

## LOCAL RULE 31

### **DOMESTIC RELATIONS CASES**

#### **31.1 Pre-trial Procedure**

Upon filing, the matter shall be assigned for Pre-trial/Scheduling Order Conference before the Magistrate/Judge at which conference the Domestic Relations Scheduling Conference Order shall be used.

The time and date for all hearings shall be determined by the Domestic Assignment Commissioner and/or the Magistrate/Judge.

Notice shall be given to opposing counsel as required by the Rules of Civil Procedure for service of pleadings other than the original Complaint.

Counsel for both parties shall be required to be present at every hearing with their clients unless excused by the Court and shall be prepared and have authority to discuss and settle all issues involved in the case.

Each party in a Domestic Relations Case shall prepare and file with the Complaint or Answer, a sworn Property and Financial Statement, which shall contain an itemized listing of all assets and liabilities of the parties, a statement as to whether each such asset or liability is claimed to be marital or non-marital and shall contain current information as to the income and expenses of each of the parties. There shall be attached to the Property and Financial Statement copies of all such supporting documents (e.g., wage statement, paycheck stubs, income tax returns, appraisals and evidences of indebtedness with current balances) as may be relevant.

Failure of an attorney and/or party to appear with such Property and Financial Statement, and prepared to negotiate all issues involved in the case, may result in dismissal of the pleadings of the defaulting party, the Court may take other action to enforce compliance, or may modify any existing temporary order all at the discretion of the Court.

Any agreement reached shall be reduced to writing within seven (7) days, signed by both parties and their counsel and shall be filed with the Court and shall be binding on all parties in any subsequent hearing on the case.

#### **31.2 Motions**

- A. At the time of filing any motion, the attorney filing such motion shall request a hearing date from the Domestic Assignment Commissioner by utilizing the Court's Form "Certificate of Readiness".
- B. In all motions where an arrearage on child support or alimony will be an issue, the attorney filing the motion shall cause their party to first verify the amount of the current arrearage with the Bureau of Support and shall indicate in the motion the amount of such arrearage as determined by the Bureau of Support together with the date such arrearage is determined.

#### **31.3 Guardian ad Litem**

- A. Pursuant to Rule 48(C) of the Rules of Superintendence for the Courts of Ohio, all Guardian ad Litem Orders of Authority shall incorporate the required language concerning the scope of the appointment, duration of the appointment, and notice of pleadings and hearings to be provided to the Guardian ad Litem.
- B. Pursuant to Rule 48(G) of the Rules of Superintendence, the Court shall designate a person who shall be appointed to carry out the following functions:
  - (1) Maintain and regularly update the list of approved Guardian ad Litem. The current list of approved guardians shall be subject to a

- sixty (60) day review for compliance with training and other requirements; and
- (2) Establish criteria for the appointment and removal of a Guardian ad Litem. The initial minimum appointment criteria shall require the applicant to have:
    - a. Attended the six (6) hour pre-service training course provided by the Supreme Court of Ohio or the Ohio CASA/GAL Association's pre-service training program; or
    - b. Served as a Guardian ad Litem for this Court during the five years immediately preceding March 1, 2009 and commits to attending the pre-service training program referenced above within one year.
  - (3) Develop procedures to ensure an equitable distribution of the work load among the Guardian ad Litem on the list. The Court may, in its discretion, appoint a specific Guardian ad Litem upon agreement of the parties and/or at its discretion.
  - (4) Coordinate the application and appointment process, which shall include:
    - a. Developing a formal application to serve as Guardian ad Litem;
    - b. Recommend candidates to the Judge for service as a Guardian ad Litem;
    - c. Provide information regarding training opportunities and disseminate the same through posting, email and/or other means; and
    - d. Receive written comments and complaints regarding the performance of Guardian ad Litem.
  - (5) Maintain a separate file for all applicants and individuals approved for appointment as Guardian ad Litem. The files shall, at a minimum, contain the following items:
    - a. Resume stating the applicant's training, experience and expertise demonstrating the person's ability to successfully perform the job;
    - b. Certificate or other satisfactory proof of compliance with educational requirements which consist of:
      - (i) Attendance at a one-time six (6) hour Guardian ad Litem pre-service course provided by the Supreme Court of Ohio or the Ohio CASA/GAL Association's course;
      - (ii) Attendance at an annual three (3) hour continuing education course provided by the above entities;
      - (iii) Proof of Professional Malpractice Insurance; and
      - (iv) Evidence of the criminal and civil background check set forth below.
  - (6) Conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a Guardian ad Litem.
    - A. The criminal background check shall be obtained through the Brown County Sheriff's Department at the applicant's cost.
    - B. The civil background check shall be satisfied on an initial basis by the applicant completing an affidavit stating that none of the following are pending against the applicant or have occurred to the applicant:
      - (1) criminal or civil domestic violence complaints or charges;
      - (2) suspension of driver's license;
      - (3) professional discipline complaints or sanctions; and
      - (4) personal bankruptcy filing.
  - (7) Conduct, at least annually on or about January 1st of each year, a review of the Guardian ad Litem list to determine that all individuals are in compliance with the training and education requirements of this Rule, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve. Written evidence of the review shall be maintained in the individual's file.
  - (8) Require all individuals on the list to certify annually, on or about January 1st of each year, that they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended.
  - (9) Serve as a person designated by the Court for accepting and considering written comments and complaints regarding the

performance of Guardian ad Litem appointed by the Court. A copy of the comments or complaints shall be provided to the Guardian ad Litem in question. All negative comments shall be reviewed by the Judge and the Magistrate once a month. Dispositions on negative comments shall be made promptly and a written record shall be kept in the Guardian ad Litem's file regarding the nature and disposition of any comment or complaint. The person making the comment or complaint and the Guardian ad Litem shall be notified of the disposition on the negative comments.

- (10) The fee for a Guardian ad Litem shall be five hundred (\$500.00) per appointment. If the Guardian ad Litem is aware the deposit has been used, the Guardian ad Litem shall file with the Court a Motion for Leave to Expand Additional Fees to be capped by the Magistrate/Judge. The motion shall be set for hearing with counsel and parties present to determine the need for additional fees and the amount deemed appropriate to conclude the case. The initial Guardian ad Litem fee shall be paid directly to the Guardian ad Litem within thirty (30) days of the appointment of the Guardian ad Litem. If the Guardian ad Litem is appointed in a pre-decree action, the guardian ad Litem fee shall be equally divided between the parties unless the parties agree otherwise or one party is able to demonstrate to the Court that they are indigent and that the other party has the ability to pay the initial fee. If the Guardian ad Litem is appointed in a post-decree action, the initial fee shall be paid by the party requesting the Guardian ad Litem unless the parties agree otherwise or the requesting party is able to demonstrate to the Court that they are indigent and that the other party has the ability to pay the initial fee. In any event, a party may request reimbursement from the other party of part or all of the total Guardian ad Litem fee at the final hearing. Failure to pay the Guardian ad Litem fee may result in Court sanctions including, but not limited to, the Court striking the Guardian ad Litem Report, dismissal of the action and/or a contempt finding.
- (11) The parties shall not pay any Guardian ad Litem and the Guardian ad Litem shall not accept any Guardian ad Litem fee in excess of the fees approved and ordered herein unless the said additional Guardian ad Litem fees have been approved in advance by this Court pursuant to motion by the Guardian ad Litem and hearing by this Court.

#### **31.4 Termination of Inactive Cases**

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

#### **31.5 Helping Children Cope With Family Separation**

All parties to divorces, dissolutions or legal separations with minor children shall register for, attend, and successfully complete the "Helping Children Cope with Family Separation" program. The moving party for any divorce or legal separation whether complainant or counter-complainant, must complete the program prior to their divorce or legal separation being scheduled, and both parties to any dissolution must attend the program before their final hearing is heard. Failure to attend by any party will be a factor considered by the Domestic Relations Court in awarding residential parenting status and parenting time, together with all other factors in determining the child(ren)'s best interests.

Upon the filing of a Complaint for Divorce, Petition for Dissolution, or Complaint for Legal Separation, the Clerk of Courts shall deliver to the filing party or parties a Registration Form and shall cause to be served upon the non-filing party, together with the summons, a Registration Form. This Registration Form may be amended from time to time by the Court, the program administrator, or any successor administrator. The clerk shall note delivery/service upon the docket.

It is the responsibility of each party, not the Court or the administrator, to arrange scheduling and to satisfactorily complete the program session.

Any waiver of the program requirements may be permitted only by the assigned Magistrate/Judge. The expressed policy of the Court is to not waive the program requirements, except in the most unusual or dire of circumstances. The Court has adopted this program as a mechanism to alleviate hardship or victimization upon the children; thus, waiver is discouraged. The program administrator shall supply the Court with regular reports of those parties who have completed the program, in order to permit timely scheduling of hearings.

### **31.6 Parenting Time/Visitation**

The following provisions shall control visitation with minor children in all proceedings and will not be modified except upon the showing of good cause.

- A. Non-residential visitation shall be as follows:
- (1) Visitation by the non-residential parent on alternate weekends from Friday at 7:00 p.m. to Sunday at 7:00 p.m. (the beginning and ending times may be varied to accommodate the work schedule of the parties).
  - (2) On weeks when there is no weekend visitation. Monday from 5:00 p.m. to 8:00 p.m.
  - (3) On Mother's Day, the child(ren) shall be with the Mother, and on Father's Day, the child(ren) shall be with the Father. In the event this provision requires the child(ren) to be with the residential parent when it is the non-residential parent's normal weekend visitation, the non-residential parent shall return the child(ren) by 9:00 a.m. on Mother's Day or Father's Day. In the event that this provision requires the child(ren) to be with the non-residential parent when it is the residential parent's normal weekend visitation, said non-residential parent shall receive the child(ren) at 9:00 a.m. on that day and shall return them at 7:00 p.m. on said day.
  - (4) The parents shall have the child(ren) on holidays as follows:

#### **EVEN YEARS**

##### **Residential Parent**

Martin Luther King, Jr. Day  
Friday night to Monday night

President's Day  
Friday night to Monday night

Memorial Day  
Friday night to Monday night

Labor Day  
Friday night to Monday night

Brown County Fair  
Noon on Sunday to 6:00 p.m. Wed.

##### **Non-Residential Parent**

Easter  
Thursday night to Sunday night

Fourth of July  
Night before until the morning after  
except when the 4<sup>th</sup> falls on Friday,  
Saturday, Sunday or Monday, when  
the visitation shall commence on  
Friday night and continue to end of  
weekend or end of holiday, whichever is  
later

Brown County Fair  
6:00 p.m. Wednesday to noon Sunday

Halloween (trick or treat night)  
5:00 p.m. to 9:00 p.m. \*

\* If trick or treat night occurs on different nights in each parent's neighborhood, the child(ren) may participate in trick or treat night in each parent's neighborhood. The costume will be provided by the parent who has trick or treat night as his or her holiday pursuant to this Rule and will be sent with the child(ren) to the other parent's neighborhood as required.

Thanksgiving Day  
Wednesday night to Sunday night

Christmas Day  
Christmas Eve and Christmas Day  
Until 2:00 p.m.

Christmas vacation and New Year's Day  
Christmas Day at 2:00 p.m. until night  
at the end of New Year's holiday

Child(ren)'s birthday (on a school night)  
5:00 p.m. to 9:00 p.m.  
No school 9:00 a.m. to 9:00 p.m.\*\*

\*\* The parenting time for birthdays shall include all of the siblings not just the child celebrating his or her birthday.

### **ODD YEARS**

The above schedule shall be reversed as to residential parent and non-residential parent:

- A. Unless otherwise indicated, said holiday visitation shall commence at the regular hour as set for the commencement of weekend visitations and shall end at the regular hour set for ending of weekend visitation. Said holiday visitations shall have precedence over the regular visitation schedule but shall not otherwise modify it (for example, if the holiday granted in any particular year to a non-residential parent falls between the regular weekend visitation, the non-residential parent will have visitation three (3) weekends in a row at that particular time).
- B. With regard to the Brown County Fair, if the child(ren) is involved with any project, special presentation, or other event during the Brown County Fair, the parent who has the child(ren) with him or her during the fair shall see to it that the child(ren) is not absent from any of the special events or presentations. Whichever parent is with the child(ren) for the special events and presentation shall notify the other parent of times for said events and presentations so that both parents may participate as fully as possible with the child(ren).
- C. Each parent shall have an extended visitation each summer, however, same shall not exceed four (4) weeks in duration. This shall be taken no more than two (2) at a time. Each parent shall notify the other by May 15<sup>th</sup> of each year with regard to when he or she wishes to have the child(ren) for the two (2) week period. Where there is a conflict between the parents, the parent who first gives written notice to the other parent shall prevail. The vacationing parent shall notify the other parent of the time thereof as soon as he or she makes the decision with regard to the scheduling. A vacationing parent may include the fourth of July in their vacation only if they are to receive Fourth of July that year.
- D. Transportation will be shared equally between the parties. The child(ren) shall be picked up and dropped off only by a licensed driver who shall be an adult known to the child(ren) and at all times seat belts and child(ren) restraints will be used according to law. The person who is picking the child(ren) up shall be insured and will under no circumstances be under the influence of alcohol or drugs. Both parties shall be diligent in having the child(ren) ready and available at the appointed times and transporting party shall be prompt in picking up and delivering the child(ren) provided, however, that the transporting parent for visitations shall have a grace period of fifteen (15) minutes for pick-up and delivery if both parties live within a distance of thirty (30) miles from each other. If the one way distance to be traveled is in excess of thirty (30) miles, the grace period shall be thirty (30) minutes. In the event the visiting parent exceeds the grace period, the visitation for the weekend is forfeited unless prior notification and arrangements have been made and except in cases where the visiting parent lives in excess of thirty (30) miles away and suffers an unavoidable breakdown or delay en-route and the visiting parent promptly notifies the residential parent by phone of the delay. Repeated violations by either parent shall be cause for granting a modification of the allocating

parental rights order either by changing the allocation for parental rights or curtailing visitation as the case may be.

- E. The residential parent shall send a note to the school or present a Court Order to the school if the non-residential parent is to pick-up the child(ren) at the school, otherwise the school will not release the child(ren) to the non-residential parent.
- F. The residential parent shall send with the child(ren) on visitation sufficient clothing and outer wear appropriate to the season and predicted weather to last the period of visitation. All clothing sent with the child(ren) shall be returned with the child(ren). The clothing shall include appropriate footwear and shall all be of an appropriate size to fit the child(ren). For a weekend visitation, this shall consist of two changes of clothing and sleepwear in addition to any outerwear called for by the weather. In the case of infants, the residential parent shall notify the non-residential parent of what brand of formula, bottles, and diapers the child(ren) uses and shall so notify the non-residential parent at least 48 hours before the visitation so that the non-residential parent will have the opportunity to obtain the necessary supplies. A child(ren) of any age who is attached to a toy, blanket, etc. shall have it with him or her for the visitation and it shall be sent home with the child(ren). In the case of infants or young child(ren) who routinely uses pacifiers, the pacifier brand will be sent along with any information about bottles, formula, etc. In the event that an infant has prescription formula, that must be sent with the child(ren).
- G. Visitation time shall not be used to pick the child(ren) up and leaving them with a non-family member while the visiting parent pursues their own pleasures, nor shall it be used to take the child(ren) to a bar. Violations shall be deemed to be cause for curtailment of visitation.
- H. Both parties shall encourage free communications between the child(ren) and the other parent and shall not do anything to impede or restrict communications by phone, mail or email between the child(ren) and the other parent, whether initiated by the child(ren) or by the other parent. The mail between the child(ren) and the parent shall not be opened or read by the other parent. Each parent unless ordered by the Court not to do so, is to keep the other parent informed of his or her current telephone number and address and upon any telephone or address change, shall notify the other party immediately of the change.
- I. Both parents shall refrain from criticizing the other parent in the presence of the child(ren). Both parents shall try to prevent undue interference by grandparents in implementing visitation.
- J. Neither of the parties shall attempt to modify the religious practice of the child(ren) without first having consulted with each other.
- K. The residential parent shall promptly after receipt of same furnish the non-residential parent a photocopy of the child(ren)'s grade or report card and copies of any other reports concerning the child(ren)'s status or progress. The residential parent shall notify the non-residential parent of all school events in which the child(ren) is expected to participate including plays, pageants, honors or sports evenings, etc. promptly upon receiving notice of same.
- L. If the child(ren) has a medical condition for which the residential parent is providing treatment, whether prescription or over the counter, the non-residential parent shall be notified with regard to the condition so that an evaluation may be made by the non-residential parent with regard to whether the visitation will be exercised on the non-residential parent's weekend. If the child(ren) has a prescription, the medication shall be sent with adequate instructions and it will be administered by the non-residential parent as directed. If the child(ren) is receiving over-the-counter treatment for any medical condition, the residential parent shall notify the non-residential parent so that the non-residential parent may obtain the items needed for treatment. The same applies if the child(ren) becomes ill while visiting, namely that the non-residential parent shall promptly seek any necessary medical treatment and shall send any

prescriptions or notification of required over-the-counter treatment to the residential parent.

- M. Whenever the Journal Entry or Divorce Decree shall recite reasonable visitation rights, this rule shall be considered incorporated in the Entry and shall become a part of the Order of the Court and so enforceable by the Court.
- N. Attorneys shall provide copies hereof to clients involved in litigation about visitation.

### **STATUTORY NOTICES**

**RELOCATION NOTICE:** Pursuant to ORC Section 3109.051(G), the parties are notified as follows:

If the residential parent intends to move to a residence other than the last residence of court record, she/he shall file a Notice of Intent to Relocate with this Court. Except as provided in ORC Section 3109.051(G)(2),(3) and (4), a copy of such notice shall be mailed by the Court to the non-residential parent. On receipt of the notice, the Court, on its own motion or on the motion of the non-residential parent, may schedule a hearing with notice to both parties to determine whether it is in the best interest of the child(ren) to revise the parenting schedule for the child(ren).

**RECORDS ACCESS NOTICE:** Pursuant to ORC Sections 3109.051(H) and 3319.321(B)(5)(a), the parties are notified as follows:

Except as specifically modified or otherwise limited by Court Order and subject to ORC Sections 3125.16 and 3319.321(F), the non-residential parent is entitled to access under the same terms and conditions as the residential parent to any record that is related to the child(ren) and to which the residential parent is legally provided access, including school and medical records. Any keeper of the record, public or private, who knowingly fails to comply with this Order is in Contempt of Court.

**DAY CARE CENTER ACCESS NOTICE:** Pursuant to ORC Section 3109.051(I), the parties hereto are hereby notified as follows:

Except as specifically modified or otherwise limited by Court Order, and in accordance with ORC Section 5104.011, the non-residential parent is entitled to access to any day care center that is or will be attended by the child(ren) with whom parenting time is granted, to the same extent that the residential parent is granted access to the center.

**SCHOOL ACTIVITIES NOTICE:** Pursuant to ORC Section 3109.051(J), the parties are notified as follows:

Except as specifically modified or otherwise limited by the Court Order, and subject to ORC Section 3119.321, the non-residential parent is entitled to access, under the same terms and conditions as the residential parent, to any student activity that is related to the child(ren) to which the residential parent legally is provided access.

#### **31.7 75(N) Temporary Order(s) Procedures**

- A. A party shall file a Request for 75(N) Temporary Orders regarding the allocation of parental rights and responsibilities, child(ren) support, parenting time, spousal support, use of automobiles, and the payment of household expenses in their complaint, answer, counterclaim and motions filed with such pleadings. The parties shall also file the following with their requests:
  - See: [www.supremecourt.ohio.gov/JCS/CFC/DRForms](http://www.supremecourt.ohio.gov/JCS/CFC/DRForms) for Uniform Domestic Relations Forms, Affidavits 1 thru 5, or visit our website at [www.browncountyohiocommonpleascourt.us](http://www.browncountyohiocommonpleascourt.us)
  - (1) Affidavit for temporary orders;
  - (2) Affidavit of Income, Expenses, and Financial Disclosure with attached verification;

- (3) ORC 3127.23 Affidavit;
- (4) A sworn child support worksheet.
- B. No 75(N) orders shall issue ex parte except a generic restraining order which protects the physical safety of the moving party (and their child(ren), if applicable), prevents the depletion of marital property, prevents additional debt from being incurred, maintains all types of health and property insurance in place, and/or prevents the removal of their child(ren) from the jurisdiction.
- C. Counter affidavits may be filed by the other party within fourteen (14) days of service upon them of the complaint, answer, counterclaim or motion for the Court to consider in making 75(N) Temporary Orders.
- D. The moving party for 75(N) Temporary Orders shall file a Notice of Service with the Court after service of the complaint, answer, counterclaim and motions filed with such pleadings and shall submit a copy of the notice of service and a proposed 75(N) Temporary Order to the Magistrate/Judge. A 75(N) Temporary Order shall not issue until at least fifteen (15) days after service of the request for the 75(N) Temporary Order on the other party. The Court may issue 75(N) Temporary Orders earlier than fifteen (15) days after service of the request in the event that both parties have filed affidavits and at least one party has filed a notice of service.
- E. After the journalization of a 75(N) Temporary Order, a party may request an oral hearing concerning modification of the 75(N) Temporary Order which shall be heard within twenty-eight (28) days of the request for the hearing. The Court shall attempt to accommodate the attorney's schedule, however, if necessary, the Court shall simply set a Court date and the attorneys/parties shall need to make themselves available. A request for a hearing will not delay the issuance or the effect of a 75(N) order.
- F. All motions for exclusive occupancy of the marital residence shall be set for hearing within twenty-eight (28) days of service of a motion for exclusive occupancy and a supporting affidavit and upon the filing of a notice of service with the Court with a copy provided to the Magistrate/Judge. No motion for exclusive occupancy shall be granted on an ex parte basis. Any orders for exclusive occupancy set forth in any current Domestic Violence Civil Protection Order shall remain in place.
- G. Temporary spousal support, child support and/or allocation of parental rights and responsibilities shall not be granted on a 75(N) basis when the parties remain in the same household, however, the Court may order payment of household expenses.
- H. All attorneys shall bring their schedule books or electronic schedule to all scheduled hearings (Note: the Court will not be calling the attorney's office for attorneys who fail to bring their schedule books or electronic schedule or be delayed by an attorney's failure to answer a call from the attorney). Failure to bring a schedule book or electronic schedule may result in a hearing being set without regard to that attorney's schedule. All parties and their attorneys shall be at all scheduled hearings unless waived by the Court in advance.