

## **Court Administration**

### **Rule 47 Case Management Plan**

**Preface:** In accordance with Sup. R. 5, the goal of this Rule is the prompt and fair disposition of litigation. This rule establishes a general framework for management of cases, leaving to the discretion of the Judge the use of additional procedures to accomplish the goal of this Rule.

#### **A. Temporary Orders**

1. Temporary Orders in divorce actions are issued by the Court pursuant to Civil Rule 75(N). A Request for Affidavit Order form is available on the Court's Website and may be filed with the Complaint and/or Counterclaim for Divorce.

2. Non-oral hearings on Requests for Affidavit Orders are normally scheduled approximately seven (7) weeks from date of filing if requested with the original Complaint. Once an Answer and/or Counterclaim is filed, the 75(N) is advanced to 14 days from the date of filing the Answer and/or Counterclaim.

3. The Court may schedule an oral hearing on the 75(N) Order Request(s) if insufficient information is available from which to issue an order or if the parenting or financial circumstances of the parties are not clear from the Request(s).

4. Where no Answer and/or Counterclaim is filed, the 75(N) Order shall contain a date for an uncontested divorce before the Court.

5. If an Answer and/or Counterclaim is filed, the 75(N) Order shall contain dates for a Pre-Trial, Settlement Conference and Trial before the Judge. The Trial will be set approximately 6 months from the date of filing the Complaint. The Settlement Conference will be scheduled approximately one month before Trial and the Pre-Trial will be scheduled within 4 to 6 weeks after the Order is issued.

6. Parties have the right to file a Motion for an oral hearing on the 75(N) Order.

7. Ex Parte Orders are granted only under exigent circumstances in accordance with Local Rule 11. Movants must be present in order for such relief to be granted.

#### **B. Motions to Set Aside Temporary Orders**

1. A Motion to Set Aside Temporary Orders shall be scheduled before the Judge.

2. A transcript of the oral hearing shall be required if the Motion raises issues of fact and not law.

**C. Other Pre-Divorce Proceedings**

1. Pre-divorce Motions may be set for hearing.

2. Where parenting is in dispute, the Court may order a parenting assessment by the Court's Director of Family Services, refer parties to Mediation, or appoint a Guardian ad Litem.

3. If Mediation is ordered, the parties shall share in the costs of same in accordance with the Court approved Sliding Fee Scale. If Mediation is not appropriate, or successful in resolving parenting disputes, the Court may appoint a Guardian ad Litem and the parties shall each be required to make a deposit towards the Guardian's fee. The Guardian's Report shall be submitted at least seven (7) days prior to the Settlement Conference before the Court.

**D. Uncontested Divorces.**

1. Uncontested divorces may be set for hearing before the Magistrates. If an Answer or Counterclaim is filed on or before the date for the uncontested divorce, the divorce hearing may be converted to a Pre-Trial.

2. An uncontested divorce will not be heard earlier than 42 days after service of the Complaint. The Court may schedule the final hearing 28 days after the completion of service upon the Defendant.

3. If an agreement is reached between the parties before a Magistrate, counsel shall submit to the Magistrate a Separation Agreement and Shared Parenting Plan, if applicable. The Magistrate shall then issue a Decision adopting same. If the Agreement is reached in court before the Judge, the parties shall sign an Agreed Order submitting the Judgment Entry and related documents within 30 days.

**E. Scheduling and Notice of Trial**

1. Scheduling: After service of the Complaint, the Judge may schedule the following hearings: Pre-Trial, Settlement Conference and Trial. The Court staff shall consult by phone with all counsel of record or a person designated by the attorney of record to schedule the hearings.

2. Pursuant to Civil Rule 75, a Notice of Trial shall be issued to both parties by regular mail, whether or not they are represented by counsel. This Notice shall ordinarily be issued at the time the trial is scheduled.

## **F. Pre-Trials**

1. A Pre-Trial Conference may be held at such time and place as the Court may direct. If not set forth in Temporary Orders, the Court shall give ordinary mail notice of the time and place to all counsel and parties.

2. The presence of all parties and trial counsel is required at the Pre-Trial unless specifically waived by the Court.

3. The parties shall submit to the Court at the Pre-Trial, a Pre-Trial Statement or property affidavit substantially in compliance with the format set forth on the Court's Website.

4. Statements of the parties made during the Pre-Trial Conferences shall not be binding upon the parties unless expressly made so by written stipulation. The proceeding does not have to be recorded.

5. If a party fails to appear at the Pre-Trial Conference, the Court may impose appropriate sanctions.

6. At the Pre-Trial Conference, the Court may refer the parties parenting disputes to Mediation, order a Parenting Assessment and/or appoint a Guardian ad Litem. The parties shall share the cost of Mediation in accordance with the Court approved Sliding Fee Scale or otherwise determined by the Court. If a Guardian ad Litem is appointed, the parties may each be required to make a deposit with the Clerk of Courts towards the Guardian's Fee.

## **G. Settlement Conferences**

1. A Settlement Conference may be set in every contested divorce case. Such conference shall be governed by the Pre-Trial conditions set forth above except that no additional formal Pre-Trial Statement/Affidavit need be submitted. The parties shall be prepared to discuss with the Court their final offer of settlement.

2. All Discovery shall be completed by the Settlement Conference, except otherwise permitted by Court Order.

## **H. Dissolutions of Marriage**

1. Unless otherwise ordered by the Court, Dissolutions of Marriage shall be set before the Judge.

2. Before filing a Petition for Dissolution of Marriage, the original Petition and all related documents shall be given to the Assignment Commissioner for the scheduling of a hearing date which shall be no earlier than 30 days nor more than 90 days from the date of filing. The Decree of Dissolution of Marriage and the attached

Separation Agreement and Shared Parenting Plan, if applicable, shall also be provided to the Assignment Commissioner and held by the Court until the date of hearing.

3. The Court shall issue a Notice of Hearing to both parties.

4. The Court will review the Decree prior to the hearing to insure that all required language is present.

5. Both parties must appear for the Dissolution hearing or the Petition will be dismissed. For good cause shown, the hearing on the Dissolution may be reset not more than 90 days from the date of filing the Petition.

#### **I. Contested Divorce Trials**

Unless otherwise ordered by the Court, contested divorce trials shall be set before the Judge.

#### **J. Preparation of Judgment Entries**

1. **Responsibility of Counsel:** The counsel for plaintiff, or an unrepresented plaintiff, shall prepare a final judgment entry unless otherwise ordered. The judgment entries shall be submitted to the court at the time of the final hearing in uncontested or settled divorces. All judgment entries shall state who shall pay the court costs. The failure to file a judgment entry may result in dismissal of the action or sanctions.

2. **In Court Settlements:** In the event that the parties reach agreement on all issues on the date of the divorce, they may dictate the same into the record and proceed to present evidence in support of the Complaint and/or Counterclaim for Divorce. The Court will then permit the parties to sign an agreed Judgment Entry or Order granting them 30 days to reduce the same to writing and submit the same in the form of a Judgment Entry (if being submitted to the Court) or a Separation Agreement (if being submitted to the Magistrate). The Judgment Entry or Separation Agreement shall include all related paperwork including a Shared Parenting Plan, Child Support Worksheet and Qualified Domestic Relations Order if applicable.

In the event that the Judgment Entry, Separation Agreement and related paperwork are not received by the date stated in the Judgment Entry or Order, the parties and counsel shall appear before the Court at said date and time.

The parties and counsel are advised that in the event the Judgment Entry or Separation Agreement is not submitted, the Court may nonetheless adopt the parties' agreement, dismiss the case and/or impose sanctions, including the cost of stenographic reproduction of the hearing.

3. **Trial Briefs and Findings of Fact and Conclusions of Law:** The Court may order the parties to prepare Findings of Fact and Conclusions of Law following trial and/or trial briefs prior or subsequent to trial.

**K. Motions for Continuances**

All motions for continuances shall be made in writing and in accordance with Local Rules of Court. Movant shall first attempt to secure consent of opposing counsel, if represented. All continuances must be approved by the Court.

**L. Notice of Filing of Discovery Documents**

Pursuant to Civil Rule 5(D), originals or copies of any discovery request, or answers to discovery requests, shall not be filed with the Clerk of Courts, except as permitted by this Rule and the Ohio Rules of Civil Procedure. Certificates of notice of service of request for discovery or answers shall be filed as required by the Rules of Civil Procedure.

**M. Filing of Pleadings, Motions and Documents**

1. All pleadings shall conform with the requirements of the Local Rules of this Court.

2. Service of summons shall be in accordance with Civil Rules 4 through 4.6 subject to the Local Rules of this Court.

**N. Parenting Education**

1. If there are minor children, the parties are required to complete a Parenting Education Workshop pursuant to the Local Rules of this Court.

2. The Workshop shall not be required where no Answer has been filed.

**O. Procedure for Post-Decree Motions**

1. Post-Decree Motions may be scheduled before the Magistrates.

2. All pleadings shall conform with the requirement of Local Rules of Court.

3. Service of Process shall be in accordance with Civil Rules 4 through 4.6.

4. All motions, unless otherwise allowed, must be in writing and shall detail the relief or order sought. Copies of prior Judgment Entries, Decisions or Orders shall not ordinarily be attached to the motions.

5. All post-decree motions will first be submitted to the Assignment Commissioner for a date and time of hearing before filing. It is the responsibility of the moving party to set the hearing for sufficient time based on the complexity of the issues.

6. In post-decree motions involving parenting disputes, the Assignment Commissioner shall schedule an initial Status Hearing. At the Status Hearing, the Court may order a Parenting Assessment, refer the parties to Mediation or appoint a Guardian ad Litem.

A. At the Status Hearing, the Assignment Commissioner will schedule a Telephone Conference to review the status of Mediation within 30 days with counsel, and the parties if they so choose to participate in the conference call. In the event Mediation is not successful, a Guardian ad Litem may be appointed upon Motion. At the Status Hearing, the Trial shall also be scheduled within 60 days from the date of the Status Hearing.

B. If Mediation is ordered, the parties shall be ordered to share the costs of Mediation in accordance with the Court approved Sliding Fee Scale.

C. If Mediation is not appropriate or successful, the Court may appoint a Guardian ad Litem upon motion and the parties may be required to deposit funds with the Clerk of Courts to apply to the Guardian's Fee.

D. The Guardian's Report shall be submitted at least 7 days prior to the Final Hearing.

**P. Agreed Entries**

Agreed entries on motions may be submitted at any time. A hearing may be required on agreed entries pursuant to Local Rule 35. A Consent Judgment Entry relating to the allocation of parental rights and responsibilities may be submitted to the Court without the necessity of a motion or hearing only if signed by both parties, and both counsel. If the party relinquishing the status of Residential Parent is unrepresented, the case must be scheduled for hearing. A notice of hearing shall be issued by the Court and filed with the Clerk of Court. In the event that the responsibility for providing private health insurance changes to a third-party spouse, a copy of the health insurance card along with the name and address of the health insurance company shall be provided to the Child Support Enforcement Agency.

**Q. Objections to Magistrates Decisions**

1. Prior to filing Objections to Magistrates Decisions, the objecting party shall bring the original objections to the Assignment Commissioner to obtain a hearing date which must be contained in the objections.

2. A hearing on Objections is normally scheduled before the Judge within 3 to 6 weeks depending on the length of a transcript that may be required.

3. The delay in obtaining a transcript will not enlarge the 14 day time period for the filing of Objections.

**R. Domestic Violence**

1. Petitions for Domestic Violence Civil Protection Orders are heard by the Court on the day they are filed. Victim Advocates are welcome to accompany Petitioners throughout the process.

2. If an Ex Parte Order is denied, the matter shall still be set for full hearing on the Court's Docket within 7 or 10 days depending on the relief granted.

3. When a Civil Protection Order is granted on a full hearing basis, the Court shall have discretion to set the duration of the Order up to 5 years.