

For forms see: <http://www.supremecourt.ohio.gov/JCS/CFC/DRForms/default.asp>

6.0 Application of Rule 6:

Attorneys and pro se parties engaging in domestic relations practice before this Court are charged with knowledge of all Rules of this Court pertaining to such practice.

The provisions of Rule 6 shall apply to all domestic relations matters filed in this Court including but not limited to proceedings in divorce, alimony only, dissolution of marriage and post decree matters.

The "Court's Standard Rules for Residential and Non-Residential Parents and the Allocation of Parental Rights and Responsibilities" formerly referred to as the "Court's Standard Rules of Custody and Visitation" are hereby ordered into execution in all domestic relations cases that involve minor children.

Definitions:

The Van Wert County Child Support Enforcement Agency is herein referred to as C.S.E.A.

The Department of Jobs and Family Services is herein referred to as DJFS.

The term children shall be interpreted to mean both children in the plural as well as child in the singular.

6.1 Filing Requirements:

All original pleadings and all motions for post decree relief and any responses thereto shall be filed with the Clerk of Courts pursuant to the Ohio Rules of Civil Procedure with one additional copy of all documents and all attachments to be delivered to the Assignment Commissioner.

All pleadings and any other documents that are to be "file stamped" by the Clerk, shall be formatted leaving an open area, two (2) inches high by two and one-quarter (2 ¼) inches wide, to the right of the Court Title and the Case Number for the placement of the Clerks filing stamp. The purpose of this Rule is to insure that the stamp impression is clear of any other printed matter on the page and is fully legible.

- Waiver of Magistrate's Decision
- DR 2— IV-D Application — The Clerk's Office shall not accept the filing of the above referenced pleading without this affidavit.
- Waiver of Service of Summons
- Separation Agreement

E. Petition to Register Foreign Orders:

- Complaint
- Two authenticated copies of the foreign judgment

F. Post-decree motion requesting modification of child/spousal support:

- Motion
- Uniform Domestic Relations Form — Affidavit 1 — Affidavit of Income and Expenses
- Uniform Domestic Relations Form — Affidavit 3 — Parenting Proceeding Affidavit
- Uniform Domestic Relations Form — Affidavit 4 — Health Insurance Affidavit
- DR 2— IV-D Application — The Clerk's Office shall not accept the filing of the above referenced pleading without this affidavit.
- Affidavit in Support of Motion

G. Post-decree motion requesting modification of custody or modification of visitation:

- Motion
- Uniform Domestic Relations Form — Affidavit 1 — Affidavit of Income and Expenses
- Uniform Domestic Relations Form — Affidavit 3 — Parenting Proceeding Affidavit
- Uniform Domestic Relations Form — Affidavit 4 — Health Insurance Affidavit
- DR 2— IV-D Application — The Clerk's Office shall not accept the filing of the above referenced pleading without this affidavit.
- Affidavit in Support of Motion

H. Post-decree motions to show cause:

- Motion
- Affidavit in Support
- Order to Show Cause Containing Notice

6.3 Methods of Service, Forma Pauperis:

The Ohio Rules of Civil Procedure shall be applicable to all service under these Rules.

ORCP 4.4 (A)(2): In a divorce, annulment or legal separation action that is proceeding in forma pauperis and if the residence of the Defendant is unknown, the locations for the posting of the legal notice shall be in the Van Wert County Courthouse, 121 East Main Street, Van Wert, Ohio on the bulletin board on the third floor at the entrance of the Court Adult Probation Office, and in a conspicuous place in the public area usually used for the posting of notices in both of the following two locations; the Delphos Municipal Building, 608 Canal Street, Delphos, Ohio and the Van Wert City Office Building, 515 E. Main Street, Van Wert, Ohio.

The Clerk of Courts shall comply with all service, record keeping and docketing requirements as set forth in ORCP 4.4 (A)(2).

6.4 Temporary Orders:

- A. The Clerk of Courts shall not file any pleadings or motions requesting child or spousal support payments, health insurance coverage for minor children or the filing of any response to the same unless the attorney or party, if unrepresented, filing the pleading, motion, or response completes and files the following with the Clerk:
1. Affidavit of Income and Expenses
(see <http://www.supremecourt.ohio.gov/JCS/CFC/DRForms/default.asp>), and Form DR-2, IV-D Affidavit and either
 2. A Journal Entry setting the matter for hearing on temporary orders or
 3. A Journal Entry dispensing with hearing temporary orders.
- B. The Court will approve Temporary Orders, that have been prepared by counsel and that have been approved by both parties and their counsel.
- C. Ex-Parte Temporary Orders are discouraged and will not be issued except in exigent circumstances. All motions requesting ex-parte orders shall be accompanied by a comprehensive affidavit of the party requesting such orders, supporting each element of relief that is requested. No judgment entry will be signed by the Court unless there is endorsed on the entry, a notice setting the motion for further hearing not sooner than seven (7) nor later than twenty-eight (28) days from the date of the filing of the entry.
- D. Temporary Orders for any other relief shall be considered at the first scheduled pre-trial conference or at such other time as the Court may designate.
- E. All parties to original divorce and legal separation actions in the Van Wert Common Pleas Court shall observe and adhere to the Court's Standard Standing Orders (DR Form 14).
- Counsel for the Plaintiff shall provide the client with a copy of the Standing Orders.
 - The Clerk shall attach a copy of the Standing Orders to the Summons to effect service of same upon the Defendant along with the Complaint.

6.5 Parenting Class: (Revised 5/28/13)

All parents involved in a new or pending domestic case or in any case seeking post-decree relief in this Court which involves the designation of residential parent and allocation of parental rights and responsibilities for their children or the modification of the same shall be required to attend the parenting class. When **post-decree** relief is sought, the parents must have attended the parenting class within the **two years** immediately preceding the filing of the motion for relief; if over two years, the parties shall attend the parenting class again.

From time to time, the Court shall approve and designate such "parenting programs" to be attended by the parties. A list of the programs that are approved by the Court will be available at the office of the Court Administrator.

The parties shall each file, or cause to be filed, with the Court a certificate of attendance for the parenting class. FAILURE TO ATTEND THE PARENTING CLASS WITHIN 60 DAYS OF A FINAL ENTRY MAY RESULT IN LOSS OF CUSTODY AND/OR VISITATION AS DETERMINED BY THE COURT.

6.6 Designation of Residential Parent:

In all domestic cases that involve children an investigation shall be conducted on the motion of either party or on a motion by the Court.

Such investigations shall be conducted by:

1. Investigators on the Court's staff or
2. Outside investigative agencies that are approved by the Court or
3. Qualified Investigators agreed to by the parties that are approved by the Court.

In any parenting proceeding filed, original or post decree, the parties shall complete and file with the Clerk, an affidavit consistent with O.R.C. 3109.27 duly sworn and notarized setting forth the required information referenced therein.

Separation agreements, shared parenting plans or other documents that provide for the designation of residential parent and allocate parental rights and responsibilities shall be submitted to the Court for review in all uncontested cases prior to the final hearing.

Upon the written or oral motion of either party the Court will appoint a Guardian Ad Litem for the minor children. The Court will consider a referral to any available funded agency providing G.A.L. services or to any person competent to serve as a G.A.L. Any expense incurred for such services shall be paid by the parties. A deposit will be required and will be determined on a case by case basis.

6.7 Child Support:

A separate Entry shall be made for temporary and final child support orders which shall:

- A. incorporate all language currently required by the C.S.E.A, and
- B. all other language and attachments as required by ORC Sec. 3113 .21 through .2110 or subsequent enactment and,
- C. have a Child Support Worksheet attached as an Exhibit.

Child support shall be calculated as required by ORC Sec. 3113.215 based upon the income of the parties and the Ohio Support Guidelines and all other specified factors.

No support order shall deviate from the formulated amount payable, without regard to any agreement of the parties to the contrary. If extenuating circumstances exist that would warrant deviation, the deviation will not be ordered except upon full hearing before the Court.

All child support payments including the current obligation and any arrears shall be made through the OHIO CHILD SUPPORT PAYMENT CENTRAL, P.O. BOX 182394, COLUMBUS, OHIO 43218-2394 regardless of method of payment, i.e. wage withholding, asset diversion or withholding or direct payments.

6.8 Method of payment:

All child support and spousal support payments, including current payments and payments on arrearages, shall be made through the OHIO CHILD SUPPORT PAYMENT CENTRAL, P.O. BOX 182394, COLUMBUS, OHIO 43218-2394, unless otherwise required by legislative enactment.

- A. All payments shall include the amount of support ordered plus a two percent (2%) processing fee.
- B. All support obligations shall be withheld from the obligor's wages, assets diversion or as ordered by the Court.
- C. If the Obligor is self-employed and has no assets that can be diverted, the Obligor shall enter into a cash bond with the Court in a sum equal to twice the amount of monthly support obligation for which the Obligor is responsible to pay or in such other amount as the Court may order.

The Court may require a cash bond under such other circumstances as would warrant the same.

- D. Until such time as support payments are withheld from the obligor's wages, assets diverted, or if a withholding order is not applicable, the obligor shall be responsible to make all support payments directly to the C.S.E.A.
- E. The payment of any money by the obligor to the obligee that is not paid through the C.S.E.A. shall not be considered as a payment of any support obligation and unless the payment is made to discharge an obligation other than support, said payment shall be deemed a gift.
- F. In all cases that use language that allows a non-residential parent to claim children as dependents if support is current for the year the children are to be claimed shall be interpreted to mean current for the support due and any arrearage payments due during the calendar year. It shall not mean current on all arrearages whenever accumulated.

6.9 Tax Dependency:

Any Court review of child support may include the assignment of the child tax dependency exemption.

The right to claim children as tax dependents shall be based on the income of the parties used in the calculation of child support in the child's interest.

If a parent has the right to claim the minor children, and the residential parent should refuse or unreasonably delay signing the documents required by any taxing agency, the same will be considered as contempt of Court.

6.10 Health Insurance:

A separate Entry shall be made to provide for health care and insurance for dependent, minor children.

Both parties shall be responsible to provide health, dental and optical insurance coverage for the dependent minor children if the same is made available to them through their employer at reasonable cost.

The non-residential parent's coverage shall be considered primary coverage and the residential parent's coverage shall be considered secondary coverage unless otherwise ordered.

Each parent shall provide the other with the necessary information, forms and list of approved providers, if applicable, so that claims may be timely filed. The residential parent shall be responsible for timely providing the information necessary to process any insurance claim, and any willful failure to do so will result in the residential parent being solely responsible for the expense. It shall be the responsibility of the parent in whose name the policy is carried to submit the claim to that parent's carrier. Willful failure to timely process the claim will result in that parent being solely responsible for the expense.

Both parents shall do all necessary acts to facilitate the claims process with their respective employers and carriers to maximize available coverage.

6.11 Uninsured Health Care Expense:

All medical, dental, optical, orthodontic, and ophthalmology expenses that are not covered by insurance shall be paid by the parties in amounts that are proportionate to their incomes as reflected in the computation of child support in effect at the time the obligation was incurred.

Any non-essential medical, extraordinary orthodontic, optical or ophthalmology expense shall not be incurred by either party without first advising the other party the nature of the services to be provided and the anticipated costs of the care. If the parties cannot agree as to the necessity of the care or the amount of the cost of such care, the matter shall be submitted to the Court for determination or hearing.

6.12 Visitation and companionship:

All visitation shall be according to the visitation and companionship schedule set forth in the Court's Standard Rules. Any entry that refers to "reasonable visitation" shall be interpreted to mean visitation and companionship according to the local or long distance schedule set forth in the Standard Rules.

If the parties work schedules prevent visitation according to the schedule in the Standard Rules, the parties may submit their own agreed schedule so long as the non-residential parent has visitation for an equivalent amount of time as that provided in the Standard Rules.

If either the residential or the non-residential parent moves out of the county to a situs that is more distant than their residence at the time of the filing of the most recent visitation order made by this Court, and Local Visitation is not practical then an election of Long Distance Visitation must be filed. The notice of the election shall be in writing, duly filed with the Court and served on the other party by Certified Mail, with return receipt requested. If the other parent does not file a written request for a hearing within twenty (20) days of the receipt of the election serving a copy of the request on

the party who gave the notice or that party's counsel by regular mail, the request will be automatically granted. If the Court finds that the request for hearing is frivolous, attorney fees and travel expenses shall be awarded.

The Court may, in the best interests of the minor children, grant visitation privileges to grandparents, other relatives or persons.

6.12A Notice of Relocation by Residential Parent (O.R.C. 3109.05.1(G)(I))

A residential parent who intends to relocate must first file a written notice of same with the Clerk of Courts setting forth date, place, address, phone number and other known information relative to relocation and cause said notice to be served upon the other parent. The residential parent may relocate after the expiration of fourteen (14) days once the other party is served with said notice in the absence of further court order.

6.13 Hearings:

Hearings Generally:

All domestic relations matters shall be heard by the Court's Magistrate unless the case is retained on the Judge's docket or the Magistrate recuses himself.

Pre-trial Hearings:

The Court will schedule a pre-trial conference no sooner than forty-two (42) days after the filing of an action. At such pre-trial, the Court will attempt to determine any contested issues. Further pre-trials will be scheduled as necessary on thirty-day intervals until a trial date has been set. Local Rule 9 relates to pre-trials generally and the Court may require compliance with any applicable portions of that Rule.

Both parties and their counsel shall appear at all scheduled pre-trials.

All motions and any other pleadings seeking relief by the Court will initially be considered in the same manner as a pre-trial and on the same day that pre-trials are normally scheduled. Testimony of the parties or any witnesses will not be heard on the day that pre-trials are scheduled.

Uncontested Hearings:

All uncontested matters will be heard on the day normally set for pre-trials unless otherwise scheduled by the Court.

At any time the parties have reached an agreement as to all issues, counsel shall immediately notify the Court and schedule the matter for an uncontested hearing. The next pre-trial date for which the case has been scheduled will be used for the uncontested hearing. At the final hearing, counsel shall furnish the Court with a final judgment entry together with all other required orders and required supporting documents.

Guardian ad Litem:

At any point during the conduct of the case if the Court determines it is in the child's best interest that a Guardian ad Litem should be appointed for the child, the Court may appoint a Guardian ad Litem or Guardian ad Litem and separate counsel for the child. All appointments shall be made within the requirements of the Ohio Rules of Superintendence including but not limited to Rule 48 of the Ohio Rules of Superintendence.

Mediation:

Prior to any contested hearing involving the designation of residential parent or an allocation of parental rights and responsibilities, the Court may order mediation pursuant to ORC Sec. 3109.052 or subsequent enactment. In appropriate cases, mediation may be ordered to attempt a resolution of property issues.

Final and Contested Hearings:

The Court will set a day certain to consider all contested matters including motions, final hearings and other matters and the same shall be set and scheduled by the Court.

The Court will allocate a sufficient block of time for the hearing of the evidence, argument, and all other matters in consideration of the recommendations of counsel and the number of anticipated witnesses and the nature of the hearing. Counsel may use a part of the time block to negotiate, but the hearing will be concluded at the end of the allocated time. If counsel have not completed the presentation of the case at the end of the allocated time, the Court may allow more time if it is available and does not conflict with the next case or the case may be continued to another time and date.

Dissolution Hearings:

Immediately upon the filing of a Petition for Dissolution of Marriage, the Court will schedule a final hearing and cause notice to be sent to all parties. Said hearing will be set not less than thirty (30) days nor more than ninety (90) days following the date of the filing of the petition.

If the parties fail to appear for the hearing or if no hearing is held within ninety (90) days following the date of the filing of the petition, the matter will be dismissed, pursuant to law, without further notice.

6.14 Entries:

All entries shall be approved by both counsel of record or parties appearing pro se, unless specifically waived by the Court.

All final entries shall contain the following language at the end of the body of the entry:

“The undersigned, being the Court’s Magistrate to whom this matter has been referred pursuant to Civil Rule 53, has reviewed the foregoing entry and respectfully recommends this Court approve the entry and accept it as the Magistrate’s report since it accurately reflects the findings and recommendations which are appropriate based upon the law and evidence presented.

Reviewed and recommended:

Joseph E. Quatman, Magistrate

IT IS SO ORDERED.

Martin D. Burchfield, Judge

All other entries shall contain the following language at the end of the body of the entry:

“This cause came on to be heard on the ____ day of _____, 20____, before Magistrate, Joseph E. Quatman , to whom this cause was referred by the Honorable Judge, Martin D. Burchfield, to try the issues of law and fact arising herein under the provisions of Rule 53 and 75A of the Ohio Rules of Civil Procedure.

Joseph E. Quatman, Magistrate

IT IS SO ORDERED.

Martin D. Burchfield, Judge

All Temporary Orders, Journal Entries and Judgment Entries in all cases involving minor children shall have simultaneously filed therewith the following:

- A. A separate Order for Child Support, Form DR-5, including the appropriate withholding, deduction order or a bond order with a child support computation worksheet attached and
- B. A separate Order for Health Insurance, Form DR-6, and
- C. A Withholding Notice to Parties of a Support Order, ODHS Form 4047 and ODHS Form 4048.

The Clerk of Courts shall provide the C.S.E.A. with a copy of all orders that provide for designation of residential parent, support, health insurance and all other DR Forms pertaining thereto.

In all uncontested matters and dissolutions, counsel shall provide the Court a final entry together with all required orders and required supplemental documents at the final hearing.

The Clerk of Courts shall send to each of the parties a certified copy of the Judgment Entry granting a divorce, dissolution, relief in alimony only or any modification of any previous orders and a file stamped copy of the same shall be sent to counsel of record by regular mail.

6.15 Waivers (Revised 5/28/13)

All judgment entries incident to a final hearing or a determination of a post decree matter, will include language whereby both parties waive their right to file objections to the Magistrate's report within fourteen days of the filing of the magistrates decision CR 53 (E) (3)(b) or in the alternative shall file, at the time of the hearing a separate waiver, Form DR-10.

All Shared Parenting Plans shall include language whereby both parties waive the thirty (30) day pre-filing requirement before the Plan can be ordered by the Court, ORC Sec. 3109.04(G) or in the alternative shall file, at the time of the hearing a separate waiver, a Waiver of Service of Summons. A Shared Parenting Plan will not be ordered until the plan has been on file for thirty (30) days unless a written waiver is submitted.

6.16 Timely Filing of Entries: (Revised 6/1/98)

All judgments, decrees and orders shall be prepared by prevailing counsel, accurately reflecting the Court's decision, and submitted to opposing counsel within seven (7) days of the hearing. Opposing counsel shall approve or reject the entry within seven (7) days, and if approved, forthwith submit the same to the Court.

If opposing counsel fails to approve the same within the seven days, prevailing counsel shall submit the entry to the Court without the approval of opposing counsel. If opposing counsel rejects the entry, he/she shall prepare an entry in accordance with his/her objections and submit it to prevailing counsel and the Court together with the rejected entry.

If two conflicting entries are submitted, the Court may:

1. Sign the entry that it deems a proper statement of the Court's decision or,
2. The Court may prepare its own entry without submitting the same to counsel for approval or,
3. The Court may schedule the matter for hearing.

If no entry is furnished to the Court within the time provided, the Court may dismiss the action for want of prosecution or make such other Order as the Court deems appropriate under the circumstances.

COUNSEL IS ADVISED THAT THESE RULES WILL BE AMENDED
AS NECESSARY.

COPIES OF THESE RULES, THE STANDARD RULES FOR RESIDENTIAL AND NON-RESIDENTIAL
PARENTS AND ALL FORMS ARE AVAILABLE TO COUNSEL PRACTICING IN THIS COURT
ON THE COURT WEB SITE. www.vwcommonpleas.org

RULE 6A CIVIL PROTECTIVE ORDERS:

6A.1 Compliance:

All Petitions for Civil Protective Orders and all documents and orders incident thereto shall be filed in compliance with ORC Sec. 311.21 and the Rules of the Ohio Supreme Court.

6A.2 Mandatory Forms:

By Rule of the Ohio Supreme Court, the Clerk shall provide packets titled “How to Get Domestic Violence Protective Order” including all instructions and forms to attorneys, pro se parties, domestic violence service agencies and other who request packets.

The forms have been adopted by the Ohio Supreme Court and by Rule of the Court, all Courts are required to use these forms in all protection order cases.

Forms are available at <http://www.sconet.state.oh.us/JCS/domesticviolence>

6A.3 Filing of Civil Protective Orders:

It shall be the responsibility of the attorney, party or authorized domestic violence service agency to file only such forms as are in compliance with ORC Sec. 3113.31 and as adopted by the Ohio Supreme Court.

6A.4 Limitations of the Responsibility of the Clerk and Staff:

It shall not be the responsibility of the Clerk or the Court staff to aid or advise attorneys, pro se parties, domestic violence service agencies or others as to the preparation or completion of Civil Protective forms.

6A.5 Hearings:

All civil protective matters shall be heard at such times as required by ORC Sec. 3113.31.

All hearings shall be scheduled and set by the Court. Requests for hearings shall be promptly and timely made so that hearings can be set within the time limits set by law.