

COPY

EXHIBIT C

15-164

DANIEL M. HERRIGAN

2008 OCT -7 AM 10:13

SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
SUMMIT COUNTY, OHIO

IN RE: LOCAL RULES

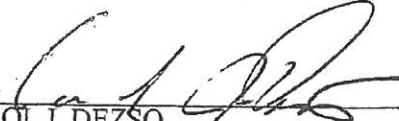
) MISC. No. 411


) JUDGE CAROL J. DEZSO

) JUDGMENT ORDER

The attached local rules, Revision Date October 14, 2008 are hereby adopted as the local rules of this Court effective October 14, 2008.

IT IS SO ORDERED.


CAROL J. DEZSO
ADMINISTRATIVE JUDGE


JUDGE JOHN P. QUINN

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EXHIBIT C

RULE 13 CONTEMPT MOTIONS

13.01 Specificity.

- (A) All motions for contempt and/or motions for orders to appear and show cause, except those filed by the CSEA, shall be accompanied by an affidavit setting forth the specific facts forming the basis for the motion.
- (B) Contempt charges filed by the CSEA relative to support shall contain a reference to the specific order that has been violated and the amount of arrearages outstanding on a date certain.

13.02 Order to appear and show cause. A person filing a contempt motion may obtain an order directing an alleged contemnor to appear before the court to show cause why he/she should not be held in contempt of court. The moving party must present a time-stamped copy of the motion, affidavit (if applicable) and proposed order to the judge or magistrate who is assigned to the case. The order must make a preliminary finding that, if proved, the facts alleged by the affidavit would constitute contempt.

13.03 Service. A motion for contempt and the order to appear shall be served on the alleged contemnor pursuant to Civil Rule 4 through Civil Rule 4.6. All contempt motions must be accompanied by a summons and the notices required by Revised Code 2705.031(C). If there is a pending case, a copy of the motion, affidavit, order and notice shall also be sent to opposing counsel by regular mail pursuant to Civil Rule 5.

13.04 Presence of alleged contemnor.

- (A) The alleged contemnor must be present at the hearing in order to proceed with contempt charges. If the alleged contemnor has been properly served with an order to appear, but does not appear, the moving party may request a *capias* for the alleged contemnor's arrest.
- (B) Failure to appear without good cause may also be prosecuted as an additional contempt.

13.05 Capias. In determining whether to issue a *capias* the court must first find from the affidavit that there is probable cause to believe that contempt has occurred. The court will also consider the manner and type of service that has been done and any other relevant factors. Prior actual notice is preferred. However, the court may issue a *capias* even without prior notice if the applicant demonstrates that such is necessary to obtain the presence of an alleged contemnor.

13.06 Appointment of counsel. The court shall appoint counsel in contempt cases, where a jail penalty has been requested, for any defending party who requests court-appointed counsel and who meets the income guidelines adopted by the state Public Defender's Office.

- (A) **Process for requesting appointed counsel.** Any party requesting court-appointed counsel must file an indigency affidavit with the Clerk of Courts within three business days after receipt of the summons. There is a \$25 fee for the filing of the affidavit. Once the affidavit is filed with the Clerk of Courts,

the filing party must personally bring the time-stamped affidavit to the court's assignment office on the second floor. Court staff will review the affidavit to determine whether the applicant is qualified to receive appointed counsel. If eligible, the applicant will be informed at that time who will be appointed to represent him or her. The court staff member will ensure that the appointed attorney is available to cover the scheduled hearing.

- (B) **Waiver of filing fee.** If a party is unable to pay the filing fee for the indigency affidavit, the party must file a motion requesting waiver of that fee at the time of filing the affidavit. A time-stamped copy of the motion as well as proposed order granting the waiver shall be brought to the court's assignment office along with the affidavit.

13.07 Procedure for selection of appointed counsel.

- (A) **Qualifications of appointed counsel.** Attorneys who wish to receive appointments to represent alleged contemnors in this court shall have experience prosecuting or defending contempt of court charges in the type of contempt charged (eg: child support, parenting time, property issues, etc.). Counsel must also attend, or view the video of, the court's training seminar which details the court's procedures for contempt cases.
- (B) **Request for inclusion on the appointed counsel list.** Attorneys who desire to be placed on the court's list of appointed counsel shall send a letter to the court administrator requesting to be added to the list and setting forth their qualifications for representing litigants in the court. Counsel shall indicate in the letter the types of contempt matters they wish to accept (e.g., child support only, parenting time only, all types of contempt issues, etc.). Counsel must provide the court a telephone number at which counsel may be reached to accept appointments. Upon verification of the attorney's credentials, the court administrator will add the attorney to the appointed counsel list and note the types of cases the attorney is qualified to handle.
- (C) **Distribution of appointments.** The court will maintain a list of qualified attorneys who have requested to be placed on the court's list of appointees to represent indigent parties and will update the list at least four times per year. The court will make an equitable distribution of appointments to counsel on this list. The court administrator will review the distribution of appointments at least four times per year to ensure that appointments are made in an equitable fashion. The court may consider the skill and expertise of the appointee in the designated area and the management by the appointee of his or her caseload.
- (D) **Availability of counsel to accept assignments.** When a party requesting counsel contacts the court and is determined to be eligible for appointed counsel, court staff will call the next attorney on its appointed counsel list. If that attorney is not available to accept the appointment at that time, the court staff will note that contact attempt and shall move to the next attorney on the list, until an attorney is contacted who is available to accept the assignment. The previous attorney shall be placed back into rotation for appointment after all remaining attorneys have been called.

- (E) **Removal from appointed counsel list.** Counsel may, at any time, request to be removed from the court's list of appointees. The court may, in its discretion, remove any attorney from the list. In the event of such a removal, the court shall notify the attorney that he or she has been removed from the appointment list.

13.08 Compensation of counsel.

- (A) **Rate of compensation.** Court-appointed counsel in contempt cases shall be compensated at the rate of \$40 per hour for services rendered out-of-court and \$50 per hour for services rendered in-court up to a maximum of \$300. Appointed counsel shall be compensated by the court only for work completed in relation to the contempt matter. Any other representation of the same litigant shall be by private agreement between the defending party and counsel.
- (B) **Extraordinary fees.** In the event that fees for appointed counsel should exceed \$300, the appointed attorney shall file a motion for extraordinary fees detailing why the additional time was required on this case. Counsel shall include therewith a detailed listing of all time and expenses expended on the case along with the motion. Counsel shall also provide the court with a proposed judgment entry approving the extraordinary fees. Any award of extraordinary fees is within the sole discretion of the court and is not guaranteed.
- (C) **Procedure for payment of fees.** To obtain payment for services rendered counsel shall submit an Application for Appointed Counsel Fees – OPD Form 1026-R, to the assigned judge NO LATER THAN 30 DAYS AFTER THE ISSUANCE OF A FINAL APPEALABLE ORDER ON THE CONTEMPT MATTER. If the application is submitted later than 30 days after the final appealable order, the fees may be reduced due to state reimbursement requirements. Once the judge has signed the application, counsel shall file the application with the Clerk of Courts and obtain two certified copies. Those certified copies along with a copy of the indigency affidavit must be delivered to the County of Summit Fiscal Office, Accounting Division, on the fourth floor of the Ohio Building, 175 S. Main St., Akron, Ohio 44308. The County Fiscal Office will process the payments to counsel. (Note: The computer software for completing the form 1026-R may be downloaded at no cost from the Office of the Ohio Public Defender at <http://opd.ohio.gov/reimb/rm - reimbursement.htm>.)

RULE 14 POST-DECREE MODIFICATION HEARINGS

14.01 Child support modification.

- (A) A motion to modify child support must be accompanied by a completed Affidavit of Income and Expenses.
- (B) At hearing the parties shall present evidence or stipulations of income, potential income, child care expenses, marginal cost of health insurance and adjustments to income to enable the court to make a proper child support calculation as provided by chapter 3119 of the Revised Code.
- (C) Whenever the court modifies, reviews, or reconsiders a child support order, it will also review, and modify if appropriate, the existing health