

**Proposed Amendments to the
Court of Common Pleas
Domestic Relations Division
Summit County, Ohio**

The Summit County Domestic Relations Court will accept public comments until Friday, February 12, 2021, on the following proposed amendments to the Rules of Practice and Procedure of the Court of Common Pleas Domestic Relations Division.

Comments on the proposed amendments should be submitted in writing to:

Jessica Wright, Judicial Attorney
Honorable Katarina Cook
Summit County Domestic Relations Court
205 South High Street
Akron, Ohio 44308

Or

JWright@drcourt.org

no later than Friday, February 12, 2021, at 4:00 p.m.

Key to Proposed Amendments:

1. Existing language appears in regular type: text
2. Existing language appears in strikethrough: ~~text~~
3. New language to be added appears in underline: text

Proposed Local Rules 27.01 and 27.02 are adopted effective January 20, 2021, pursuant to Sup.R. 5(A)(2), subject to public comment.

There are comments below the proposed new rules to explain any significant changes. Text that remains unchanged, but moved to a new rule number, appears in regular type. Thus, only deleted and added language appears in red with strikethrough or underlining, as appropriate.

27.01 Magistrate's Orders.

A magistrate may enter orders such as Provisional Orders, Case Management, Interim, Temporary Orders and any other entry denoted as an Order necessary to regulate the proceedings and for the parties' and minor children of the parties' maintenance and support during the pendency of the case. Such orders are not dispositive of a claim or defense of a party.

Comment

The added language in Loc.R. 27.01 is meant to clarify the types of orders magistrates may enter to regulate the proceedings, and is not meant to be an exhaustive list of such orders.

27.02 Motion to Set Aside a Magistrate's Order

(A) A motion to set aside a magistrate's order shall be filed and served upon the opposing party within ~~ten~~TEN (10) days of the filing of the order. A copy of the motion to set aside ~~the order~~ shall be hand-delivered to the judge assigned to the case OR emailed to the judge's bailiff with the attached motion. The order is not stayed unless the judge grants a stay upon filing of proper motion and order. The magistrate may continue to enter orders or decisions while a motion to set aside is pending.

(1) The Court will accept as timely any motion to set aside filed within FOURTEEN (14) days of the date of the magistrate's order. A motion for leave to plead inlander is not required.

(B) Motions to set aside a magistrate's order shall state with specificity the reasons for the motion. Any motion to set aside based on a finding of fact shall utilize an audio recording of the hearing in lieu of a transcript as a record of that proceeding for ~~be accompanied by a transcript of~~ all the evidence submitted to the magistrate relevant to that fact, or an affidavit of that evidence if an audio recording transcript is not available. If the motion is NOT based on the magistrate's finding of fact, such must be stated in the first paragraph of the motion.

(C) If an audio recording of the court proceeding is required, an Audio Recording Request Form requesting an audio recording of the proceedings must be filed with the Motion to Set Aside and delivered to the Court Administration office on the second floor of the Domestic Relations Court, OR emailed to: audio@dr-court.org at the time of filing the motion to set aside (The Audio Recording Request form is available on the Court's website: www.dr-court.org under the Forms tab). If the completed Audio Recording Request Form is not submitted and filed at the time of filing the motion to set aside, ~~if a transcript is required, a praecipe to the court reporter requesting a transcript of the proceedings must be delivered to and acknowledged by the court reporter for the assigned judge and filed with the Clerk of Courts at the time of filing the motion to set aside (a sample praecipe is provided on the Court's website: www.dr-court.org).~~ If a praecipe to the court reporter is not filed at the time of the filing the motion to set aside, and facts as found by the magistrate are disputed, the motion to set aside may be denied.

(D) [delete]

NEW (D) formerly (E): Unless the court orders otherwise, a motion to set aside a magistrate's order will be determined without an oral argument. A party may file a response to a motion to set aside within FOURTEEN (14) 10 days of the date the motion is filed ~~and shall hand-deliver a copy of the response to the assigned judge~~ .

NEW (E) formerly (F): The party who files a motion to set aside a magistrate's order automatically has ~~14~~ FOURTEEN (14) days to file a supplemental brief after the Court files a Notice of Audio Record Provided to Parties filing of the transcript with the court. Any opposing party automatically has FOURTEEN (14) ~~10~~ days to respond to the ~~objecting-moving~~ party's supplemental brief. ~~Each party shall hand-deliver a time-stamped copy of the supplemental or responsive brief to the assigned judge.~~

New (F): When citing to the recording, the parties are to refer to the time code of recording date and exact time of that statement (Example: 12/19/2019 at 11:48-11:50AM).

Comment

The most significant change to proposed Loc.R. 27.02 is that a motion to set aside a magistrate's order based on a finding of fact will now require an audio recording of the hearing in lieu of a transcript as a record of that proceeding. This change is intended to expedite the Court's process in ruling on motions to set aside. There will be no cost to the parties for the audio recording. When citing to the recording, the parties are required to refer to the time code of recording date and exact time of the statement.

Proposed Loc.R. 27.02(C) explains that when an audio recording of a court proceeding is required, an Audio Recording Request Form must be filed with the motion to set aside and must be either delivered to the Domestic Relations Court Administration office **OR** emailed to audio@drcourt.org. As with all Summit County Domestic Relations Court forms, the Audio Request Form will be available on the website.

Pursuant to Civ.R. 53(D)(2)(b), a motion to set aside must be filed within ten days of the filing of a magistrate's order. Recognizing that this rule is inconsistent with the deadline for filing an objection to a magistrate's decision (fourteen days) and the deadline for a response to a motion to set aside (also fourteen days), proposed Loc.R. 27.02(A)(1) automatically grants leave to file a motion to set aside without the need for a motion for leave to plead instanter if the motion is filed within fourteen days of the filing of the magistrate's order.