

## **Chapter 10 – Domestic Relations**

### **Rule 10.01 – Assignment of Domestic Cases**

The assignment of cases shall be in accordance with the Rules of Superintendence for the Courts of Ohio.

### **Rule 10.02 – Waiver of Filing Fee and Court Cost Deposit**

A party who is unable to prepay or give security for costs in domestic relations cases shall file a Petition for Waiver of Filing Fee and Court Cost Deposit and an Affidavit in Support of Petition for Waiver of Filing Fee. The Affidavit must be notarized. The Court will rule on the Petition. If the Petition is denied, a deposit shall be made in accordance with Court Order. The Clerk may refuse to file any new domestic relations case until such time as the filing fee is deposited or an order waiving the filing fee is signed by the Court.

### **Rule 10.03 – Trial and Other Event Dates**

All hearing dates of cases set for trial shall be made by the Court. The order or notice of hearing for trial shall be mailed or delivered to all interested counsel and parties who are without counsel and filed with the Clerk of Courts. Discovery dates and any other necessary deadlines will be set by the Court.

### **Rule 10.04 – Motion Procedures/Scheduling**

- A. Motions for temporary orders shall be scheduled for hearing by the Court.
- B. Motions to show cause will be set for an oral hearing, and all parties shall be prepared to present their case on the merits.
- C. All other motions shall be set for a hearing. At the hearing, the parties shall be prepared to discuss the following: the merits of the motion, the need for an evidentiary hearing, mediation, or guardian ad litem, and any other issues.

### **Rule 10.05 – 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 28 days after completion of service. When a case has been set 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.

## **Rule 10.06 – Pre-trial Conference**

### **A. Scheduling and Attendance**

A pre-trial conference shall be held in all contested divorce cases. The pre-trial conference shall be scheduled in all cases when a complaint for legal separation, divorce 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 pre-trial.

**Failure of any party or counsel to appear at the pre-trial conference may result in sanctions**, including, but not limited to, payment of attorney fees to the adverse party. If neither the defendant nor his/her attorney appears at the pre-trial conference, the Court may hear evidence and decide the case on the pre-trial date. If neither the plaintiff nor his/her attorney appear at the pre-trial conference and no answer and/or counterclaim has been filed, the Court may dismiss the action.

### **B. Preparation for Pre-Trial Conference**

All parties must be prepared to discuss the following matters at the pre-trial conference:

1. The witnesses, including expert witnesses, that each party expects to call at the final hearing;
2. The exhibits each party intends to introduce at the final hearing;
3. Contested facts;
4. Legal issues;
5. Any matters upon which the parties are willing to stipulate;
6. Trial time estimates; and
7. Whether any pending motions remain.

### **C. Pre-Trial Order**

Following the pre-trial conference, if settlement has not been achieved, the Court will set the matter for trial and summarize the outcome of the pre-trial conference in an entry.

### **D. Status Conferences**

The Court may schedule periodic status conferences to assure the progress of a case and assess readiness for trial.

## **Rule 10.07 – Objections and Motions to Set Aside**

All objections and motions to set aside will be considered by the Court.

A party objecting to a factual finding shall file a written Praecipe with the Court, for preparation of the transcript or other good cause. Refer to Chapter 5 of the Local Rules for the Court's procedures regarding Court recordings, transcripts, cost, and copies of Court recordings.

If a transcript is unavailable because no recording of the proceedings was made or the recording is no longer available for transcription, the objecting party may prepare a

statement of the evidence or proceedings from the best available means, including the objecting party's recollection. The statement shall be served on the other party within fourteen days after filing objections, and the other party may serve an objection or a proposed amendment to the statement on the objecting party within ten days after service of the statement.

If a party files timely objection prior to the date on which a transcript is prepared, each party may supplement **one** time after filing of the transcript without leave of Court.

## **Rule 10.08 – Divorce/Dissolution Filing and Motion Requirements**

### **A. Filing Requirements**

All filings for a legal separation, divorce, dissolution, or annulment, that concern minor child(ren) must be supported by a child custody affidavit, child support computation worksheet and the filing of an application for IV-D services with the Child Support Enforcement Agency. All actions for spousal or child support must be supported by a Financial Affidavit and a Private Health Insurance Affidavit.

The Court **may dismiss filings for a legal separation, divorce, dissolution or annulment with minor children** filed without an application for IV-D services with the Child Support Enforcement Agency.

### **B. Motion Requirements - Generally**

All motions must comply with the rules set forth in Chapter 2.07 (B) of the Local Rules. The Court may dismiss any motions that do not comply with these provisions.

### **C. Affidavits and Other Required Forms**

The following supporting documentation must be filed with certain motions:

1. Domestic relations motions that concern minor children must be supported by a Declaration Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) if the motion reopens the case.
2. All domestic relations motions that might affect a change in child support must be supported by a child support computation worksheet.
3. All motions concerning spousal or child support must be supported or opposed by a financial affidavit and a Private Health Insurance affidavit.
4. Motions for allocation of parental rights must be accompanied by an affidavit of the party filing the motion that contains facts sufficient to support the requested relief.
5. Child care costs must be supported by adequate proof of payments made.

Forms are available from the Supreme Court of Ohio or the Clerk of Court's website.

All parties must update their financial affidavits if there are changes to their financial information.

### **Rule 10.09 – Notice of Intent to Relocate**

If the residential parent of minor child(ren) intends to relocate to a residence other than that specified in the parenting time order or decree of this Court, the residential parent must file a Notice of Intent to Relocate in advance of the move in accordance with R.C. 3109.051(G). The Notice of Intent to Relocate must be filed at least 60 days in advance of the relocation or as soon as the residential parent is aware that relocation will occur.

The Clerk of Court shall mail a copy of the Notice of Intent to Relocate to the non-residential parent unless the residential parent files a motion objecting for reasons set forth in R.C. 3109.051(G), including alleged domestic violence or abuse of a child. If the residential parent objects to the Court sending a copy of the notice to the non-residential parent pursuant to R.C. 3109.051(G)(4), the Court shall schedule the matter for a hearing and give both parents notice of the date, time and location of the hearing.

### **Rule 10.10 – Child Support Enforcement Agency**

All motions for modification of child support, spousal support, custody, visitation, contempt, or other domestic relation matters, shall refer to the prior order involved by date of its entry, and shall briefly state the express term(s) alleged to have been violated or subject to modification.

For purposes of R.C. 3109.05, whether in an original proceeding involving child support or a modification, counsel or unrepresented parties shall file support worksheets mandated by the Ohio Supreme Child Support Guidelines in accordance with R.C. 3113.215.

- A.** A processing charge of two percent shall be assessed to all support obligations (current or on arrearages).
- B.** Any payment of support made by the obligor to the recipient outside the Child Support Enforcement Agency (CSEA) (i.e. Direct payment) shall be deemed a “gift”, and no credit may be given upon the obligor’s support record. All support must be paid through the Child Support Enforcement Agency (CSEA), unless otherwise directed by the Court.

**C.** Procedures for the disposition of U.R.E.S.A. - U.I.F.S.A. – Interstate Actions:

- 1. Cases initiated in this Court:

U.R.E.S.A./U.I.F.S.A cases filed in this Court by the Prosecuting Attorney for transmission to a foreign county or state jurisdiction shall be docketed as any other domestic relations action, but once the pleadings are forwarded by the Clerk of Court to the foreign jurisdiction, the Clerk of Court shall treat the case

as inactive and as if closed. The Clerk of Court shall superintend the case as a Domestic Relations case filed and terminated the same date.

If, and when, further pleadings are filed in such cases by the Prosecuting Attorney, or foreign jurisdiction they shall be appropriately docketed by the Clerk of Court. When a final judgement entry or order for support is received from the foreign court, a copy shall be provided by the Clerk of Court to the Prosecuting Attorney and Child Support Enforcement Agency\_(CSEA)\_and the case will be treated as closed.

2. Cases received by this Court:

U.R.E.S.A./U.I.F.S. A case filed in this Court from foreign jurisdictions shall be docketed as any other domestic relations action and shall be treated as an active case until otherwise specifically ordered by this Court. The Prosecuting Attorney shall be notified of the filing, and shall proceed according to law to obtain service, etc. A hearing date shall be obtained from the Court, and the case shall until dismissed or an order for support entered. The Clerk of Court shall treat the case as open.

### **Rule 10.11 – Guardian Ad Litem - General**

A. The role of the Guardian ad Litem is to assist the Court in allocating parental rights and responsibilities, with the primary focus being the best interest of the child(ren). The Guardian ad Litem performs an investigation and advocates for the child(ren)'s best interest.

B. A Guardian ad Litem shall perform the following duties:

1. Interview each parent separately or state in the report why this is impractical or unnecessary.
2. Interview the child(ren) separately or state in the report why this is impractical or unnecessary.
3. Contact any mental health providers involved in the case and evaluate the necessity, if any, of psychological evaluations or counseling.
4. Contact the child(ren)'s school, child care providers, and health care providers, as appropriate.
5. Participate in all pre-trials and hearings as the Court directs.
6. File a final report and recommendations with the Court and serve all parties at least seven days before the final hearing unless otherwise ordered by the Court.
7. The GAL shall maintain the confidentiality of any records received pursuant to this order and will not disclose the same except to report to the court or as law permits.

8. A Guardian ad Litem shall testify if requested by the Court or subpoenaed in a case.

C. The appointment of the Guardian ad Litem includes the following:

1. A fee rate of \$150.00 per hour for the Guardian ad Litem;
2. Instructions for an initial deposit of fees to the Guardian ad Litem;
3. A description of how fees are to be apportioned among the parties. (The Court will enforce payment of fees on a case-by-case basis including, but not limited to, the following factors: (a) An itemized fee statement submitted by the Guardian ad Litem; (b) Actual services performed by the Guardian ad Litem).
4. Permission to inspect and copy any records, including treatment for physical illness, mental illness, and/or drug abuse treatment relating to the child(ren) without the consent of the child(ren) or the child(ren)'s parent or legal guardian(s); and to discuss with the person providing the treatment or test(s) any and all matters pertinent to treatment and test results related to the child(ren);
5. The GAL shall have reasonable access to the child(ren) at school or in placement without obtaining the consent of the child(ren)'s parent(s) or guardian(s);
6. The GAL shall be given notice of all hearings and proceedings and shall be provided with a copy of all pleadings, notices, or other documents filed in this case. The GAL shall participate in any hearings or deposition(s) in this case that concern matters within the GAL's duties and scope of employment; and
7. This appointment shall remain in effect until discharged by order of the court.

D. The Guardian ad Litem's report shall be submitted to the Court as a confidential, non-public, court document and shall not be filed with the Clerk of Courts. The Guardian ad Litem shall distribute copies of the report to the attorneys for the parties, who shall review the report with their clients. If a party is not represented by counsel, the Guardian ad Litem shall review the report with the party. Parties shall not be given a copy of the report. The Guardian ad Litem shall not otherwise distribute the report without the Court's permission.

### **Rule 10.12 – Parenting Time/Standard Parenting Guidelines**

The Court has created the following guidelines that may be used in domestic relations cases when parenting time is ordered.

These forms can be obtained from the Court's local rules under "Forms" and Clerk of Court's website.