate.

F. Matters From The Juvenile Division

All Complaints for custody in the Juvenile Division of this Court, including post-decree motions to modify the allocation of parental rights and responsibilities, and motions to allocate parental rights following determination of parentage may be heard by a Magistrate.

G. Other Matters

All other matters referred by a Judge may be heard by a Magistrate.

Rule 15

Service by Publication

Pursuant to Civil Rule 4.4(A) (2), the Clerk of Courts shall cause service of notice to be posted in two additional public places: The Morrow County Child Support Enforcement Agency and The Morrow County Auto Title Department.

Rule 16

Motions

(A) Motions for temporary orders based on affidavits may contain multiple requests for relief. Motions for contempt may contain additional requests for attorney fees and reducing the arrearage to a judgment. All other motions shall contain a single request for relief and shall not contain multiple branches or alternative requests for relief, except that in addition to the single request for relief a motion may contain a request for appointment of a process server and/or attorney fees.

(B) Either party may submit financial and narrative affidavits in support of a motion for temporary orders. Narrative affidavits regarding the allocation of parental rights and responsibilities shall not exceed an aggregate of twenty-five pages, excluding exhibits. Affidavits may not be submitted as exhibits.

Once the court has issued temporary orders based upon the affidavits of the parties, either party may request an oral hearing pursuant to Ohio Civil Rule 75(N) (2). The oral hearing shall be before the Magistrate that issued the temporary orders.

(C) Post-decree motions requesting ex parte orders that affect children are strongly 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 for hearing a motion requesting the allocation of parental rights and responsibilities. Such motions for ex parte orders shall have supporting affidavits that clearly delineate the expected harm. Any ex parte order for a change in the residential parent status shall include a provision for immediate notice of the ex parte order to the legal custodian or the residential parent.

Rule 17

Objections to Magistrate Decision

A Decision of a Magistrate may be reviewed by the assigned Judge of this Court by filing an objection in accordance with Rule 53 of the Ohio Rules of Civil Procedure with the Clerk and giving notice to the opposing party or his/her attorney.

The objection should be accompanied by supporting memorandum. If a finding of fact or weight of the evidence is part or the entire basis for objection, a transcript of the testimony is necessary to support the objection to the Magistrate's Decision and must be filed with the Court.

The request and deposit for said transcript shall be submitted to the proper court reporter within three (3) days after the filing of the objections. The cost of same shall be as the Court shall from time to time determine at a per page amount. At the time of ordering of a transcript, the ordering counsel or party shall arrange for payment to the proper official Court Reporter. An advance deposit shall be posted with the Court Reporter by the ordering counsel or party, with the balance due prior to delivery of a copy or the filing of an original with the Court.

All original transcripts shall be filed by the Court Reporter with the Clerk of Courts and shall thereby become part of the official record of the case. A copy will be provided to the ordering party, upon request, at a cost which shall be determined by the Court.

Failure to file a transcript when one is required by this Rule is a basis for dismissal of the objection.

Memoranda contra objections may be filed by any party within ten (10) days of the filing of said objections.

Rule 18

Mediation

(A) Actions for Divorce, Legal Separation, or Annulment

After service of summons in an action for Divorce, Legal Separation, or Annulment involving the allocation of parental rights and responsibilities, the Court may order the parties to participate in Mediation. Parties may also participate in Mediation prior to or after the filing of a contempt motion for denial of parenting time. Mediation Services will also provide voluntary mediation to parties wishing to mediate without litigation pending.

(B) Post-decree motions to reallocate parental rights and responsibilities

Upon the filing of a motion to modify the allocation of parental rights and responsibilities, the Court shall order the parties to participate in mediation. If Mediation Services determines that mediation is appropriate for the parties, the parties shall participate in Mediation.

The Court may waive participation in Mediation if the parties have previously mediated the matters at issue.

(C) Mediation

If Mediation determines that Mediation is appropriate for the parties and the parties agree to or are ordered to mediate, then the parties shall participate in mediation with a court approved mediator. Mediation may be convened from time to time until all issues are resolved in a manner mutually acceptable to the parties or until the mediator determines continued efforts would not be productive. The parties may agree to terminate mediation.

Upon the conclusion of mediation, the mediator shall file a report indicating if the parties reach an agreement on all or some issues. Agreements reached in mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court. Statements made during mediation are confidential and shall be considered compromise negotiations and not admissible as evidence pursuant to Evidence Rule 408. Mediators are not permitted to testify regarding the substance of the mediation negotiations, including but not limited to, cooperation or non-cooperation by the parties.

(D) Mediators

To be a court approved mediator for Divorce, Legal Separation, Annulment, post-decree and other cases involving allocation of parental rights and responsibilities, a mediator should possess the following qualifications:

- 1) Completion of at least 12 hours of basic mediation training, 40 hours of specialized family and divorce mediation training and 12 hours of specialized domestic violence training for mediators.
- 2) Adherence to the Model Standards of Practice for Family and Divorce Mediation.
- 3) An undergraduate degree or documented equivalent educational experience approved by the Court and at least two years of professional experience with families. “Professional experience with families” includes counseling, casework, mediation, legal representation in family law matters, or equivalent experience as is satisfactory to the court.
- 4) Maintenance of appropriate liability insurance specifically covering the activities of the individual as a mediator.
- 5) Adherence to the ethical standards of any other profession that the mediator practices or in which the mediator is licensed.
- 6) A commitment to continuing education.
- 7) Awareness of the factors affecting the propriety of mediation in particular cases.
- 8) Substantial divorce and family mediation experience, or successful completion of a supervised domestic and family mediation apprenticeship.

RULE 19

Forms

The Court may promulgate standard forms for use in domestic actions. When parties are required by local court rule to use forms authorized by the Court, they may submit a form which is identical in content, but not appearance, to the form promulgated by the court, and shall include therein a certificate verifying the content of such form. The forms promulgated by the Ohio Supreme Court should be used by unrepresented parties. Said forms may be found on the Ohio Supreme Court’s website. Commonly used forms, such as a (1) Discovery Order, (2) Mutual Restraining Order, (3) Affidavit of Income and Expenses, (4) Affidavit of Property, (5) Parenting Proceeding Affidavit, (6) Motion for Temporary Orders, (7) Complaint for Divorce Without Children, (8) Complaint for Divorce with Children, (9) Petition for Dissolution (10) Separation Agreement, (11) Shared Parenting Agreement and a (12) a copy of Local Rule 2 are included in the Appendix attached hereto.

The parties shall complete a Title IVD application (available on-line or through the Morrow County Child Support Enforcement Agency) when a divorce complaint or a dissolution petition is filed in all cases involving children and with Complaints to Establish Child Support that are filed in the Juvenile Division unless there is an open child support case with the Morrow County Child Support Enforcement Agency.

Rule 20

Service Members' Civil Relief Act

In any action commenced in this Court against an unrepresented party who is a member of the military service, the Court may appoint an attorney to represent that party pursuant to the Service Members' Civil Relief Act, and may assess and allocate the cost of said counsel as costs in the case. The Court may stay the proceeding until such time as the party in the military service is available for trial. During the pendency, the party will be ordered to cooperate in all discovery procedures and to notify the court upon his/her return.

FORMS APPENDIX

Note: The forms created by the Ohio Supreme Court are available on the Supreme Court website and may be completed on line and printed for filing with the Clerk of Courts.

IN THE MORROW COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION

Plaintiff,

-vs-

Defendant

CASE NO: _____

JUDGE _____
MAGISTRATE _____

DISCOVERY ORDER

A Pretrial/Status Conference is scheduled for the above captioned case before Magistrate _____ on _____ at _____.

The attorneys or unrepresented parties shall report to the Court on the status of Discovery, including:

1. Witness List
2. Expert Witnesses and Reports
3. Documentation of the value of:
 - a. Income
 - b. Pension
 - c. Deferred Compensation
 - d. Real Estate
 - e. Motor Vehicles, boats, etc.
 - f. Valuables, Collectibles
 - g. Household Furnishings
 - h. Stocks, Bonds, Securities
 - i. Notes, accounts receivable
 - j. Financial Institution Account(s)
 - k. Life Insurance
 - l. Separate Property
 - m. Other (Specify)
4. Documentation of outstanding Debts.

Stipulations are encouraged and may be made in writing or on the record at the status conference. Pursuant to Local Rule _____, all documents in the attached Ex. A shall be exchanged prior to Status/Pretrial without the filing of Requests for Production or Interrogatories.

IT IS SO ORDERED.

Judge/Magistrate

Date: _____

**IN THE COURT OF COMMON PLEAS OF MORROW COUNTY, OHIO
DOMESTIC RELATIONS DIVISION**

PLAINTIFF	Case No: _____
v.	Judge _____
DEFENDANT	Magistrate _____

RESTRAINING ORDERS

Pursuant to Local Court Rule 8, it is ORDERED that effective on the date a complaint is filed each spouse is enjoined from committing any of the following acts:

1. Removing, or causing to be removed, the child (ren) born or adopted by the parties and/or the child (ren) of either or both spouses, if any, from the Court’s jurisdiction; and

2. Causing physical abuse, annoying, inflicting bodily injury, attempting to cause or recklessly cause bodily injury, threatening the use of force or imminent physical harm, stalking, harassing, interfering with or imposing any restraint of the personal liberty of the other spouse, committing any act with respect to a child in violation of the Revised Code of Ohio; and

3. Incurring debt in the name of the other spouse except for necessary food, housing, utilities, medical care, and necessary transportation; and

4. Selling, removing, transferring, encumbering, pledging, hypothecating, damaging, hiding, concealing, assigning or disposing of any and all property, real or personal, owned by both or either spouse or a child (including household goods, vehicles, financial accounts, and the personal property of each) without the prior written consent of the spouse or the Court. Excluded is any account now used for the payment of living costs; and

5. Voluntarily changing the term of, or beneficiary of, terminating coverage of, cashing in, borrowing against, encumbering, transferring, canceling or failing to renew any type of insurance, including health, automobile, life, home, liability, disability, or fire insurance that provides coverage for a spouse or child (ren) born or adopted by the parties; and

6. Voluntarily liquidating, cashing in, changing the beneficiary of, terms, or conditions of any retirement or pension plan or program that provides any benefit to a spouse or child (ren) born or adopted by the parties and/or of either or both spouses; and

7. Voluntarily interrupting or terminating any utility service to the marital residence without prior written consent of the other spouse or the Court.

Nothing in the above restraining orders precludes either spouse from using his/her separate property to pay necessary and reasonable attorney fees, litigation and court costs in this action.

WARNING

This is an official Court Order. If you disobey any order of Court, you may be found in contempt of Court, sentenced to jail, fined, and ordered to pay costs and attorney fees in addition to any other legal remedy available to the spouse, child (ren) or other dependent(s) affected. This order is in effect until (1) the Court issues an order, which modifies or terminates it or (2) a judgment for divorce or legal separation is filed with the Clerk of Courts.

DATE

Magistrate