

*Trumbull County Court of Common Pleas
Divisions of Domestic Relations / Juvenile
220 Main Avenue SW
Warren, OH 44482*

**LOCAL RULES OF PRACTICE AND PROCEDURE
OF THE
TRUMBULL COUNTY COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS AND JUVENILE
DEPARTMENT**



*Judge Sandra Stabile Harwood
Administrative Judge Samuel F. Bluedorn*

Effective 6/1/2024

**LOCAL RULES OF PRACTICE AND PROCEDURE OF THE
TRUMBULL COUNTY COMMON PLEAS COURT
DIVISION OF DOMESTIC RELATIONS AND JUVENILE
DEPARTMENT**

TABLE OF CONTENTS

Rule 29. GENERAL RULES	6
29.01 Adoption, Scope, and Applicability of the Rules.....	6
29.02 Construction of the Rules.....	6
29.03 Appearance and Withdrawal of Legal Counsel.....	7
RULE 30. FILING FEES/ ADVANCE DEPOSITS AND COURT COSTS	8
30.01 Filing Fees, Court Costs, Deposits.....	8
30.02 Filing Fees for Each Separate Motion/ Multipronged Motions.....	8
30.03 Transferred Cases.....	8
30.04 Request to Postpone Deposit.....	8
30.05 Responsibility for Costs.....	8
30.06 Unpaid Balances.....	9
30.07 Special Assessments.....	9
RULE 31. SERVICE.....	10
31.01 Service of Summons.....	10
31.02 Service by Publication.....	10
31.03 Private Process Servers.....	11
RULE 32. ELECTRONIC FILING	13
32.01 Electronic Filing.....	13
32.02 Notice and Service of Court-Generated Documents by Email in Juvenile Court.....	14
RULE 33. PLEADINGS AND MOTIONS	15
33.01 Pleadings and Filing Requirements	15
33.02 Ex Parte Motions.....	19
33.03 Contempt Motions/ Motions to Show Cause.....	21
33.04 Support Complaints/Motions.....	22
RULE 34. ASSIGNMENT AND SCHEDULING OF CASES	24
34.01 Assignment of Judge and Consolidation of Cases.....	24
34.02 Scheduling of Cases.....	24

34.03 Continuances and Advancements.	25
RULE 35. CONDUCT OF HEARINGS AND TRIALS	27
35.01 Hearings to be Conducted by Judges or Magistrates.	27
35.02 Communications with Judges and Magistrates.	27
35.03 Conduct in Court.	27
35.04 Special Needs and Interpreter Services.	27
35.05 Attendance at and Preparation for Hearings.	28
35.06 Remote Hearings.	28
35.07 Pretrial Conferences.	31
35.08 Record of Proceedings and Transcripts.	31
RULE 36. OTHER PROCEEDINGS AND SERVICES	33
36.01 Motion to Set Aside Magistrate’s Order/ Objections to Magistrate’s Decision	33
36.02 Attorney Fees.	33
36.03 Mediation.	34
36.04 Parenting Proceedings.	36
36.05 Appointment of Counsel.	36
36.06 Agreed Judgment Entries.	37
RULE 37. GUARDIANS AD LITEM	41
37.01 When Appointed.	41
37.02 Requirements to Serve as Guardian Ad Litem.	41
37.03 Appointment of Guardian Ad Litem.	42
37.04 Compensation.	42
37.05 Guardian Ad Litem Fund.	43
37.06 Conflicts.	44
37.07 Responsibilities and Duties.	44
37.08 Procedure for Comments and Complaints.	44
RULE 38. ABUSE, NEGLECT, AND DEPENDENCY CASES	46
38.01 Applicability.	46
38.02 Shelter Care Hearings.	46
38.03 Adjudicatory Hearings.	46
38.04 Dispositional Hearings.	46
38.05 Case Plans.	46
38.06 Bridges for Young Adults.	46
38.07 Qualified Residential Treatment Plans.	46
38.08 Dispositional Review Hearings/ Annual Review Hearings.	46

38.09 Semi-Annual Review (SAR).....	47
38.10 Home Study.....	47
38.11 Specialized Docket Program.....	47
RULE 39. DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS.....	49
39.01 Pleading.....	49
39.02 Procedure.	49
39.03 Duration of Civil Protection Order.	50
39.04 Motion to Modify, Extend or Terminate Civil Protection Order.....	50
39.05 Enforcement of Civil Protection Order.	51
39.06 Victim Advocate.....	51
39.07 Registration.	51
RULE 40. FULL FAITH AND CREDIT	52
40.01 Registration, Enforcement, and Modification of Foreign Custody Orders.....	52
40.02 Registration, Enforcement, and Modification of Foreign Support Orders.	52
40.03 Registration and Enforcement of Foreign Divorce Order.....	53
RULE 41. DELINQUENCY, UNRULY AND ADULT CONTRIBUTING CASES	54
41.01 Court Records.	54
41.02 Appointment of Counsel.	54
41.03 Detention/Shelter Care Hearings.	55
41.04 Media, Photographing and Broadcasting of Court Proceedings.....	55
41.05 Transcripts/Recording of Proceedings.	56
41.06 Detainers.	57
41.07 Traffic Offenders/Misdemeanor Citations.	57
41.08 Expungements and Sealing of Records.....	58
41.09 Juries and Jurors.....	58
41.10 Juvenile Drug Court.....	58
41.11 Use of Restraints in Juvenile Proceedings.	59
RULE 42. SECURITY	60
42.01 General.....	60
42.02 Compliance with Security.....	60
42.03 Security Screening of Entrants.....	60
42.04 Entrance.	60
42.05 Closed-Circuit Video Surveillance.....	60
42.06 Access to Non-Public Areas.....	60
42.07 Prohibited Items.....	61

42.08 Courtroom Access and Seating	61
RULE 43. TECHNOLOGY PLAN.....	62
43.01 General.....	62

TRUMBULL COUNTY COMMON PLEAS COURT
DIVISION OF DOMESTIC RELATIONS
AND JUVENILE DEPARTMENT

RULE 29. GENERAL RULES

29.01 Adoption, Scope, and Applicability of the Rules.

- (A) **Adoption.** The following rules for the governance of the practice and procedures in the Trumbull County Common Pleas Court Division of Domestic Relations and Juvenile Department are hereby adopted.
- (B) **Citation.** These rules shall be known as the Trumbull County Family Court Local Rules and shall be cited as “TCFC Loc.R. ____.”
- (C) **Applicability and Scope of the Rules.** The Trumbull County Family Court Local Rules shall apply and shall govern the practice and procedures in the Domestic Relations Division and Juvenile Department of the Court of Common Pleas of Trumbull County, Ohio, which may be separately identified as the Court of Common Pleas of Trumbull County, Ohio, adding thereto the following designation as applicable:
- (1) Domestic Relations Division; or
 - (2) Domestic Relations Division/Juvenile Department; or
 - (3) Trumbull County Family Court

These rules shall apply in all proceedings before the Trumbull County Family Court and shall be adhered to by attorneys as well as self-represented litigants.

29.02 Construction of the Rules

- (A) **Construction.** These rules shall be applied, construed and enforced to avoid inconsistency with other rules of court and statutes governing proceedings in this court. Rules promulgated by the Ohio Supreme Court, including the Ohio Rules of Civil Procedure, the Ohio Rules of Juvenile Procedure, the Rules of Superintendence of the Supreme Court of Ohio, the Ohio Rules of Criminal Procedure, and the Ohio Rules of Evidence, as applicable, shall apply in all proceedings before the Trumbull County Family Court. In the event of conflict between the Trumbull County Family Court Local Rules and the aforesaid rules, those rules promulgated by the Ohio Supreme Court shall control and govern
- (B) **Applicability of Local Rules Promulgated by the General Division.** The Rules of the General Division of the Court of Common Pleas of Trumbull County, Ohio, shall apply to all proceedings before this court, except to the extent that the General Division rules are in conflict with these rules, or to the extent that the General Division rules are inapplicable.
- (C) **Effective.** These rules shall supersede all previous rules promulgated by this court and

shall apply to all proceedings pending before this court on the date that they take effect.

29.03 Appearance and Withdrawal of Legal Counsel

- (A) **Counsel to be in Good Standing.** No attorney shall make an appearance or file any pleading unless that attorney is licensed to practice law and is in good standing under Ohio law. An attorney representing a client has an affirmative duty to notify the court if, for any reason, that attorney is no longer in good standing.
- (B) **Appearance.** Unless otherwise ordered by the court, an attorney who signs a pleading or motion on behalf of a party shall be designated as counsel of record for that party. Counsel of record is solely responsible for the action and shall attend (or make appropriate arrangements for other counsel to attend) all status conferences, hearings and pretrial conferences. Counsel of record, and not substitute counsel, shall attend the final pretrial and trial.
- (C) **Withdrawal.** An attorney requesting to withdraw from representation of a client shall file a motion to withdraw stating the reason(s) for withdrawal. The motion shall comply with the Ohio Supreme Court Rules of Professional Conduct and the Ohio Rules of Civil Procedure. The motion shall certify that:
- (1) Notice has been given to the client advising the client of all orders and all upcoming assignment dates affecting the client; and
 - (2) Notice has been given to all counsel of record, or if unrepresented, to the parties.

The attorney seeking to withdraw shall serve the motion to withdraw from representation on the client and all parties or their counsel.

No attorney shall be permitted to withdraw from a case later than twenty (20) days prior to the final hearing except for extraordinary circumstances, subject to the court's discretion.

RULE 30. FILING FEES/ ADVANCE DEPOSITS AND COURT COSTS

30.01 Filing Fees, Court Costs, Deposits.

Except as otherwise provided by law, the Clerk of Courts shall not accept any action or motion for filing without a deposit as security for costs that may accrue in the action or proceeding. The advance deposit shall be in the amount set forth by the court on the Trumbull County Family Court's schedule of filing fees which shall be published by the Clerk of Courts.

30.02 Filing Fees for Each Separate Motion/ Multipronged Motions.

An advance deposit as security for costs shall be required for each and every separate motion or request for relief made. Each separate request for relief must be identified in the case caption and must be properly scheduled by the filing party so that the court has sufficient time allotted to hear the motion(s). Except where the request is for relief that is related to the underlying motion (i.e., "Related Relief" under TCFC Loc. R. 33.01(D)), if more than one motion or request for relief is made within the same document, the Clerk of Courts shall require an advance deposit for each separate motion/request for relief listed in the caption of the document.

30.03 Transferred Cases.

For cases transferred to this court, the petitioning party/movant shall be required to post a deposit as security for costs in a sum equal to the amount required if the case were originally commenced in this court. Said deposit shall be paid within thirty (30) days of the order accepting transfer of the case issued by this court.

30.04 Request to Postpone Deposit.

Consistent with Ohio R.C. 2323.311, a motion and court approved affidavit of indigency may be filed with the Clerk of Courts in lieu of the advance deposit. The affidavit shall be notarized and executed by the party on whose behalf it is filed. The affidavit shall identify the assets and earnings of the party and state the specific reasons the party does not have sufficient funds to pay the filing fee or deposit. Upon review of the motion and affidavit, the court may, for good cause shown, postpone the advance deposit. If the court grants the application, the applicant's status as an indigent litigant is subject to judicial review at any stage of the proceedings thereafter. For a Petition for Dissolution, both petitioners must submit affidavits of indigency.

30.05 Responsibility for Costs.

All final judgment entries shall contain a provision for payment of court costs as ordered by the court. In the absence of a court order otherwise, after application of all deposits, the balance of costs shall be divided equally among the parties. Upon motion, the court may determine that a trial without costs is necessary in the interest of substantial justice.

30.06 Unpaid Balances.

The Clerk of Courts shall not accept additional or new motions from a moving party with an unpaid balance due from that party in that case.

30.07 Special Assessments.

Pursuant to R.C. 2303.201(E)(1), the court has determined that additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition or rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation services, the employment of magistrates, the training and education of judges and magistrates, and other related special projects as may be established by the court in the future. Therefore, the court may authorize and direct the Clerk of Courts to charge additional fees on the filing of each complaint, counterclaim, petition, and/or post decree motions in domestic relations cases or motions in juvenile cases.

RULE 31. SERVICE

31.01 Service of Summons.

In any cause for relief in court, service of summons shall be as per the Ohio Civil or Juvenile Rules, and service shall be deemed complete as specified by said Rules. In initiating a post decree or post judgment motion, certification upon counsel or opposing party shall **not** be sufficient service. Rather, the continuing jurisdiction of the court shall be invoked by motion filed in the original action, notice of which shall be served in the manner provided for the service of process under Civ. R. 4 to 4.7 or Juvenile Rule 16, as applicable.

31.02 Service by Publication.

- (A) **General Rule.** For service by publication, counsel, or the self-represented party, shall file all necessary documents as required in Ohio Civil Rule 4.4 (A) or Juvenile Rule 16, as applicable, and follow all procedures designated therein.
- (B) **Juvenile Actions.** In all juvenile actions, pursuant to Juvenile Rule 16, on proper motion and order by the court, service by publication shall be made by newspaper publication in all cases except service by publication may be made by posting and mail when the following apply:
- (1) If the residence of the party upon whom service is sought is unknown; and
 - (2) If the party requesting service upon another party is proceeding with a poverty affidavit.
- (C) **Posting.** Where authorized, posting shall be made in a conspicuous place in the following locations for all cases:
- (1) The Clerk's Office located at the Family Court at 220 S. Main Avenue, SW, Warren, Ohio or at such other conspicuous place at said Courthouse as the Clerk shall direct; or
 - (2) The Clerk's Office located at the General Division, Trumbull County Courthouse 161 High Street, NW, Warren, Ohio or at such other conspicuous place at said main Courthouse as the Clerk shall direct; and
 - (3) In addition, counsel or the party acting pro se, will select two (2) additional sites, reasonably associated with the person intended to be served, from the following list:
 - (a) Warren Municipal Court;
 - (b) Niles Municipal Court;
 - (c) Girard Municipal Court;
 - (d) Newton Falls Municipal Court;
 - (e) Central District Court in Cortland; and
 - (f) Eastern District Court in Brookfield.

- (4) Alternatively, the postings may be made on the website of the clerk of courts, if available, in a section to be designated for such purpose.

The notice shall be posted in the required locations for seven consecutive days. The clerk shall also cause the summons and accompanying pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served. After seven days of posting, the clerk shall note on the docket where and when notice was posted. Service shall be complete upon the entry of posting.

31.03 Private Process Servers.

(A) **Appointment of Special Process Server (One-Time Appointment).** In accordance with Ohio Civil Rule 4.1(B) when a party desires personal service to be made by a special process server, that party may submit an application to the court by filing the same, along with a proposed journal entry, with the Clerk of Courts. The following must be stated in the proposed application:

- (1) The name of the person to be appointed as process server; and
- (2) That the person to be appointed as process server is 18 years of age or older; and
- (3) That the person to be appointed as process server is not a party or counsel for a party in the action.

(B) **Standing Special Process Server (Continuing Appointment).** By this local rule, and in accordance with Civil Rules 4, and 4.1 through 4.5, the Court of Common Pleas, Domestic Relations Division and Juvenile Department establishes the position of Standing Special Process Server. Appointment of any Standing Special Process Server shall be solely at the discretion of the Administrative Judge and said appointment shall be subject to the following procedures and limitations:

- (1) A person may make application to be designated a “Standing Special Process Server” for cases filed in both the Domestic Relations Division and Juvenile Department of the Court by filing an application with the Juvenile Clerk of Court. The cost for filing this application is set forth in the Trumbull County Family Court’s schedule of filing fees.
- (2) The application shall include all of the following:
 - (a) The name, business address and telephone number of the applicant;
 - (b) An acknowledgement that the applicant is eighteen (18) years of age or older;
 - (c) An acknowledgment that the applicant agrees not to attempt service of process in any case in which the applicant is a party or counsel for a party; and
 - (d) An acknowledgment that the applicant agrees to follow the requirements of Civil Rules 4 through 4.6 of the Ohio Rules of Civil Procedure, and any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases; and
 - (e) An acknowledgment that the applicant will comply with all Ohio laws and at no time intentionally cause of breach of the peace while attempting to accomplish service;

- (f) An acknowledgement that the applicant understands that the court may cause a criminal record check to be completed prior to appointment and that the applicant will execute any necessary authorization in order for the court to conduct the same; and
 - (g) An accompanying affidavit signed by an attorney in good standing who is a member of the Trumbull County Bar Association who attests to the character and fitness of the applicant.
- (3) The applicant requesting designation shall also submit a proposed order captioned: “In Re: The Appointment of (name of applicant) As Standing Special Process Server”, and further stating as follows: “It appearing to the Court that the (Name of applicant) has complied with the provisions of Local Rule 31.03(B), (Name of applicant) is hereby designated as a Standing Special Process Server and is authorized to make service of process in all cases filed in the Trumbull County Court of Common Pleas, Division of Domestic Relations and Juvenile Department. (Name of applicant) is authorized to serve in such capacity through December 31st of the year in which this order is entered.”
- (4) The order shall be signed by the Administrative Judge of the court, or in his/her absence, by and Judge of said court and shall be valid through December 31st of the year in which the order is signed.
- (5) The appointment may be renewed annually, by filing another application at least thirty (30) days prior to the expiration of the current order of designation.
- (6) The Clerk shall record such appointment on the court’s Special Docket and shall retain the original applications and entries. In any case thereafter, the Clerk of Courts shall accept a time stamped copy of such an order as satisfying the requirements of Civil Rule 4.1(B) for designation by the court of a person to make service of process.
- (7) Any Standing Process Server may be terminated or removed with or without cause by the Administrative Judge of the Court of Common Pleas, Domestic Relations Division and Juvenile Department.

RULE 32. ELECTRONIC FILING

32.01 Electronic Filing.

Electronic transmission to the court (FAX or E-MAIL) of pleadings, motions, and other papers shall not constitute filing, except as follows:

At such time as the Trumbull County Clerk of Courts Division of Domestic Relations Division and/or the Trumbull County Juvenile Court is able to accept such filings, documents subsequent to the initial pleading may be filed with the Domestic Relations Division and/or the Juvenile Court by electronic means, subject to the following provisions: (This rule will be modified to comply with the Supreme Court Filing Standards when the mechanism to accept such filings is completed)

- (A) **E-filing Effective as Original.** A document filed by electronic means shall be accepted as the effective original and shall be filed by the party or their attorney of record. All risks of transmission shall be borne by the sender. The sending party must maintain possession of the source document and make them available for inspection to the court upon request.
- (B) **Electronic Signature.** Any signature on electronically transmitted documents shall be considered that of the attorney or party that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.
- (C) **Filing Date.** The filing date of any electronically transmitted documents shall be the time and date the document was received by the receiving device of the Court in which it was received. This time and date shall serve as the Court's time stamp for the document.
- (D) **Filing Fee.** Any document filed electronically that requires a filing fee may be rejected by the clerk of court unless the filer has complied with the mechanism established by the court for payment of filing fees.
- (E) **Time of Filing.** Electronically transmitted documents may be received at any time. Documents received electronically after 4:30 p.m. EST will be considered to have been filed on the next business day.
- (F) **Incomplete Documents.** Papers, pleadings and other documents that are incomplete may be refused, or if filed, may be stricken.

ADDITIONAL SECTIONS TO BE ADDED WHEN E-FILING IS ESTABLISHED.

32.02 Notice and Service of Court-Generated Documents by Email in Juvenile Court.

- (A) **Authorization.** The Juvenile Court may use electronic mail to transmit certain court-generated documents to allow for more prompt and efficient delivery of court services and cost savings. Whenever the Clerk of the Juvenile Court is required to send notice of entry of orders, judgments, decisions, or serve any other document by mail, the Juvenile Clerk may use electronic mail in accordance with the guidelines established by the court.
- (B) **Procedure to Meet Requirement of Notice and Service.** Notice and service by electronic mail are complete, and the Clerk of the Juvenile Court shall have fully complied with the requirement of notice and service, upon transmission. If the Juvenile Clerk is notified that the electronic mail transmission failed, the documents will be served by regular U.S. mail. The Juvenile Clerk shall note on the docket the date and time of service of any document transmitted by electronic mail. This local rule is not intended to conflict with Ohio rules regarding service of process.
- (C) **Providing Electronic Mail Address to the Court.**
- (1) ***Attorneys to provide electronic mail address.*** All attorneys practicing before the Juvenile Court shall provide the Clerk of the Juvenile Court with a business electronic mail address, if available, in the Notice of Appearance, in the first document filed with the court, or at the first appearance before the court. Attorneys shall have a continuing duty to notify the Clerk of the Juvenile Court, in writing, of any subsequent changes in an electronic mail address. It is highly recommended that attorneys practicing before this Court establish a business electronic mail address.
- (2) ***Unrepresented parties.*** Unrepresented parties before this court who would agree to receive notice or service by electronic mail must provide the Clerk of the Juvenile Court with an electronic mail address. Unrepresented parties without an electronic mail address, or individuals who do not agree to receive notice or service by electronic mail, will continue to receive notice and service of court generated documents via regular U.S. mail.
- (D) **Electronic Mail Documents as Original.** The electronically mailed document shall be considered the original. The Court will maintain possession of the source document and make it available for inspection or copying upon request.
- (E) **Charges for additional copies.** If additional copies are needed of an electronically mailed document, the Juvenile Clerk may charge the standard rate per page for all necessary copies, including any charges for certified copies.
- (F) **Confidentiality.** Any documents that may contain information covered by the Health Insurance Portability and Accountability Act will not be transmitted by electronic mail. The Court in its discretion will determine which documents shall not be transmitted by electronic mail.

RULE 33. PLEADINGS AND MOTIONS

33.01 Pleadings and Filing Requirements

(A) **General Requirements.** Any document filed with the court must include the following:

- (1) **Caption.** All documents shall include a proper case caption meeting those specific requirements set forth under this rule depending on whether the case is filed under the Domestic Relations Division or Juvenile Department.
- (2) **Subsequent case caption.** For subsequent pleadings and motions filed within the same case, the caption shall remain the caption of the original pleading. The caption shall include the case number and the name of the judge to whom the case is assigned.
- (3) **Relief requested.** The case caption shall also include the type of pleading (e.g., Complaint, Answer, Reply, Motion or Objection) and shall also describe the relief requested. Examples of the types of relief are described in TCFC Loc. R. 33.01(C). All motions shall state with particularity the grounds for relief or order sought, and shall identify any prior orders at issue.
- (4) **Multipronged motions.** Multipronged pleadings are discouraged. Except in those instances in which the motion requests relief that is related to the underlying motion (See. e.g., “Related Relief” set forth under TCFC Loc. R. 33.01(D)), if more than one motion or request for relief is made within the same document, the Clerk of Courts shall require an advance deposit for each separate motion/request for relief listed in the caption of the document.
- (5) **Identification of filing party.** The filed document shall include the name, address, telephone number, facsimile number, and email address of the filer of the document.
- (6) **Attorney identification.** If the filer is an attorney, the attorney shall include his/her attorney registration number; the name of the law firm or company if applicable, and the name of the party who the attorney represents.
- (7) **Notice of Hearing.** The filed document shall include a Notice of Hearing to be completed with the hearing date that shall be secured by the attorney and/or party requesting the hearing through the Court Assignment Office.
- (8) **Service.** The filed document shall include instructions for service or a proof of service, as applicable. All motions, objections, and any other pleadings aside from the initiating complaint or post judgment motion shall include a completed proof of service as provided by the Ohio Civil Rules.
- (9) **Paper size.** All initial and subsequent pleadings and motions shall be legibly typewritten or printed on paper of letter size, 8 ½ x 11 inches, and securely bound at the top. Documents shall not be double sided.

- (10) **Signature.** All pleadings shall have a signature line which includes a typed or printed name of the attorney or party filing the pleading and shall include an address, phone number, and e-mail address of the attorney or party.

(B) Specific Requirements.

- (1) **Requirements in all cases involving children.** In any complaint, counterclaim, or pleading filed in either the Domestic Relations Division or the Juvenile Department in which children are involved:
- (a) *Information regarding children.* The pleading shall include the names and dates of birth of all children conceived or born as issue of the parties or adopted by the parties.
 - (b) *Parenting Proceeding Affidavit.* All parties involved in a proceeding concerning the allocation of parental rights and responsibilities, companionship, or parenting time shall file a Parenting Proceeding Affidavit pursuant to O.R.C. 3127.23(A). The affidavit shall be attached to, and filed with, each party's initial pleading or motion.
 - (c) *Obligation to Notify of Other Proceedings.* It shall be the obligation of the party initiating an action involving parenting or support of minor children to inform the court of the status of any prior or pending action in any domestic relations or juvenile court, including the amount of any prior support orders. If any parenting or support order has been entered by any other court in this state, no order regarding such issue(s) will be entered by this court except upon order from the court previously acquiring jurisdiction relinquishing jurisdiction to this court. If any parenting or support order has been entered by any court outside this state, an order regarding such issue(s) will be entered only upon a showing that jurisdiction properly lies with this court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Federal Parental Kidnapping Protection Act (PKPA).
 - (d) *Requirements for juvenile pleadings.* If the matter is a juvenile proceeding, the pleading shall also comply with the requirements set forth under TCFC Loc.R. 33.01(B)(3).
- (2) **Domestic Relations Division.** In all Domestic Relations pleadings, the following shall be included:
- (a) *Case caption and information regarding parties.* For all initial and post-decree pleadings, the caption must include each party's name and address (unless protected or unknown) and designation of each party as Plaintiff, Defendant, Petitioner, or such other appropriate party designation.
 - (b) *Affidavit of Income and Expenses and Affidavit of Property.* In all divorce,

dissolution, annulment, and legal separation proceedings, a fully completed, signed, sworn, and current Affidavit of Income and Expenses and an Affidavit of Property shall be filed simultaneously with the complaint, petition, answer, and/or counterclaim. There is an affirmative duty to update said affidavits through amendment prior to any court hearing. If the information originally filed remains current, the original filing will suffice.

- (c) *Mandatory Restraining Order.* In all cases, upon the filing of the initial complaint for divorce, annulment, or legal separation, the Plaintiff shall sign and file the court's Mandatory Restraining Order. All parties shall be restrained as set forth in the Court's standard form, as may be amended from time to time. The Mandatory Restraining Order is available at the website, www.familycourt.co.trumbull.oh.us and at the Family Court. This Mandatory Restraining Order equally binds the Plaintiff and Defendant, and is a court order, for which a failure to comply may subject the parties to punishment for contempt. The court's Mandatory Restraining Order is the only authorized mutual restraining order to be used.
- (3) **Juvenile Department.** In all Juvenile pleadings, the following shall be included:
- (a) *Case caption.* For all initial and post-decree Juvenile pleadings, the caption must include the name and date of birth of the minor child(ren).
 - (b) *Information regarding parties.* A completed Juvenile Family Information Sheet providing the names, addresses, phone numbers, and email addresses of the parties and name, date of birth, and parental information for the minor child(ren). The body of the pleading must also list each party's name and address (unless protected or unknown) and designation/relationship of each party to the minor child(ren).
 - (c) *Copy of birth certificate.* For all initial juvenile complaints involving custody of a minor child, if the file does not show parentage, then the complaint must have attached a copy of the child's birth certificate or other evidence of parentage.
 - (d) *Non-Parent Custody Proceedings.* As a pre-condition to placement with an Ohio non-parent, the Trumbull County Family Court requires a child welfare history check, and may also require a criminal background check and a CSB site safety/home safety audit conducted by Trumbull County Children Services. Additionally, in cases involving the return of custody from a non-parent to a parent, if there was a child welfare reason that a child was removed from parental care, a home study or other investigation may be required to return custody to the parent.
- (C) **Examples of Types of Relief Requested:** All pleadings shall contain, within the case caption, the type of pleading (e.g., Complaint, Answer, Reply, Motion or Objection) and shall also describe the type of relief requested. Examples of the types of pleadings/relief include, but are not limited to, the following:

(1) ***Domestic Relations Division:***

- (a) Complaint (Divorce or Legal Separation)
- (b) Petition (Dissolution)
- (c) Answer
- (d) Counterclaim
- (e) Reply
- (f) Motion for Temporary Orders – Establishment and/or Modification
- (g) Motion for Reallocation of Parental Rights and Responsibilities/Modification of Custody/Termination or Modification of Shared Parenting Plan
- (h) Motion for Modification of Companionship/Visitation
- (i) Motion for Modification of Support
- (j) Motion for Contempt/Show Cause
- (k) Motion for Continuance
- (l) Complaint/Motion to Register or Enforce Foreign Order
- (m) Objections/ Motion to Set Aside

(2) ***Juvenile Department:***

- (a) Complaint (Dependency, Abuse or Neglect; Allocation of Parental Rights/ Custody; Parentage; or Support)
- (b) Answer
- (c) Counterclaim
- (d) Reply
- (e) Motion for Temporary Orders – Establishment and/or Modification
- (f) Motion for Reallocation of Parental Rights and Responsibilities/Modification of Custody/Termination or Modification of Shared Parenting Plan
- (g) Motion for Modification of Companionship/Visitation
- (h) Motion for Modification of Support
- (i) Motion for Contempt/Show Cause
- (j) Motion for Continuance
- (k) Complaint/Motion to Register or Enforce Foreign Order
- (l) Objections/ Motion to Set Aside

(D) **Related Relief.** Where the motion is requesting relief which is related to the initiating complaint or motion, no additional deposit shall be required for the motion requesting related relief.

(1) Examples of “related relief” include the following:

- (a) Motion for Temporary Orders
- (b) Motion to Modify or Terminate Child Support (where related to a Motion for Reallocation of Parental Rights)
- (c) Motion for Appointment of Guardian Ad Litem
- (d) Motion for Psychological Evaluation(s)/ Custody Evaluation(s)
- (e) Motion for Mediation
- (f) Ex Parte Motions

(E) **Amended motions.** Amended motions may be permitted without fee so long as the amendment relates back to the original pleading.

- (F) **Forms.** Forms referenced herein may be available at the Trumbull County Family Court's website, www.familycourt.co.trumbull.oh.us, at the Family Court, or through the standardized forms link located on the Supreme Court website, www.sconet.state.oh.us.

33.02 Ex Parte Motions

- (A) **General Requirements for Motion for Ex Parte Temporary Order.** A request for an Ex Parte Temporary Order (including an ex parte restraining order which is not otherwise covered by the court's Mandatory Restraining Order referenced under TCFC Loc. R. 33.01(B)(2)(c)) shall be made by separate motion which is filed in the underlying action/proceeding. The following requirements shall be met:
- (1) **Grounds for relief.** The motion must state with specificity the grounds for relief and it must show that immediate and irreparable harm, injury, loss, or damage will result before the adverse party or his/her attorney can be heard in opposition. Grounds for relief may include:
 - (a) The opposing party is about to dispose or encumber property, or any part of property, so as to defeat the other party in obtaining spousal support or an equitable division of the marital property.
 - (b) A party to the action or a child of any party is about to suffer physical abuse, annoyance or bodily injury by the other party. Where the request for relief seeks relief pertaining to a minor child, the motion must state with specificity the grounds for relief and it must show that immediate and irreparable harm will occur to the child(ren) before the adverse party or his attorney can be heard in opposition. The motion must also meet the additional requirements set forth under TCFC Loc. R. 33.02(C).
 - (2) **Affidavit required.** The motion must be supported by an affidavit of the party seeking the order, which states with specificity the facts to support the request and clearly delineates the expected harm.
 - (3) **Party to the action.** The person or entity sought to be restrained must be a party to the action.
 - (4) **Certification of efforts to notify opposition.** The party seeking the ex parte order or his/her attorney, if applicable, must certify to the court in writing the efforts which have been made to give notice to the opposing party of the filing of the motion or the reasons supporting his/her claim that notice should not be required. The motion shall include a Certification of Notice of Ex Parte Motion Form which is located on the court's website, www.familycourt.co.trumbull.oh.us.
 - (5) **Disclosure of other orders.** Any request for an ex parte order shall disclose any other orders issued by this court, or by any other court, which are currently in effect and relevant to the relief requested in the motion. A copy of any other journalized order shall be attached to the pleading or motion.

(6) ***Proposed Judgment Entry.*** A proposed Judgment Entry shall be presented for signature to the assigned Judge or Magistrate. The proposed Judgment Entry shall define the harm, state why it is immediate and irreparable, indicate why the motion was granted without notice, and shall indicate that it is a temporary order. The proposed Judgment Entry shall include a blank space for an expedited hearing date which shall be scheduled by the court assignment office. The expedited hearing date shall be within ten (10) days from the date of the order.

(7) ***Service and notice of the expedited hearing.*** If signed, the Judgment Entry shall be returned to the Clerk of Courts to be journalized, and the pleading and Judgment Entry shall be served on all opposing parties or their counsel. In addition, the party seeking relief shall notify the opposing party of the judgment entry and the date of the expedited hearing. At the expedited hearing, the party seeking/obtaining relief shall be prepared to provide the court with information as to the efforts he/she has made to notify the opposing party of the expedited hearing.

(8) ***Modifying or dissolving Ex Parte Temporary Order.*** A party may file a motion to modify and/or dissolve an Ex Parte Temporary Order. The motion shall be supported by an affidavit of the moving party setting forth the specific facts which support the motion. In the absence of an agreement of the parties as to the terms and conditions for modifying and/or dissolving such orders, the matter shall be set for a hearing. A motion to modify or dissolve a temporary ex parte order shall be set for a hearing within fourteen (14) days of the date the motion to dissolve is filed.

(B) **Additional Requirements for Ex Parte Motions for Exclusive Possession of the Marital Residence.** An Ex Parte Temporary Order may be obtained to prevent a spouse from returning to the marital residence to reside. All of the above listed requirements must be met. Relief may be granted if such spouse no longer resides in the marital residence and has been voluntarily absent from there for more than thirty (30) continuous days immediately prior to execution of an affidavit. The affidavit shall state with specificity the following:

- (1) The date on which the absent spouse left the marital residence; and
- (2) That the spouse has voluntarily left the residence with the intent to no longer reside there; and,
- (3) That the movant has resided in the marital residence during the entire 30-day period immediately preceding execution of the affidavit.

(C) **Additional Requirements for Ex Parte Motions Pertaining to Child(ren).** The court will issue ex parte orders affecting children only where it is shown that irreparable harm will occur to the child unless immediate action is taken. Ex parte orders concerning parenting shall not generally be issued absent emergency situations where third party independent corroboration of the danger is provided by credible evidence from sources including, but not limited to, the police or a children services agency. In addition to the general requirements set forth in this rule, the following requirements shall also be met:

- (1) ***Ex Parte Custody Court Inquiry Form.*** The moving party shall file with the court the Ex Parte Custody Court Inquiry Form which is provided at the Magistrate's desk and may also be found on the court's website, www.familycourt.co.trumbull.oh.us. Absent exigent circumstances, as determined in the discretion of the court, the court will not consider the Ex Parte motion until the Ex Parte Custody Court Inquiry Form has been received by the court.

(D) **Court's Determination of Ex Parte Motions.** In its discretion, the court may act upon a Motion for Ex Parte Temporary Order as follows:

- (1) Grant the motion on an ex parte basis and set the matter for an expedited follow up hearing; or
- (2) Deny the motion on an ex parte basis but grant an expedited (emergency) hearing on the motion; or
- (3) Deny the motion, deny an expedited hearing, and set the matter for hearing on the regular docket.

Should an expedited hearing be granted, the party seeking ex parte relief or his/her counsel, if applicable, shall be prepared to cooperate with the court assignment office to obtain an expedited hearing on the motion.

33.03 Contempt Motions/ Motions to Show Cause

(A) **General Requirements.** Any Motion for Contempt/Motion to Show Cause shall be a stand-alone motion, meaning it shall not be combined with any other pleading or request for relief. The following requirements shall also be met:

- (1) ***Grounds for relief.*** The motion shall state with specificity each provision of a prior court order with which a party has failed to comply or has violated and the date of the order, and shall summarize the facts constituting the noncompliance or violation.
- (2) ***Affidavit required.*** The motion shall include an affidavit setting forth the specific facts forming the basis for the motion.
- (3) ***Summons and order to appear.*** The Motion for Contempt/Motion to Show Cause shall include a proposed Summons and Order to Appear to be signed by the Judge or a Magistrate and attached as a cover page. As applicable, the proposed Summons and Order to Appear shall comply with Ohio R.C. 2705.031 and 2705.05.
- (4) ***Specific requirements for failure to pay support.*** If there is an alleged arrearage of child support or spousal support, the motion shall set forth the date of the last order of support, the amount of the order, the amount which should have been paid and the amount actually paid, and the amount of arrearages that existed at the time of filing the motion.
- (5) ***Specific requirements for failure to pay medical bills or other obligations.*** If the motion is for failure to pay a creditor, the motion shall itemize the expenses and state

whether demand for payment has been made prior to the filing of the motion. If the motion is for failure to pay or reimburse for medical bills, the following shall be included in or attached to the motion:

- (a) A summary of the bill(s) not paid.
- (b) The dollar amount alleged to be owed.
- (c) No actual copies of medical bills should be attached to the motion. Copies of the bills shall be available to be submitted as evidence at the hearing.
- (d) An affidavit signed by the movant verifying that copies of the bills were sent to the opposing party prior to the filing the motion.

(B) **Service.** Unless otherwise ordered by the court, a Motion for Contempt/ Motion to Show Cause shall be served in accordance with the Ohio Rules of Civil Procedure or Juvenile Procedure, as applicable, as if the motion is a pleading asserting new or additional claims and in the manner provided for service of summons under said rule(s). Certification on counsel of record shall not be deemed sufficient service for a contempt or show cause motion.

(C) **Attorney Fees.** Attorney fees may be awarded in any contempt action, and shall be awarded in those circumstances required by statute. A request for attorney fees shall be made in compliance with TCFC Loc. R. 36.02. Absent evidence to the contrary, a fee of \$750.00 shall be considered a presumptively reasonable fee in a contempt proceeding without the necessity of formal proof.

(D) **Appointment of Counsel.** In contempt matters, the court may appoint counsel to an indigent party in accordance with Sup. R. 8 and TCFC Loc. R. 36.05.

33.04 Support Complaints/Motions

(A) **Supporting Documentation Required.** A party seeking the establishment or modification of child or spousal support, whether temporary or final, shall bring with him/her to the hearing, documents and information to support the movant's position, which documents shall include, but not be limited to, the following:

- (1) Affidavit of Basic Information, Income and Expenses (Uniform Domestic Relations Form - Affidavit 1);
- (2) Health Insurance Affidavit (Uniform Domestic Relations Form - Affidavit 4);
- (3) The latest pay stub of movant and/or the opposing party;
- (4) Written summary or proof as to the year-to-date gross income from all sources of movant and/or the opposing party;
- (5) Copies of the federal and/or state income tax returns, with all schedules attached thereto, for at least the prior tax year for the movant and/or the opposing party; and
- (6) Any and all other documents or information related to the income of movant and/or the opposing party as well as any other relevant information to be considered in the preparation of a child support computation worksheet pursuant to Ohio Revised Code Section 3119.

- (B) **Prehearing Discovery to be Conducted.** It is the moving party's responsibility to be prepared to present corroborating information in support of his/her motion. Income calculation is required for both parties. If information regarding the opposing party is needed, it is expected that discovery will be conducted and/or subpoenas will be issued prior to the scheduled hearing with sufficient time for discovery to be completed and/or for the subpoenaed party to respond to the subpoena pursuant to Civil Rule 45.
- (C) **Submission of IV-D Application/Information to CSEA.** Upon the final determination of any request to establish or modify child or spousal support, it shall be the responsibility of the payee or payee's counsel to see that a completed Trumbull County Child Support Enforcement Agency (TCCSEA) Child/Spousal Information Sheet and the Form IV-D Application for Services are completed in full and filed with the Wage Withhold Clerk or directly with TCCSEA.

RULE 34. ASSIGNMENT AND SCHEDULING OF CASES

34.01 Assignment of Judge and Consolidation of Cases.

Judges shall be assigned on a random basis for newly filed cases. If a case involving the same parties and/or minor child(ren) was previously filed and dismissed, the case shall be reassigned to the previously assigned Judge, or the previously assigned Judge's successor. If more than one petition or complaint involving the same parties and/or minor child(ren) is filed, the court, on its own motion or on the motion of a party, shall consolidate the cases. The case shall proceed under the case number of the complaint upon which service was obtained first and the other complaint shall operate as a counterclaim when served. Any order entered under either case shall remain in full force and effect.

34.02 Scheduling of Cases.

(A) **Court Assignment Office.** The Court Assignment Office shall assign/schedule hearing dates on complaints, motions, and other actions brought before the court.

(B) **Scheduling of Divorce, Legal Separation, Annulment and Dissolution Hearings.**

(1) ***Uncontested Divorce, Legal Separation and Annulment proceedings.***

(a) *Upon Defendant's failure to plead or appear.* If a complaint has been filed and served pursuant to the Ohio Civil Rules, and no responsive pleading has been filed or appearance entered by the defendant, the case shall proceed as if uncontested and the matter will be scheduled by the Court Assignment Office for an uncontested hearing no earlier than 42 days after service of the complaint. The plaintiff shall have available to testify at the final uncontested divorce hearing a corroborating witness who has personal knowledge of the facts. If the defendant appears at the uncontested hearing and wishes to contest any issue, the court may convert the hearing to a status conference in accordance with (B)(2).

(b) *Upon resolution of all issues.* When a previously contested divorce, legal separation or annulment case is no longer in dispute, either party may file a written request or contact the court to make an oral request for the Court Assignment Office to set the case for an uncontested hearing. A proposed final decree shall be signed by both parties and all counsel and provided to the court prior to the hearing in compliance with TCFC Loc. R. 36.06.

(2) ***Contested Divorce, Legal Separation and Annulment proceedings.*** If there has been an Answer or Counterclaim filed, the case shall proceed as if contested and the Court Assignment Office shall set the case for a pretrial conference. Following the pretrial conference, the scheduling of cases for further hearing or trial shall be done at the direction of the Judge or the Magistrate to whom the case is assigned. Once a contested matter is scheduled for trial, no continuance will be granted for another scheduling conflict except for good cause and only upon written request pursuant to TCFC Loc.R. 34.03. All matters are to be heard within the time guidelines as set by the Ohio

Supreme Court.

- (3) ***Dissolution proceedings.*** Dissolutions shall be scheduled by the Court Assignment Office under the time requirements set forth in Ohio R.C. 3105.64. The proposed Decree of Dissolution, together with all attachments, shall be signed by both parties and counsel and provided to the court prior to the dissolution hearing.
- (4) ***Conversion of action.*** An action for dissolution may be converted into a divorce action upon motion pursuant to R.C. 3105.65(C). An action for divorce may be converted into an action for dissolution upon motion pursuant to R.C. 3105.08. Upon conversion, the action shall proceed and be governed by the applicable Ohio Revised Code, Ohio Civil Rules, and these Local Rules.
- (5) ***Scheduling of all other complaints and all motions.*** Upon filing of any other type of complaints or any motions, including motions seeking temporary orders, the following shall apply:
 - (a) Unless otherwise arranged and reserved, hearings before a Magistrate are set for one hour.
 - (b) Except as set forth in TCFC Loc. R. 33.02 (pertaining to Ex Parte Motions) and TCFC Loc. R. 38 (pertaining to Abuse/Neglect/Dependency cases) for all complaints or motions requesting the allocation or reallocation of parental rights, companionship, or visitation, the initial hearing shall be conducted as a temporary hearing or, if there are existing orders in place, a pretrial conference.
 - (c) A party wishing to present a counter-motion or motion on his/her own behalf must contact the Court Assignment Office to ensure that there is sufficient time on the schedule for the opposing motion(s) to also be heard, or to obtain another date and time for the hearing of the opposing motion.
 - (d) Following the initial hearing, the scheduling of cases for further hearing or trial shall be done at the direction of the Judge or the Magistrate to whom the case is assigned. Counsel and/or parties shall have their calendars available at all hearings for purposes of scheduling further hearing dates. To ensure the prompt scheduling of hearings, the next hearing date shall be scheduled at the conclusion of the hearing. Failure of counsel or a party to cooperate in the scheduling of hearings shall result in the court scheduling the matter without consultation with counsel and/or the parties' schedules.

34.03 Continuances and Advancements.

- (A) ***Advancements.*** No case shall be advanced out of its regular order except upon order of the Judge or Magistrate to whom the case is assigned. All Motions to Advance must cite in detail the reason for the request.

(B) **Continuances.** Requests for continuances shall be made in accordance with Ohio Supreme Court Rules of Superintendence Rule 41 and Ohio Rules of Juvenile Procedure Rule 23. The following shall also apply:

- (1) All motions for continuances must be in writing and filed with the Clerk of Courts, and the required court costs must be paid prior to consideration by the court. No verbal requests for continuances shall be considered except in the case of an emergency.
- (2) Motions for continuances shall be made as far in advance of the scheduled hearing date(s) as practicable.
- (3) Continuances will be considered only after notice to all parties involved. The motion shall contain an affirmation that opposing counsel and/or the opposing party was contacted and does or does not have an objection to the continuance.
- (4) No case will be continued on the day of the scheduled hearing except for good cause shown.
- (5) The motion shall contain specific language as to the type of proceeding for which the continuance is requested (e.g., pretrial conference or trial) and shall state the reason for the request. If the request for continuance is being made due to a conflict with another case, the movant shall attach a copy of the scheduling notice for the conflicting case and shall indicate the other case's caption, the type of case (civil or criminal), the court where the conflicting case is to be heard, and when the conflicting case was assigned for trial.
- (6) The party requesting the continuance shall prepare a proposed Judgment Entry granting the Motion for Continuance and submit it to the court along with the motion. A blank space for the new hearing date and time shall be included in the proposed Judgment Entry. All proposed Judgment Entries/Orders must also comply with the requirements of Ohio Civil Rule 58, and counsel shall either instruct the Clerk to issue Rule 58 notice, or have Rule 58 notice waived by all parties of record.

RULE 35. CONDUCT OF HEARINGS AND TRIALS

35.01 Hearings to be Conducted by Judges or Magistrates.

All trials and hearings, of every kind and description will be heard by a Judge of the Division, by a visiting Judge, or by any Magistrate appointed by this Court. Magistrates are awarded all powers as set forth in the statutes of the State of Ohio, the Ohio Civil and Juvenile Rules, and the Local Rules of this Court. A special order of reference is not required.

35.02 Communications with Judges and Magistrates.

- (A) **Ex Parte Communications Prohibited.** No party or attorney shall discuss or attempt to discuss the merits of a case either orally or in writing with any Judge or Magistrate presiding over the matter without the presence of opposing counsel or the opposing party if self-represented.
- (B) **Requests for Conference.** If it is determined that an issue in a pending action needs to be discussed with a Judge or Magistrate prior to a scheduled hearing, the attorney or party may, with prior notice to the opposing attorney or party, contact the court to request a conference with the Judge or Magistrate. It shall be within the Judge or Magistrate's discretion to determine whether to grant a request for a conference.

35.03 Conduct in Court.

- (A) **Proper Attire.** In all court proceedings, all parties, witnesses and counsel shall be properly attired. A failure on the part of any person appearing before the court to be properly attired may result in the continuance or delay of the hearing and/or the exclusion of said person from participating in the hearing.
- (B) **Children.** Parents are discouraged from bringing children to any court proceeding unless otherwise ordered by the court.
- (C) **Telecommunication and Recording Equipment.** No telecommunication devices, recording devices, telephones, or cell phones shall be permitted in the courthouse, except upon consent of the Judge or Magistrate conducting the hearing and in accordance with the Ohio Supreme Court Rules of Superintendence.

35.04 Special Needs and Interpreter Services.

Individuals with disabilities, special needs, or the need for an interpreter should make requests for reasonable accommodations to the Court's Administrator's Office (330) 675 -2601 at least 2 weeks prior to any scheduled hearing date. If the interpreter is no longer needed, or if the matter is continued, the parties must immediately notify the Court Administrator's Office to cancel or reschedule the service. Failure to notify the Court Administrator's Office of the cancelled or reset hearing may result in an assessment of the fee for the service.

35.05 Attendance at and Preparation for Hearings.

- (A) **Personal Appearance Required.** All counsel of record, the Guardian Ad Litem, and all parties subject to the jurisdiction of the court shall be present in person at all hearings, including status or pretrial conferences, unless otherwise ordered or excused in advance by the Judge or Magistrate. If the court has ordered the hearing to be held remotely, remote hearings shall be conducted as set forth under Rule 35.06. If a party's appearance has been excused by the court, that party shall provide his/her attorney with the telephone number(s) at which she/he may be reached. Counsel attending must have complete authority to discuss and settle all issues involved in the case and to enter into stipulations regarding resolved issues. Except in the case of matters under TCFC Loc. R. 41 (pertaining to Delinquency/Unruly cases) or they are otherwise required to appear pursuant to subpoena or order, minor children shall not appear for status and pretrial conferences. If the parties have reached an agreement settling all issues, appearance shall not be excused unless a proposed Agreed Judgement Entry has been signed by all parties, counsel, and the Guardian Ad Litem, if applicable, and submitted to the court prior to the hearing date as required under TCFC Loc. R. 36.06, and the court has notified counsel and self-represented parties that their appearance is excused.
- (B) **Preparation for Hearing.** If a party and/or counsel appears on the scheduled hearing date and shows good cause why he/she is not ready for the trial or hearing, the court shall make such orders as are proper. If no good cause is shown for the failure to be ready to proceed, then the court may enter an order dismissing the action for want of prosecution or may proceed with the case to determine all matters.
- (C) **Dismissal for Failure to Appear or Otherwise Comply.** The failure of an attorney or party to comply with this rule requiring his/her appearance at and preparation for all hearings and/or conferences and/or to cooperate in good faith in the conduct of any such hearing/conference may result in dismissal of the complaint or motion filed by the defaulting party and may subject said attorney or party to any sanctions provided in Ohio Rule of Civil Procedure 37, including, but not limited to, an award of expenses and/or attorney fees to any party prejudiced by such conduct.
- (C) **Stipulations and Agreements Reached at Pretrial Proceedings.** Stipulations and agreements of the parties are encouraged. Any stipulation or agreement reached by the parties at a hearing, including status or pretrial conferences, shall be placed on the record and reduced to writing signed by all parties and their counsel and filed with the court. The agreement shall be binding on all parties in any subsequent hearing(s) on the case.

35.06 Remote Hearings.

The intent of Rule 35.06 is to promote uniformity in the practices and procedures related to remote appearances in cases where such an appearance is permitted by these rules, court order, statute, or other rules of court. "Remote" is defined as the use of live two-way video or audio technology. Notwithstanding any other provisions of this Rule, a judge may require a party's personal appearance in Court for any conference, hearing, or proceeding.

(A) Telephone Appearances. The Court may conduct conferences, hearings, and proceedings via telephone with attorneys and unrepresented parties in accordance with the Hearing Management Plan set forth in Division (F) of this Rule.

(1) All proceedings involving a telephone appearance must be recorded and reported to the same extent as if the participants had appeared in person.

(2) The Court may specify the time and the person who will initiate the telephone call and any other matter or requirement necessary to accomplish or facilitate the telephone appearance.

(3) Upon convening a conference, hearing, or proceeding involving a telephone appearance, the Court shall recite the date, time, case name, case number, names and locations of parties and counsel, and the type of conference, hearing, or proceeding.

(4) The Court may require a party to appear in person or by video at a conference, hearing, or proceeding in which a telephone appearance is otherwise permitted if the Court determines a personal or video appearance would materially assist in the determination or effective management or resolution of the particular case.

(5) If at any time during a conference, hearing, or proceeding conducted by telephone, the Court determines a personal appearance or a video appearance is necessary, the Court may continue the matter and require a personal or video appearance.

(B) Video Conferencing Appearances. The Court may conduct conferences, hearings, and proceedings via a live two-way video conferencing platform with attorneys and unrepresented parties in accordance with the Hearing Management Plan set forth in Division (F) of this Rule.

(1) All proceedings involving a video conference appearance must be recorded and reported to the same extent as if the participants had appeared in person.

(2) The Court may specify the time and the person who will initiate the video conference and any other matter or requirement necessary to accomplish or facilitate the video conferencing appearance.

(3) Upon convening a conference, hearing, or proceeding involving a video conference appearance, the Court shall recite the date, time, case name, case number, names and locations of parties and counsel, and the type of conference, hearing, or proceeding.

(4) The Court may require a party to appear in person at a hearing, conference, or proceeding in which a video conference appearance is otherwise permitted if the Court determines a personal appearance would materially assist in the determination or effective management or resolution of the particular case.

(5) If at any time during a hearing, conference, or proceeding conducted by video conference the Court determines a personal appearance is necessary, the Court may continue the matter and require a personal appearance.

(C) **Confidential Attorney-Client Communication.** Provisions shall be made to preserve the confidentiality of attorney-client communications and privilege during any conference, hearing, or proceeding involving a telephone or video conference appearance.

(D) **Witnesses.** A witness may testify via telephone or video conference if not otherwise permitted by this Rule, statute, or other rules of court.

(E) **Technical Standards and Equipment.** The equipment and platform used in any conference, hearing or proceeding conducted under this Rule must conform to the following minimum requirements:

(1) All participants must have the ability to hear and communicate with each other simultaneously.

(2) All participants must be able to see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings, either by video, facsimile, or other medium.

(3) The equipment or platform must allow for the Court to generate a verbatim record of the conference, hearing, or proceeding.

(4) The equipment or platform must be able to be used by people with disabilities to accommodate their disabilities under the Americans with Disabilities Act.

(5) The use of the telephone or video conferencing platform to conduct the conference, hearing, or proceeding shall in no way abridge any right of the parties or the public.

(F) **Hearing Management Plan.** The Court may conduct conferences, hearings, and proceedings in the following manner unless for good cause show:

Type of Proceeding	In Person	Video	Telephone	Hybrid
Arraignments	X	X		X
Plea Hearings	X	X		X
Pretrial Hearings	X	X	X	X
Review/Status Hearings	X	X	X	X
Evidentiary Hearings	X	X	X	X
Sentencing Hearings	X	X		X
Post-Conviction Proceedings		X		
Motion Hearings	X	X	X	X

Traffic Proceedings	X	X		X
Civil Proceedings	X	X	X	X
Adjudication (Juvenile)	X	X		X
Disposition (Juvenile)	X	X		X
Administrative Proceedings	X	X	X	X

Definitions:

In Person: A hearing is conducted where the Court and all participants appear physically in the same location.

Video: A hearing is conducted using *Cisco WebEx* where the Court and all participants appear remotely.

Telephonic: A hearing is conducted where the Court and all participants appear using a telephone.

Hybrid: A hearing is conducted using a combination of any of the above-listed appearance types (e.g., the Court appears in person in the courtroom and some or all of the remaining participants appear via telephone and/or via video using the *Cisco Webex* application).

35.07 Pretrial Conferences.

(A) **Purpose.** Pretrial conferences are not intended for the presentation of evidence and testimony. Pretrials are conducted in order to narrow the issues in controversy, admit to facts not in dispute, advise the court on discovery, address issues of asset valuation, discuss the allocation of parental rights and support, and any other matter that may aid in the disposition of the case. Determinations as to the appropriate time to be set aside for the final trial are also made at the pretrial.

(B) **Disclosure of Assets in Domestic Relations Proceedings.** Both parties shall file an updated Affidavit of Property in advance of the pretrial conference. Each shall fully disclose to the other party all of their assets and debts.

35.08 Record of Proceedings and Transcripts

(A) In hearings before the court, the record shall be taken by mechanical, video, or audio recording, or as otherwise specified by the court, Civil Rule 53(D)(7), Juvenile Rule 37 and/or 40(D)(7). Such records shall be preserved as required by law. Regardless of the manner of taking the record used by the court, the transcript of a proceeding shall constitute the official record of the proceeding. Audio recordings of the proceedings shall not be released, but may be reviewed in court upon request for good cause shown.

(B) Parties that require a transcript of a proceeding shall file with the Clerk of Courts a “Praeceptum to Court Reporter for Preparation of Transcript.” Said Praeceptum shall be in the form prescribed by the Court, which form is available on the Trumbull County Family Court’s website. The attorney/party requesting the transcript shall either hand deliver or

email a time-stamped copy of the Praecipe to the Court Reporter. The Court Reporter will then contact the attorney/party requesting the transcript to advise of the fee required for preparation of the transcript. The transcript will not be considered ordered and the Court Reporter shall not be required to prepare a transcript until satisfactory arrangements for payment have been concluded. The transcript will not be released until the deposit is paid. Upon its completion, it is the responsibility of the attorney/party to file the transcript as required by rule/statute. Transcripts will be prepared based on their priority of need with transcripts for appellate court purposes to be given top priority following by transcripts required for Objections to Magistrate's Decisions or Motions to Set Aside Magistrate's Orders.

RULE 36. OTHER PROCEEDINGS AND SERVICES

36.01 Motion to Set Aside Magistrate's Order/ Objections to Magistrate's Decision

- (A) **Procedure.** Any party may file a Motion to Set Aside a Magistrate's Order or Objections to a Magistrate's Decision by following the procedures set forth in Civil Rule 53(D) and/or Juvenile Rule 40(D).
- (B) **Requesting a Transcript.** A request for a transcript pursuant to Civil Rule 53(D)(3)(b)(iii) or Juvenile Rule 40(D)(3)(b)(iii) shall be to the Court Reporter within seven (7) days of the filing of Objections to the Magistrate's Decision. Said request shall be made pursuant to TCFC Loc. R. 35.07. Requests for extensions of time to file the transcript shall include the signature of the Court Reporter indicating the reason that the transcript has not been completed and the expected date of completion.
- (C) **Supplemental Objections.** A party filing Objections to the Magistrate's Decision which require a transcript must still file his or her objections within the fourteen (14) day time period set forth above and must also include a notice of intent to file supplemental objections after the transcript has been filed, for which leave will automatically be granted. A party shall have an additional fourteen (14) days following the filing of the transcript within which to file supplemental objections, provided that notice was filed as set forth herein.
- (D) **Dismissal/Denial for Failure to File Transcript or Affidavit.** Failure to file a transcript or Affidavit when required shall result in the dismissal or denial of the Objections.
- (E) **Hearing on Motion to Set Aside or Objections to Magistrate's Decision.** Upon review of the Motion to Set Aside or the Objections to Magistrate's Decision, the court will determine if a hearing before the court is necessary, and, if so, will schedule a time and date for the hearing. The Clerk of Courts shall accept the Motion to Set Aside without a Notice of Hearing or hearing date.

36.02 Attorney Fees.

- (A) **Request for Attorney Fees.** A request for attorney fees and expenses to prosecute or defend an action shall be made by motion or may be combined with another pleading that gives rise to the request for fees. Any such request shall be by written motion filed at least 14 days prior to the hearing on the motion being prosecuted or defended. No oral motion for fees shall be entertained unless good cause is shown why the provisions of this rule could not be complied with.
- (B) **Evidence in Support of Motion.** At the time of the hearing on the motion or pleading that gives rise to the request for attorney fees, the party seeking attorney fees shall present sufficient evidence for the court to determine the reasonableness of the fees. Expert testimony is not necessarily required. However, at a minimum, the party seeking attorney

fees shall present the following:

- (1) The basis of the request for attorney fees;
- (2) An itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time;
- (3) Testimony or affidavit of counsel as to complications of the case;
- (4) Testimony or affidavit of counsel regarding the attorney's years in practice and experience in family court cases; and
- (5) Evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing, if applicable.

36.03 Mediation.

- (A) **Referrals to Mediation.** In any action the court may, upon its own motion or upon the motion of either party, refer the case to mediation. Attorneys may also refer cases to mediation upon agreement of parties. Mediation conducted in any cases before this court shall be in compliance with the Uniform Mediation Act (UMA), Ohio R.C. 3109.052, and the Rules of Superintendence for the Courts of Ohio, as applicable.
- (B) **Content of Referral.** The order referring the case to mediation shall note the responsibility of the parties for payment of the mediation fee or whether the fee has been waived. The parties responsible for fees shall comply with the order regarding payment prior to the first joint session. A Mediation Referral Information form shall be completed by the referring party/court for all referrals and shall be provided to the court mediator.
- (C) **Scheduling and Conduct of Mediation Sessions.** Mediations shall be conducted by the court mediator or any other mediator who has successfully completed requirements of Rule 16.23 of the Rules of Superintendence for the Courts of Ohio and under the following guidelines:
 - (1) Unless otherwise ordered, the parties shall contact the mediator within seven (7) days of the referral to schedule an appointment.
 - (2) The mediator shall meet with each party individually to provide a thorough orientation to the mediation process and to screen the case for appropriateness including but not limited to matters of domestic abuse. Throughout the process, the mediator shall continue to identify any situations or behavior involving possible domestic abuse.
 - (3) The mediator shall notify the court of any case that will not be mediated or be terminated as a result of being deemed inappropriate for mediation as set forth below.

(4) Once both parties have met individually with the mediator, within two (2) weeks of the last individual session, the initial conjoint session shall be scheduled. The mediator and parties will schedule additional sessions as needed to complete resolution of the issues. Upon the request of the parties, their attorneys or other individuals may also attend and participate in sessions.

(D) **Cases Inappropriate for Mediation.** Mediation shall not be used in any of the following circumstances:

- (1) As an alternative to the prosecution or adjudication of domestic violence;
- (2) In determining whether to grant, modify or terminate a protection order;
- (3) In determining the terms and conditions of a protection order; and
- (4) In determining the penalty for violation of a protection order.

Nothing in division (D) of this rule shall prohibit the use of mediation in a subsequent divorce or matter regarding allocation of parental rights and responsibilities even though that case may result in the termination of the provisions of a protection order.

(E) **Confidentiality/Privilege.** All communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, Ohio Revised Code, Ohio Rules of Evidence, and any other applicable judicial rules.

(F) **Attendance at Mediation.** Where mediation is court ordered, all parties shall attend scheduled mediation sessions unless excused by the court or the mediator. If a party fails to attend court ordered mediation without good cause, the court may impose sanctions, including the award of attorney fees and other costs or sanctions for contempt.

(G) **Mediation Report and Conclusion of Mediation.**

(1) **Mediation Report.** Upon conclusion of the mediation and, in any event, prior to the next scheduled hearing, the mediator shall submit a mediation report to the court. The report shall inform the court who attended and whether an agreement has been reached. If no agreement has been reached, the report shall inform the court whether the case is scheduled for further mediation or is returned to the court for further proceedings. No other information shall be communicated by the mediator to the court unless all parties who hold a mediation privilege, including the mediator, have consented to such disclosure. Upon the request of the parties or counsel, the mediator shall provide a copy of the report to the parties, counsel, or Guardian Ad Litem upon request.

(2) **Memorandum of Understanding.** Upon request of the parties, the mediator shall promptly prepare a memorandum of understanding detailing the terms as agreed by the parties in mediation. No agreement developed in mediation shall be final until reviewed and approved by parties and their attorneys. Agreements may be submitted to the court together with an agreed judgment entry or as part of a final decree.

36.04 Parenting Proceedings.

- (A) **Parenting Time.** While the parties are encouraged to formulate their own parenting time schedules, the court has adopted the Trumbull County Parenting and Companionship Guidelines as mandated by Ohio law. Said schedule is available on the court's website, www.familycourt.co.trumbull.oh.us.
- (B) **Parenting Coordination.** No parenting coordination will be used by the Trumbull County Family Court.
- (C) **Court Ordered Evaluations.** If a medical, psychological, or psychiatric examination is ordered pursuant to Ohio R.C. 3109.04(C), due to the private nature of such information, any reports generated from the examination/evaluation shall be maintained in the court's confidential file. Upon receipt of the report by the Court, the parties and counsel shall be notified by the Court, in writing, that the report has been submitted and that the contents of the report are available for examination. The report shall be made available to the parties, counsel of record, or the Guardian Ad Litem for review *at the court* upon written request. Any request for a copy of the report or for further dissemination of the report shall be made by written motion. A request for a copy of the report may, in the discretion of the court, be permitted only by court order containing appropriate limitations for further dissemination of the report.
- (D) **Relocation.** In the event of a relocation, the parties shall follow the requirements of Ohio R.C. 3109.051(G)(1). Except as set forth by ORC 3109.051(G), the parent intending to relocate shall be required to serve a copy of the Notice of Intent to Relocate upon the other parent.

36.05 Appointment of Counsel.

- (A) **Eligibility for Court-Appointed Counsel.** Appointment of counsel for an indigent party alleged to be in contempt or an indigent party in a Juvenile proceeding in which the party is eligible for appointed counsel may be made upon request and is subject to the party's completion of the requisite Financial Disclosure Form and a finding by the court of an inability to pay attorney fees.
- (B) **Qualifications and Procedures for Appointment of Counsel.** The court shall maintain a list of all available attorneys who are willing and pre-qualified to serve in the capacity as court-appointed counsel. Separate lists for different types of appointments shall be maintained. The following shall apply:
- (1) **Qualifications of court-appointed counsel.** Attorneys shall submit their information and qualifications based on Ohio Administrative Code Section 120-1-10 to the Administrative Judge in order to be placed on the list to be considered for appointment. The list shall be reviewed and updated periodically as required.

- (2) ***Selection of court-appointed counsel.*** Appointment shall be made on a rotating basis from the list of pre-qualified attorneys to ensure an equitable distribution of appointments. In making such appointments, the court shall take into consideration all of the following:
- (a) The anticipated complexity of the case in which the appointment will be made;
 - (b) Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;
 - (c) The relevant experience of counsel available to accept the appointment, including proficiency in a foreign language, familiarity with health issues, and scientific or other evidence issues;
 - (d) The avoidance of conflicts of interest or other situations that may potentially delay timely completion of the case; and
 - (e) Any other intangible factors, including the court's view of proposed counsel's commitment to providing timely, cost-effective, quality representation to each prospective client.
- (3) ***Procedure to ensure equitable distribution of appointments.*** Judicial officers shall make appointments from the pre-qualified list of attorneys in an objectively rational, fair, neutral, and nondiscriminatory manner. Attorneys on the lists maintained by the court are not assured a substantially equal number of appointments. However, the appointments shall be an equitable distribution of appointments. Appointments made by the court and the date of the appointments shall be maintained for judicial officers to review to ensure that the appointments are widely distributed among substantially all persons from the lists maintained by the court.
- (4) ***Compensation of court-appointed counsel.*** Counsel appointed to represent indigent parties shall be paid counsel fees according to the schedule adopted by the Board of Trumbull County Commissions as required by R.C. 120.33. Counsel shall not be paid an hourly rate in excess of that approved in the Trumbull County fee schedule for appointed counsel and, absent extraordinary circumstances, shall not be paid a total fee in excess of the maximum total fee in the Trumbull County fee schedule for appointed counsel. By accepting the appointment, the appointed attorney shall accept no compensation beyond that awarded by the court. Appointed counsel shall file an application for counsel fees and expenses on form OPD-1026R or such other form provided by the Ohio Public Defender Commission. The application shall be submitted no later than thirty (30) days after the disposition of the case.

36.06 Agreed Judgment Entries.

- (A) **Proposed Agreed Judgment Entries.** Where the parties have agreed to a resolution of a pending motion or complaint, prior to or at the commencement of the hearing the parties shall provide the court with a proposed final Agreed Judgment Entry. In the case of an uncontested divorce, the parties may also provide a separation agreement as well as an Agreed Judgment Entry adopting the terms thereof. In the event that a resolution is negotiated and reached immediately prior to the commencement of the hearing, the court may grant the parties time to prepare and submit the Agreed Judgment Entry and, if so

granted, shall designate the person responsible for preparation of the same. Unless extended or shortened by the court, the final proposed Agreed Judgment Entry shall be provided to the court no later than thirty (30) days after the final hearing on the matter.

(B) **Form/Content of Agreed Judgment Entry.** A proposed Agreed Judgment Entry shall include the following:

- (1) **Signatures.** The original signatures of all parties, counsel, and the Guardian Ad Litem, if applicable, indicating approval of the proposed Agreed Judgment Entry. The signatures shall not be on separate pages. It shall also include a space for the date and signature of the Judge or Magistrate hearing the case.
- (2) **Child support addendum.** When an Agreed Judgment Entry creates or modifies an obligation of child support, that Judgment Entry shall have attached to it a completed Child and Medical Support Determinations Addendum and Child Support Computation Worksheet. It shall be the responsibility of the payee or payee's counsel to see that a completed Trumbull County Child Support Enforcement Agency (TCCSEA) Child/Spousal Information Sheet and the Form IV-D are completed in full and filed with the Wage Withhold Clerk or directly with TCCSEA.
- (3) **Shared parenting plan.** If the agreement includes shared parenting, a Shared Parenting Plan shall be attached to the proposed Agreed Judgment Entry.
- (4) **Notice.** All proposed Agreed Judgment Entries must comply with requirements of Ohio Civil Rule 58. The proposed Judgment Entry shall include language either instructing the Clerk to issue Rule 58 Notice, or have Rule 58 Notice waived by all parties.
- (5) **Guardian Ad Litem.** If a Guardian Ad Litem has been appointed on the case, the proposed Agreed Judgment Entry shall include language indicating that the Guardian Ad Litem has been discharged and shall address the method of payment of his/her final fees.

(C) **Submission to Opposing Party.** Except as otherwise ordered, the party or counsel designated to prepare the proposed Agreed Judgment Entry shall prepare and submit it to the opposing party, or to the party's counsel, if applicable, within fourteen (14) days of the date of the hearing. The opposing party or counsel shall have ten (10) days in which to approve or reject same. If rejected, the opposing party/counsel shall state his objections in writing to the party preparing the entry. The party or counsel who has prepared the entry shall sign the proposed Judgment Entry and submit it to the court for approval together with a copy of the opposing party's written objections to provide notification to the court that the opposing party/counsel has objected. The court shall then take appropriate action in relation thereto, which may include requiring the opposing party/counsel to provide further detail of his/her objections in writing, approving the proposed Judgment Entry over the objections, ordering the preparation of a transcript and/or setting the matter for hearing. If a transcript of proceedings is required, the court may allocate the costs thereof. Upon the failure of the opposing party/counsel to timely respond by either approving or providing written objections to the proposed Judgment Entry, the party who has prepared the

proposed Judgment Entry shall present said Judgment Entry to the court to be journalized by certifying thereon that the provision requiring submission to opposing counsel or party has been completed and stating the date the proposed Judgment Entry was delivered (not mailed) to the opposing party or counsel. The court can then either sign the Judgment Entry or set the matter for hearing. Failure to comply with this rule will result in the Court acting in any one or more of the following manners:

- (1) Issuance of a citation of contempt to the counsel of record or a party;
- (2) Granting of attorney fees and court costs;
- (3) Dismissal of the action; and/or
- (4) The court issuing its own Judgment Entry.

(D) **Order for the Division of Retirement Benefits.** If a pension or qualified retirement benefit is involved, and a Qualified Domestic Relations Order (QDRO) or any other orders necessary to divide retirement benefits are required, such order shall be prepared as instructed in the court's final order. If the order is silent, the QDRO/order to divide retirement benefits shall be prepared by the Alternate Payee at his/her costs. All final judgment entries of divorce, dissolution, or legal separation requiring a QDRO/order to divide retirement benefits shall include a provision reserving the jurisdiction of this court to enforce pension rights by issuing amended QDROs/orders or for other equitable relief.

(E) **Agreed Modification to Existing Parenting Orders.** Parents may file a motion for the court to approve a proposed Agreed Judgment Entry to modify an existing parenting order. Any such motion shall attach a Parenting Proceeding Affidavit. The proposed Agreed Judgment Entry shall also be provided to the court and shall address/include:

- (1) The allocation of parental rights for the care of the child(ren) and a designation of residential parent and legal custodian. If shared parenting, a copy of the Shared Parenting Plan with a designation of the residential parent for school purposes shall be attached;
- (2) Child support with a completed Child and Medical Support Determinations Addendum and Child Support Computation Worksheet attached;
- (3) Allocation of the income tax dependency exemption/credits;
- (4) Disposition of arrearages or overpayments;
- (5) Companionship/visitation agreement. The parties may attach the companionship schedule as an exhibit and/or incorporate this court's Trumbull County Parenting and Companionship Guidelines.

(F) **Agreed Custody to a Non-Parent.** Transfer of custody to a non-parent creates a legal issue of school district reimbursement from one Ohio school district to another. Accordingly, when a child living in Ohio is placed with a non-parent, any Agreed Judgment Entry must also address the school district. The following language or equivalent is required:

- (a) If a child is being placed from an Ohio parent to an Ohio non-parent:
*"At the time of the adjudication, the minor child resided with a parent at **address and city, state** in the **school district name**". Said school district*

will be responsible for tuition reimbursement to the school district of attendance, subject to Ohio Revised Code Section 3313.64 determination, and Ohio Revised Code Section 2151.362 appeal and process of correction.”

(b) If a child is being placed from out of state to an Ohio non-parent:

*“At the time of the placement, the parents reside out of state at **address, city, state**. The applicant for custody has demonstrated the ability to financially provide for the child, passed a home study, and given financial guarantees for the child’s expenses. Said applicant for custody will be responsible for school tuition reimbursement if required by the school district of attendance.”* If a child is coming from an out-of-state parent to an Ohio non-parent, besides school tuition concerns, there are FULL home study requirements AND financial guarantees required prior to custody being considered. *See Ohio Revised Code Section 2151.39 and the section dealing with the interstate placement of children.*

RULE 37. GUARDIANS AD LITEM

37.01 When Appointed.

Whenever the Court finds that it is necessary to appoint a Guardian Ad Litem (hereinafter also referred to as “GAL”) to act in the best interest of a child or when the Court is required to do so by statute or rule, it shall appoint a GAL pursuant to these rules. The Court maintains a Guardian Ad Litem Appointment List from which GALs are selected to be appointed in cases before the Trumbull County Family Court.

37.02 Requirements to Serve as Guardian Ad Litem.

(A) **Initial Application.** In order to serve as a GAL in the Trumbull County Family Court, an attorney must be approved for appointment by the Court by being placed on the Guardian Ad Litem Appointment List and shall be required to meet the following criteria:

- (1) Be an attorney licensed to practice in the State of Ohio;
- (2) Be in good standing with the Supreme Court of Ohio;
- (3) Have completed and be current in maintaining all GAL education requirements as established by the Ohio Supreme Court set forth under Sup.R. 48.04;
- (4) Maintain required malpractice insurance; and
- (5) Complete and file this Court’s Application to be Placed on the Guardian Ad Litem Appointment List (which can be obtained from the Court Administrator) which includes providing a criminal and civil background check; and
- (6) Obtain approval from the Administrative Judge.

Upon completion of the Application, it shall be submitted to the Administrative Judge for review and a determination. Upon approval the applicant shall be placed on the Court’s Guardian Ad Litem Appointment List to be considered for future appointments in cases pending in the Trumbull County Family Court.

(B) **Continuing Requirements.** Once approved by the Administrative Judge and placed on the Court’s Guardian Ad Litem Appointment List, a GAL shall meet the following requirements:

- (1) Remain an attorney licensed to practice law in the State of Ohio and remain in good standing with the Supreme Court of Ohio;
- (2) Remain in compliance with training and education requirements of Sup.R. 48 through 48.07;

- (3) Perform satisfactorily on all assigned cases during the preceding calendar year; and
- (4) On or before January 31st of each year, complete and provide to the Court with an Annual GAL Certification Form (which can be obtained from the Court Administrator) to certify that the GAL is unaware of any circumstances, including any criminal or civil matters, that would disqualify him/her from serving as GAL and to provide the court with a report of the training that the GAL has attended in the preceding calendar year to comply with Sup.R. 48.05.

A failure to meet the foregoing requirements may result in the suspension or removal of the individual from the Court's Guardian Ad Litem Appointment List. In the event of a suspension due to the failure to comply with education and training requirements, the attorney shall not be eligible to serve as a GAL on any new appointments until the requirements have been satisfied.

37.03 Appointment of Guardian Ad Litem.

- (A) **Method of Appointment.** The appointing Judge or Magistrate shall appoint a GAL in a case from the Court's Guardian Ad Litem Appointment List and enter an order so appointing. The Court shall notify the Assignment Office of the appointment of a GAL, and the Assignment Office shall notify the GAL of the next scheduled pending hearing(s).
- (B) **Selection of Guardian Ad Litem.** The Court shall consider reappointment of the same GAL for a specific child in any subsequent proceeding determining the best interest of that child. Otherwise, appointment shall be made on a rotating basis from the Court's Guardian Ad Litem List in such manner so as to ensure an equitable distribution of appointments among the GALs on the list as defined in Sup.R. 48.07(B). In making such appointments, the court may consider the complexity of the issues, parties, counsel, and the children involved, as well as experience, expertise, and demeanor of available GALs.
- (C) **Procedure to Ensure Equitable Distribution of Appointments.** Judicial officers shall make appointments from the Court's Guardian Ad Litem List in an objectively rational, fair, neutral, and nondiscriminatory manner. All appointments made by the Court and the date of the appointments shall be maintained for judicial officers to review to ensure that the appointments are widely distributed among substantially all persons from the list maintained by the court.

37.04 Compensation.

- (A) **Abuse, Neglect, Dependency, and Delinquency cases.** For abuse, neglect, and dependency cases and delinquency cases, a GAL shall be compensated and shall follow the requirements to submit an application for payment as set forth for appointed counsel in TCFC Loc.R. 36.05(B)(4).
- (B) **Allocation of Parental Rights and Responsibilities Proceedings.** For all other proceedings involving the allocation of parental rights and responsibilities, as defined

under Sup.R. 48.01(A), the GAL shall be compensated at the rate established by the court. The following shall apply for compensation of the GAL in such cases:

- (1) ***GAL deposit.*** At the time of the GAL's appointment, the Court may order one or all of the parties to pay an initial deposit directly to the GAL. The Court may also designate how additional fees incurred by the GAL will be allocated or may reserve that determination for subsequent order and shall make GAL fee determinations in compliance with Sup.R. 48.02(H). A GAL shall maintain any deposits paid to him/her in escrow until approval of the GAL's fees is granted by court order.
- (2) ***Request for fees.*** At any time prior to the conclusion of a case, a GAL may submit a motion for approval and payment of fees. Further, no later than seven (7) days after the final hearing on the matter in which the GAL has been appointed, the GAL shall submit a motion for approval and payment of fees to the Court. The GAL shall attach a copy of the order appointing the GAL and, if applicable, a copy of the order indicating the division or allocation of the fees which are to be paid, together with a proposed Judgment Entry for approval and payment of the fees. Any motion for fees shall comply with Sup.R. 48.02(H)(2). In addition, where a Guardian Ad Litem's fees have been ordered, in full or in part, from the Court's Guardian Ad Litem Fund, the GAL shall attach a copy of the order granting payment from the Court Fund to the motion for approval and payment of fees.
- (3) ***Approval of fees.*** Upon motion for approval and payment of GAL fees, the Court shall determine if the fees sought by the GAL are reasonable and necessary and shall order the allocation of the fees, taking into consideration any relevant factor, including those set forth under Sup.R. 48.02(H)(3).
- (4) ***Extraordinary Fees.*** A cap on GAL fees for each case is set at \$1,500.00. However, extraordinary fees in excess of \$1,500.00 may be considered by the Court upon the filing of a motion.
- (5) ***Obtaining payment from Court Guardian Ad Litem Fund.*** Where a GAL's fees have been ordered, in full or in part, to be paid from the Court's Guardian Ad Litem Fund, the GAL is responsible for providing a copy of the order granting payment from the Fund, together with a copy of the GAL's itemized statement to the Court Administrator's Assistant for payment to be made.

37.05 Guardian Ad Litem Fund.

The Court has established a Guardian Ad Litem Fund to assist with the payment of GAL fees. Should a party be financially unable to pay the advance deposit for GAL fees that he/she has been ordered pay without substantial hardship to his/her family, within ten (10) days of the order appointing the GAL, a party may seek assistance from the Guardian Ad Litem Fund by filing the Court approved form *TCFC A-1* Motion for Payment from Guardian Ad Litem Fund. If the applicant is represented by counsel, the applicant shall attach a statement from his/her counsel that counsel is representing the applicant pro bono. In the alternative, the applicant may attach a letter from a duly authorized legal aid corporation indicating that the applicant is receiving legal aid with

a partial fee being paid to said counsel. A motion requesting the payment of deposits/fees from the GAL Fund shall be by *written motion only* and must be timely made as set forth in the order appointing the Guardian Ad Litem. The court may grant the motion without further hearing or may set the matter for hearing and require the applicant to produce evidence of income and expenses at said hearing. If the court grants the motion, the matter is subject to further judicial review at any stage of the proceedings thereafter.

37.06 Conflicts.

Unless otherwise expressly indicated, an attorney appointed as a GAL shall be appointed as GAL *only*. An attorney who has been appointed to serve in the dual role as both GAL and attorney for a child shall comply with Sup.R. 48.02(D) in the case of a conflict in those roles. A GAL shall also comply with Sup.R. 48.03(B) and the Ohio Rules of Professional Conduct relating to conflicts of interest.

37.07 Responsibilities and Duties.

The Guardian Ad Litem shall have those responsibilities and duties set forth under Sup.R. 48.03 and Sup.R. 48.06 pertaining to reports. All filing fees and court costs are waived for any reports or other pleadings filed by a Guardian Ad Litem.

37.08 Procedure for Comments and Complaints.

If a person has a comment or complaint about a Guardian Ad Litem's performance, the following procedure shall be followed to address the comment or complaint:

- (A) **Written Comments/Complaints.** The comments or complaints shall be in writing and signed by the individual. It shall identify the Guardian Ad Litem with whom there is a comment or concern and set forth the full details of the issue or concern(s).
- (B) **Submission of Comments/Complaints.** The written comment/complaint shall be submitted to the Court Administrator on the second floor of the Trumbull County Family Court, either by hand delivery or by mailing a copy to Trumbull County Family Court, Attn: Court Administrator, 220 South Main Avenue, Warren, Ohio 44482.
- (C) **Review and Disposition of Comments/Complaints.** Upon receipt of a comment/complaint, the Court Administrator shall deliver a copy of the same to the Administrative Judge of the court for appropriate consideration and action. Appropriate action may include the transfer of the comment/complaint to another judge for consideration if the Administrative Judge is also the hearing Judge in order to avoid ex parte communication and/or the appearance of impropriety. The assigned Judge shall provide a copy of the comments/complaints to the Guardian Ad Litem who is the subject of the comments/complaint. The assigned Judge shall review the complaint for appropriate action and meet with the Guardian Ad Litem at the earliest possible opportunity. The assigned Judge shall thereafter timely notify the complainant and the Guardian Ad Litem of the disposition of the matter.

(D) Maintained in Guardian Ad Litem File. The Judge shall prepare and place a written record in the Guardian Ad Litem's file regarding the nature and disposition of the comment/complaint.

RULE 38. ABUSE, NEGLECT, AND DEPENDENCY CASES

38.01 Applicability.

This Rule shall apply in all cases alleging abuse, neglect and/or dependency of a child filed by Trumbull County Children Services.

38.02 Shelter Care Hearings.

Shelter Care hearings shall be conducted in compliance with Juv. R. 7.

38.03 Adjudicatory Hearings.

A hearing to adjudicate the issues raised in the complaint shall be scheduled within thirty (30) days after the earlier of the date of filing of the complaint or the date of removal of the child. The adjudicatory hearing may be adjourned for perfection of service or retention of counsel pursuant to statutory provisions. If the parties stipulate to the allegations in the complaint or admit that the child is neglected, dependent, or abused, the Judge or Magistrate shall make a ruling as required by statute.

38.04 Dispositional Hearings.

A dispositional hearing shall be scheduled according to law. The parties may request that the adjudicatory hearing and dispositional hearing be separated.

38.05 Case Plans.

Case plans shall be submitted in accordance with applicable statutes and administrative regulations.

38.06 Bridges for Young Adults.

Bridges for Young Adults who age out of foster care shall be reviewed as required.

38.07 Qualified Residential Treatment Plans.

Prompt hearings for children either going into a Qualified Residential Treatment Plan (QRTP) or a change in QRTP provider shall be held.

38.08 Dispositional Review Hearings/ Annual Review Hearings.

If the Court issues an order of temporary custody, permanent custody, or protective supervision, the Court will schedule a dispositional review in order to meet the statutory time limit for the review.

38.09 Semi-Annual Review (SAR)

Trumbull County Children Services (TCCS) will conduct its administrative hearings as required by law, and file said reports with the Court as therein specified. Pursuant to statute, objections to the SAR report may be filed with the Court. If required, the Court will have the SAR reviewed at a special hearing.

38.10 Home Study.

Prior to each hearing where a child is in the custody of TCCS or in the temporary custody of a relative, TCCS is directed to do a home study of the children's present and proposed placement to ensure the child's needs are being met and that the placement is safe and appropriate.

38.11 Specialized Docket Program

- (A) **Establishment of Trumbull County Family Dependency Treatment Court Docket.** Trumbull County Family Court has created a specialized docket pursuant to Sup. R. 36.20 through 36.29 for the purpose of improving the safety and welfare of children while supporting the recovery of their parents from substance use disorders through comprehensive treatment services and judicial supervision. This docket shall be known as the "Trumbull County Family Dependency Treatment Court" (FDTC).
- (B) **Target population.** The target population of FDTC is Trumbull County parents with substance use disorders whose children have been removed or are in danger of removal from their home due to parental substance use disorder.
- (C) **Goals.** The goals of the specialized docket include: (1) to establish a permanent placement for the children in a timely fashion while providing comprehensive and intensive substance use disorder treatment and holistic services; (2) to help parents with substance use disorders achieve sobriety, receive appropriate treatment, and make positive changes in their lives as well as the lives of their children; and (3) to enable parents to function better in their families and communities, thereby being less likely to have future involvement with the courts and the child welfare system.
- (D) **Placement in Family Dependency Treatment Court.** Referrals to FDTC originate with Trumbull County Children Services (TCCS) through the dedicated FDTC caseworker. The caseworker meets with the client to determine if the client meets the eligibility criteria. If so, the caseworker and the TCCS attorney initiate the referral to the court and advise the FDTC facilitator.

Referrals may also be made to TCCS for FDTC from TCCS clients, treatment providers, probation officers, attorneys, or the Court. Referrals become formal at the time the potential participant and the Magistrate sign the Magistrate's Order of Referral to FDTC.

- (E) **Eligibility.** To be eligible for FDTC, the parent must be currently involved with TCCS and an abuse, neglect, or dependency complaint must be filed in Trumbull County Family Court. The parent must be willing to work with TCCS and comply with a case plan and be

a resident of Trumbull County or be a parent in a case under the jurisdiction of the Trumbull County Family Court. Clinically, the parent must be assessed as having a DSM V diagnosis of substance use disorder. Disqualifying legal factors are the parent has committed severe physical abuse, sexual abuse or has a history of violent criminal acts. Long term noncompliance with mental health or substance use disorder treatment is a disqualifying clinical criterion.

(F) **Case Assignment.** A Trumbull County Family Court magistrate shall preside over the FDTC docket. A different Trumbull County Family Court magistrate shall preside over the dependency case docket. Upon acceptance to FDTC, the dependency case remains open and the FDTC docket runs concurrently. Upon termination from FDTC for any reason, an order of termination is filed in the dependency case docket.

(G) **FDTC Docket Case Management.**

(1) FDTC is conducted weekly in two parts. Each Friday at 9:30 a.m., the Treatment Team, made up of the FDTC magistrate, FDTC facilitator, TCCS dedicated caseworkers and supervisor, TCCS attorney, defense counsel, treatment providers and other service providers, meet to discuss the progress of the participants. Each Friday at 10:30 a.m., court convenes with the Treatment Team and participants at a status review hearing. Participants attend according to their current phase schedule, initially every week.

(2) Participants comply with all court orders, FDTC rules, TCCS case plans and treatment recommendations.

(3) The FDTC program description, participant handbook and participation agreement are available by request by contacting the FDTC facilitator.

(4) Other than orders of acceptance and termination, whether successful or unsuccessful, the orders and notices entered in the FDTC case shall be retained separately from the dependency case by the facilitator and shall be confidential.

(H) **Termination from FDTC Docket.** Termination from the FDTC can be successful or unsuccessful. Successful termination is by completion of all phases and graduation from the program. A participant shall be unsuccessfully terminated for continued noncompliance with the TCCS case plan, mental health or substance use disorder treatment or FDTC program requirements. Upon termination from FDTC, an order is filed in the dependency case. The matter continues until case completion or closure on the dependency docket, with further dispositional hearings and, if the termination is unsuccessful, possible motion for permanency by TCCS.

RULE 39. DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS

39.01 Pleading.

An action may be initiated by filing a Petition for Domestic Violence Civil Protection Order (Form 10.01-D) or Petition for Dating Violence Civil Protection Order (Form 10.01-P) as promulgated by the Ohio Supreme Court. Any other case pending or decided, in this Court or another, involving the petitioner, respondent, or the minor children of the parties shall be disclosed in the petition.

(A) **Required Documents.** A complete packet of forms and instructions can be obtained from the Clerk of Courts or found on the Ohio Supreme Court website at https://www.supremecourt.ohio.gov/JCS/domesticViolence/protection_forms/DVForms/default.asp. In addition to the petition as set forth above, the following documents shall be filed:

- (1) If requesting an ex parte order, a proposed Ex Parte Domestic/Dating Violence Civil Protection Order (Form 10.01-H or 10.01-Q);
- (2) Three (3) copies of a completed Protection Order Notice to National Crime Information Center (Form 10-A);
- (3) Request for Service;
- (4) If requesting a parenting (custody or visitation) order, an Information for Parenting Proceeding Affidavit (Form 10.01-D); and
- (5) If requesting an order of financial support, an Affidavit of Basic Information, Income and Expenses (Uniform Domestic Relations Form – Affidavit 1) and Health Insurance Affidavit (Uniform Domestic Relations Form – Affidavit 4). The petitioner may provide any other documents in support of the request, including those set forth in TCFC Loc.R. 33.04, at the hearing.

39.02 Procedure.

The petition must first be filed with the Clerk of Courts. The Clerk of Courts shall not collect a deposit for the filing of a petition. The petitioner is encouraged to file pleadings prior to the daily time designated by the Court for ex parte hearings in order to have an immediate hearing. The designated time can be obtained by calling the Clerk of Courts in advance of filing.

(A) **Ex Parte Hearing.** If the petition contains a request for an ex parte order, the petitioner shall bring the file prepared by the Clerk of Courts to the Magistrate's Desk located on the second floor for an immediate ex parte hearing. The petitioner shall be prepared to give a statement of facts under oath to a Magistrate at the hearing.

(B) **Scheduling.** All petitions will be scheduled for a full hearing in accordance with the provisions of TCFC Loc.R. 34.02 and the time provisions set forth in R.C. 3113.31.

- (1) If a petition does not request an ex parte order, the petitioner shall bring the file prepared by the clerk of courts to the Magistrate's Desk to obtain a hearing date and scheduling order for the full hearing.

(2) If a petition requests an ex parte order, the court will schedule the matter for full hearing in the order addressing the ex parte order request.

(C) **Service.** All service shall be made in accordance with the provisions set forth in Civil Rule 65.1(C).

(1) The clerk of courts shall cause the petition, together with all attachments, and the ex parte order or scheduling order to be initially served upon the respondent by the Trumbull County Sheriff's Office or another law enforcement agency.

(2) The clerk of courts shall serve a copy of any protection order or consent agreement that is issued, approved, modified, or terminated to the petitioner, respondent, and any law enforcement agencies that have jurisdiction to enforce the order pursuant to Ohio Revised Code 3113.31(F).

(D) **Full Hearing.** At the full hearing, the court shall address the issuance of the protection order and other requested relief after consideration of the sworn testimony of the parties and any witnesses presented by the parties. If the petitioner fails to attend the full hearing and no continuance has been granted, the court may dismiss the case.

(E) **Consent Agreement.** At full hearing, the parties may present a Consent Agreement and Domestic/Dating Violence Civil Protection Order (Form 10.01-J or Form 10.01-S) with no findings of domestic violence to the court for review, approval, and entry as an order of court. Parties and counsel must sign the document and be present at the full hearing to provide sworn testimony of their consent.

39.03 Duration of Civil Protection Order.

Any Civil Protection Order issued subsequent to a full hearing on the petition shall be valid until a date certain, but not later than five (5) years from its date of issuance, or until further order of court.

(A) **Effect of Other Court Cases.** A civil protection order shall remain in effect if the petitioner or respondent subsequently become involved in another court case, such as a divorce, annulment, legal separation, dissolution, or parentage. Any terms allocating parental rights and responsibilities and/or support in a civil protection order shall terminate on the date this Court or any other court with competent jurisdiction issues an order allocating parental rights and responsibilities, and/or support in another court case involving the petitioner and respondent.

39.04 Motion to Modify, Extend or Terminate Civil Protection Order.

A petitioner or respondent may file a motion to modify, extend, or terminate a civil protection order. (Supreme Court Form 10.01-K) A civil protection order remains in effect as issued until modified, extended, or terminated by an order of court after notice and an opportunity to be heard.

(A) **Scheduling.** All motions to modify, extend, or terminate a civil protection order shall be

scheduled for hearing in accordance with TCFC Loc.R. 34.02. Immediately prior to filing the motion, the moving party shall bring the motion to the Court's Assignment Office, along with a proper form of photographic identification, to obtain a hearing date.

(B) **Service.** All service shall be made in accordance with the provisions set forth in Civil Rule 65.1(C)(4).

39.05 Enforcement of Civil Protection Order.

A party may file a motion for contempt (Supreme Court Form 10.01-O) to enforce the provisions of a civil protection order in accordance with R.C. 3113.31(L). A motion for contempt shall include a Summons/Order to Appear and, as applicable, comply with the provisions of TCFC Loc. R. 33.03.

(A) **Scheduling.** All motions for contempt of a civil protection order shall be scheduled for hearing in accordance with TCFC Loc.R. 34.02.

(B) **Service.** All service shall be made in accordance with the provisions set forth in Civil Rule 65.1(C)(4) and TCFC Loc.R. 33.03(B).

39.06 Victim Advocate.

A petitioner may request the support and assistance of a victim advocate, as set forth in R.C. 3113.31, by contacting Someplace Safe.

39.07 Registration.

A person who obtains a protection order or consent agreement in another county or state may register the order with the Clerk of Courts in accordance with the provisions set forth in R.C. 3113.31(N).

RULE 40. FULL FAITH AND CREDIT

40.01 Registration, Enforcement, and Modification of Foreign Custody Orders.

(A) Registration of Foreign Parenting Decree.

- (1) **Applicable law.** A foreign parenting decree may be registered with this Court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) set forth in Ohio at Ohio R.C. §3127.01 et seq. for the purpose of enforcing or modifying any provision therein pertaining to parenting or parenting time. The registration of a decree pursuant to this Rule does not vest this Court with jurisdiction to modify the foreign decree. Likewise, the registration of the foreign parenting decree does not vest this Court with jurisdiction to act with regard to any provision pertaining to child support, spousal support or property division.
- (2) **Procedure for Registration.** The party seeking to register the foreign decree under the UCCJEA shall comply with the procedure set forth under Ohio R.C. 3127.35 governing the procedure for registration of a child custody determination of another state. The request to register shall be filed with the Clerk, where it shall be entered and assigned a case number.

(B) **Enforcement of Foreign Parenting Decree.** A party seeking the enforcement of a foreign parenting decree by this court shall follow the procedure set forth under Ohio R.C. 3127.36 if the foreign decree has been previously registered or under Ohio R.C. 3127.38 otherwise.

(C) **Modification of Foreign Parenting Decree.** If a party is seeking modification of a parenting or parenting time order, this Court must be able to exercise jurisdiction in accordance with the conditions of Ohio Revised Code 3127, and the Federal Parental Kidnapping and Prevention (PKPA) set forth at 28 U.S.C. 1738A. A motion seeking to modify a foreign parenting decree, may be filed at the same time the request for registration is made. The motion must be served on the opposing party in accordance with the applicable Civil or Juvenile Rules. The matter shall then be set for a hearing by the Assignment Officer.

40.02 Registration, Enforcement, and Modification of Foreign Support Orders.

(A) Registration and Enforcement of Foreign Support Order.

- (1) **Applicable law.** A foreign support order or income withholding order from a court of another state or foreign support order may be registered with this Court for the purpose of enforcement and/or, in the case of a child support order, for the purpose of modifying the support order.
- (2) **Procedure for registration.** The party seeking to register the foreign support order shall comply with the procedures set forth under Ohio R.C. 3115.602 for registration of a support order or income withholding order. The request to register shall be filed with the Clerk, where it shall be entered and assigned a case number.

(B) **Enforcement and Modification of Foreign Support Order.** A motion seeking to enforce or modify the foreign support order may be filed at the same time as the request for registration of the foreign order is made. The motion must be served on the opposing party in accordance with the applicable Civil or Juvenile Rules. The matter shall then be set for hearing by the Court Assignment Office.

40.03 Registration and Enforcement of Foreign Divorce Order.

(A) **Registration and Enforcement of Foreign Judgment.**

(1) **Applicable law.** A foreign judgment may be registered with this Court for the purpose of enforcement.

(2) **Procedure for Registration.** The party seeking to register the foreign judgment shall comply with the procedures set forth under Ohio R.C. 2329.022 and 2329.023 for registration of a foreign judgment. The request to register shall be filed with the Clerk, where it shall be entered and assigned a case number.

(B) **Enforcement of Foreign Judgment.** A motion seeking to enforce the foreign judgment may be filed at the same time as the request for registration of the foreign judgment is made. The motion must be served on the opposing party in accordance with the applicable Civil Rules. The matter shall then be set for hearing by the Court Assignment Office.

RULE 41. DELINQUENCY, UNRULY AND ADULT CONTRIBUTING CASES

41.01 Court Records.

- (A) **Confidentiality.** Reports and records of the Probation Department and Trumbull County Children Services Board shall be considered confidential information and shall not be made available to the general public. The inspection of Court records by attorneys and other interested parties shall be governed by Rule 32(c) of the Ohio Rules of Juvenile Procedure. Any probation, social history, physical, or mental examination prepared at the direction of the Court shall not be copied by any party without leave of the Court. The Court may limit or deny the inspection of said documents for good cause pursuant to Rule 32(c).
- (B) **Family History Files.** Family history files shall be considered confidential information and shall not be made public. Inspection by attorneys or any interested parties may be allowed by leave of the Court.
- (C) **Record Checks.** Record checks by counsel, law enforcement, and other agencies shall be directed to the Intake/Delinquency Department of this Court, which shall provide reasonable access to public records.

41.02 Appointment of Counsel.

- (A) **Qualifications and Procedures for Appointment of Counsel.** The Court shall maintain a file with the names of attorneys who have requested or volunteered to accept appointments. The Court shall provide the name and telephone number of the appointed counsel to the party for whom counsel is appointed. The Court shall also provide notice of all future hearings to the appointed counsel.
- (B) **Compensation of Appointed Counsel.** Rates of compensation shall be determined by the Supreme Court or the Public Defender's office. In addition, reasonable and necessary expenses may be allowed, upon prior approval of the trial Judge or Magistrate. These expenses may include, but not be limited to, expert witness fees, polygraph costs, long distance telephone charges, photocopying, certain travel expenses, and other necessary items previously approved by the Court. The trial Judge and/or Magistrate may not allow reimbursement for fixed overhead expenses, court transcripts or depositions except as required by law.
- (C) **Extraordinary Fees.** Requests for extraordinary fees must be made by written motion and should be submitted with supporting information, including, but not limited to, all regular billing documents, to the assigned Judge or Magistrate.

- (D) **Applications for Fees/Expenses.** All applications for fees and/or expenses are to be submitted on the forms approved and provided by the Court, within thirty (30) days of counsel's last activity on the case. It also is the responsibility of counsel to have an affidavit of indigency filed with the application for payment of fees. Any interim bills must be approved by the Judge.

41.03 Detention/Shelter Care Hearings.

- (A) **Timing.** All juveniles received into detention or shelter care shall be brought before a Magistrate or Judge for a Detention/Shelter Care Hearing within twenty-four (24) hours except on weekends and holiday admissions, and then within seventy-two (72) hours.
- (B) **Objection to Detention.** An objection to detention may be filed in writing requesting a review by a Judge. The Judge shall set the matter as soon as possible.
- (C) **Request for Hearing.** Request for Detention/Shelter Care Hearings based upon new information shall be in writing and will be heard on the next court date, or as soon as practicable.

41.04 Media, Photographing and Broadcasting of Court Proceedings.

- (A) For the purposes of these rules, the term "Media" shall be understood to encompass representatives from any print or broadcast media
- (B) Hearings that are governed by the Ohio Rules of Civil Procedure or by the Ohio Rules of Criminal Procedure shall be open to the public, subject to closure by the Court. Hearings that are governed by the Ohio Rules of Juvenile Procedure are neither presumptively open nor presumptively closed to the public and the media.
- (C) Written requests to permit the presence of the public or the media shall be made by the person or media representative seeking to be present for any hearing not generally open to the public. The request shall specify the case, date, the name, address, telephone number of the person or media company seeking to be present along with the number of persons and the type of equipment expected to be brought into the courtroom. Any request shall be made to the Judge as far in advanced as reasonably practicable, but in no event, later than twenty-four (24) hours prior to the courtroom session to be broadcast, recorded or photographed, unless otherwise permitted by the assigned Judge for good cause shown.

Members of the media or public shall not be permitted to enter the courtroom or chambers without judicial approval.

Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client; and between the judge or magistrate and counsel at the bench.

The Court shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed. Upon objection, the witness or victim shall not be recorded.

- (D) In the event the assigned Judge approves the media request, the Judge shall prepare and sign a journal entry setting forth the conditions of the media broadcasting, televising, recording or photographing. This entry shall be made a part of the record of the case.
- (E) No portable recording devices may be used by the news media without the permission of the assigned Judge.
- (F) No juvenile shall be photographed, videotaped or televised from the front or the side. All juveniles shall be photographed, videotaped, or televised only from behind.
- (G) Upon the failure of any of the media representative(s) to comply with the conditions prescribed by the assigned Judge, the Rules of Superintendence of the Ohio Supreme Court, or this Rule, the Judge may revoke permission to broadcast, photograph or record the trial or hearing.

41.05 Transcripts/Recording of Proceedings.

- (A) **Record of Proceedings.** Pursuant to Rule 37 of the Ohio Rules of Juvenile Procedure, a complete record of all testimony or other oral proceedings shall be taken in shorthand, stenotype, or by any other adequate mechanical or electronic recording device. The transcript of the proceeding, not the digital copy, shall constitute the official record of the proceeding.
- (C) **Public Use Restrictions.** No public use shall be made by any person, including a party, of any record or transcript thereof except in the course of the proceeding, an appeal, or as authorized by the Court.
- (C) **Request for Transcript.** Parties that require a transcript of a proceeding shall file with the Clerk of Courts a “Praecipe to Court Reporter for Preparation of Transcript.” Said Praecipe shall be in the form prescribed by the Court, which form is available on the Trumbull County Family Court’s website. The attorney/party requesting the transcript shall either hand deliver or email a time-stamped copy of the Praecipe to the Court Reporter. The Court Reporter will then contact the attorney/party requesting the transcript to advise of the fee required for preparation of the transcript. The transcript will not be considered ordered and the Court Reporter shall not be required to prepare a transcript until satisfactory arrangements for payment have been concluded. The transcript will not be released until the deposit is paid. Requests for transcripts for the benefit for indigent parties shall be submitted by motion filed with the Court and supported by an Order of the Court directing the transcript be prepared at public expense. This Order shall serve in lieu of the deposit otherwise required. Upon its completion, it is the responsibility of the attorney/party to file the transcript as required by rule/statute. Transcripts will be prepared based on their priority of need with transcripts for appellate court purposes to be given top priority following by transcripts required for Objections to Magistrate’s Decisions or Motions to Set Aside Magistrate’s Orders.

41.06 Detainers.

A detainer for a juvenile will be issued only upon the authorization of a Judge or Magistrate.

41.07 Traffic Offenders/Misdemeanor Citations.

(A) **Traffic Offenses.** Traffic matters shall be heard by a court Magistrate, unless a hearing before a Judge is requested in writing, and the request is approved by the assigned Judge.

(B) **Electronic Submission of Traffic Tickets.** The use and filing of a traffic ticket that is produced by electronic means is hereby authorized for use in this Court. The electronically produced ticket shall conform to the Ohio Uniform Traffic Ticket. The schedule of fine and costs which shall be charged for traffic violations is available from the office of the Clerk of Court.

(C) **Court Appearance Required.** The following offenses require an appearance before the Court for adjudication:

- (1) Minor misdemeanors filed on citations;
- (2) Second and subsequent moving violations within one year of the first citation and all third moving violations;
- (3) Reckless operation of a motor vehicle;
- (4) Leaving the scene of an accident;
- (5) Fleeing a police officer;
- (6) Operating a motor vehicle while under the influence of drugs and/or alcohol.
- (7) Passing a loading or unloading school bus;
- (8) Operating a motor vehicle without a valid driver's license;
- (9) Operating a vehicle while under suspension or revocation;
- (10) Offense involving serious injury or property damage;
- (11) Speeding in excess of fourteen (14) m.p.h. over the posted speed limit;
- (12) Drag racing;
- (13) Riding/transporting outside the vehicle; and

(14) Any other matter which the Court, in its discretion, finds shall be set for hearing before a Judge or a Magistrate.

(D) Court Appearance Not Required. Upon determination of the Juvenile Clerk's office that a mandatory appearance is not required, a juvenile traffic offender may elect to proceed without a court appearance upon the following conditions:

(1) That a parent, guardian or attorney must be present with the offender and a waiver must be executed; and

(2) Said waiver shall constitute an admission to the facts as alleged in the complaint and to the traffic violation. It further will constitute a waiver of the right to trial, the right to confront and cross-examine witnesses against the offender, the right to remain silent, and the right to counsel. Upon said admission and waiver, a fine shall be assessed by the Court in accordance with the schedules established by the Court.

41.08 Expungements and Sealing of Records.

All expungements shall be made in accordance with Section 2151.358 of the Ohio Revised Code. Any person seeking expungement of juvenile matters shall file a Motion of Expungement with the Clerk of Courts. After notice to the Prosecutor's office, the Court shall conduct a hearing to determine whether the expungement should be granted. If the Motion for Expungement is granted, the Clerk of Courts shall notify all appropriate court departments and law enforcement agencies.

41.09 Juries and Jurors.

The Trumbull County Family Court will participate in the jury system as established, administered and operated by the Trumbull County Court of Common Pleas.

41.10 Juvenile Drug Court.

(A) Establishment of Juvenile Drug Court (JDC). On July 3, 2014, Trumbull County Family Court created a specialized docket pursuant to Sup.R.36.20 through 36.29 for the purpose of serving court involved youth with substance abuse issues through comprehensive treatment services and judicial supervision. This docket shall be known as "Juvenile Drug Court." The goals of the program are to have youth become substance abuse free, maintain compliance with court orders, complete probation, and become productive members of the community.

(B) Placement in Juvenile Drug Court. Court involved youth that have been identified through an Ohio Youth Assessment System (OYAS) as moderate to high risk with the specific substance abuse domain registering high risk, will be considered for the program. To be eligible the youth must meet Intensive Out-Patient level of care, be a resident of Trumbull County, be between the ages of 13 to 17 upon entering the program, and have a pending felony or first or second degree misdemeanor charge. Discretion can be used when evaluating age of youth, OYAS score criteria, and charge when applicable.

(C) **Disqualifying Factors.** Disqualifying legal factors are any felony 1 & 2 charges, gun specification charges, drug trafficking charges, Sex Offenders, any Burglary charge that does not have the victim consent to enter the program, offenses of violence, or any youth eligible for bind over/ Serious Youthful Offender (SYO) designation. Disqualifying clinical criteria includes individuals with severe mental illness that affects the ability to complete the program or developmentally does not have the capacity to complete the program.

(D) **Juvenile Drug Court Docket Case Management.** Juvenile Drug Court is conducted weekly in two parts. Each Thursday at 3:00pm, the treatment team, made up of treatment providers, coordinator, magistrate, and prosecutor meet to discuss the progress of the participants. Each Thursday at 3:30pm, court convenes with the treatment team and participants. Participants attend according to their current phase schedule.

The Juvenile Drug Court program description, participant handbook, and participation agreement are available upon request.

(E) **Termination from the Juvenile Drug Court Docket.** A participant shall be terminated for continued non-compliance with program requirements, and/or treatment plan. Any new criminal adjudications or failure to follow probation rules are also factors in termination from the program. Upon termination, the case will be set for disposition and returned to the regular docket.

41.11 Use of Restraints in Juvenile Proceedings.

(A) **General.** The use of any physical restraints on any child appearing before the court shall only occur if the judge or magistrate has made a determination on the record that there is no less restrictive alternative to the use of physical restraint and is necessary because:

- (1) The child poses a current and significant threat to the safety of the child or others present in the courtroom, and/ or
- (2) There is a significant risk that the child will flee the courtroom

If physical restraint is found necessary by the court, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

(B) **Hearing.** The court shall permit any party, as defined under Juv.R 2(Y), to be heard on the issue of whether the use of physical restraint is necessary for the child at that specific hearing.

RULE 42. SECURITY

42.01 General.

For purposes of ensuring security in court facilities, and pursuant to Sup. R. 9, the Court has developed and implemented a local court security plan, which addresses the provisions of the Ohio court security standards adopted by the Supreme Court of Ohio.

42.02 Compliance with Security.

All persons entering the Trumbull County Family Court or congregating outside the Trumbull County Family Court shall comply with all security procedures and directives issued by the Trumbull County Sheriff's Office.

42.03 Security Screening of Entrants.

All persons entering the Trumbull County Family Court are subject to a security search which requires each individual to pass through a security checkpoint. All persons will be subject to screening by a magnetometer and/or handheld security wand; or a personal search, if deemed to be appropriate by the Trumbull County Sheriff's Deputies. All bags, purses, packages, or items brought into the Courthouse shall be subject to x-ray scan, and/or personal search. The Trumbull County Sheriff's Office shall have discretion as to whether a person may be admitted into the Courthouse, depending upon the results of the screening.

42.04 Entrance.

All visitors to the Trumbull County Family Court shall enter through the main entrance located off of South Main Street. Under no circumstances shall any visitors enter or attempt to enter through any other door. Any such attempts may result in temporary or permanent exclusion from the Courthouse, and/or imposition of other legal sanctions.

42.05 Closed-Circuit Video Surveillance.

All judicial proceedings shall be monitored by closed-circuit video surveillance.

42.06 Access to Non-Public Areas.

No person shall enter or attempt to enter any of the non-public areas in the Trumbull County Family Court, unless specifically authorized to do so by the Court and accompanied at all times by Court personnel. Access to non-public areas of the Courthouse is limited by a security access system. Non-public areas include but are not limited to the Judge's Chambers, Magistrates' Offices, Administrative Offices and the Detention Center.

42.07 Prohibited Items.

- (A) **Weapons Prohibited.** No weapons or other instruments, ordinances or devices which may cause bodily harm will be permitted into the Trumbull County Family Court, except that law enforcement officers acting within the scope of their employment as a witness or on official business shall be allowed to carry their official sidearm. Law enforcement officers appearing on their own case will be not allowed to carry a weapon or dangerous ordinance into the Court.
- (B) **Cell Phones and Electronic Devices.** Cell phones and electronic devices, including but not limited to computers, cameras, video cameras, personal digital assistants, tape recorders or other recording or transmitting devices are prohibited within the Trumbull County Family Court, except as provided by Order or express permission of a Judge or Magistrate. Cell phones that may be permitted into the Trumbull County Family Court shall be turned off prior to entering the courtroom and shall not be utilized except with the consent of the court. Media personnel may petition the Court for permission to bring in still cameras, television cameras and/or audio recording devices for use in the Courtroom, as provided in this Order. Only those cameras or recording devices that are specifically authorized by the Court shall be permitted in the Courthouse. Any person who, without Court authorization, operates or attempts to operate any camera, cell phone, or other recording or transmitting device within the Courthouse shall be removed from the premises and the device shall be confiscated.
- (C) **Clothing or Signage.** No person shall wear any clothing or bring into the Trumbull County Family Court any items which display a message in support of or against any issue or any person(s) or group(s) or displays profanity.

42.08 Courtroom Access and Seating.

All persons in the Courtroom, including but not limited to media personnel, shall remain behind the partition separating the Courtroom galley from the Courtroom proper, unless specifically authorized by a Judge, Magistrate, or other Court staff to enter the Courtroom proper. Any behavior which may disrupt the proceedings may be cause for removal from the Courtroom.

RULE 43. TECHNOLOGY PLAN

43.01 General.

In accordance with Superintendence Rule 5(E), the Court has adopted and shall maintain a court technology plan which includes:

- (A) An overview of the Court's utilization of technology in the delivery of court services and maintenance of judicial operations;
- (B) A comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic filing and service, the acceptance of electronic signatures, and any other technology-related solutions utilized by the court; and
- (C) Procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the Court and how these solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the "Americans with Disabilities Act."

This plan will be available from the office of the Court Administrator.