

PROCEDURE FOR DRAFTING A *PRO SE* MOTION

The Compliance Office

Before any *pro se**paperwork is filed, it **must** be approved by the Compliance Office of the Greene County Domestic Relations Court. This office is located in the Greene County Domestic Relations Court at **595 Ledbetter Road, Xenia, Ohio 45385**. The telephone number is **937-562-6238**. **The Compliance Officer, including anyone who may answer the phone or greet you at the window, is a layperson and will not advise you on your personal situation. Legal advice can only be obtained through an Ohio licensed attorney.** A Court employee is limited to **procedural information only**.

Should you decide to obtain legal representation and need the name of an attorney; the **Greene County Bar Association** can be contacted at **(937) 562-5040**. The following is the procedure for filing a motion in the Domestic Relations Court:

Civil Rules of Procedure and Ohio Law

If you choose to represent yourself, you are still bound by the same civil rules and statutory requirements as an Ohio licensed attorney. You must also follow the **Rules of Civil Procedure**. The Rules are contained within **The Ohio Revised Code**. The volume you are looking for is titled **Civil Rules**. The Rules give **detailed** information on **service procedures** and the **state's requirements for the preparation of legal documents**.

The exact requirements for the **form of a motion or pleading** may be found in the **Ohio Revised Code**, specifically, **Civil Rule 10(A)(B)(C)(D) and (E)**. For your convenience, a copy of Civil Rule 10 and 11 is attached. Other important Civil Rules are Rule 3, 4, 5, and 75. **In matters that are heard by a Magistrate instead of a Judge, Civil Rule 53 should be reviewed.**

The Ohio Revised Code is readily available and can be found in all **public libraries**. It is also on the **Internet**. In addition, the Greene County Law Library is open to the public. It is located on the third floor of the Greene County Courthouse, 45 North Detroit St., Xenia, Ohio. Domestic Relations law can be found in **Title 31** of the Ohio Revised Code.

Format of Motion

Your motion or other pleading must be typed or legibly printed. It must contain the name of the Court; the case number; the **original name of the case; your current address; your former spouse's name and current address; and the name of your pleading**. An example of the name of the pleading is Motion or Response. A point of reference might be a Magistrate's Decision and Order, a Judgment Entry signed by the Judge, or your final decree of divorce.

In post decree matters and pursuant to Civil Rule 75(J) your case will proceed under the **original action**. The term “original action” is defined as the same name and same case number. If you no longer use your former name, your new name can be referenced in the case caption but the case will proceed under the original name. A different last name from the original case name is not recognizable to the Court. For example if your married name was Smith and your new name is Jones your case caption will appear as follows:

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

MARY JANE SMITH (nka JONES)	:	CASE NO. 12DR0033
Plaintiff,	:	Judge Hurley
-vs-	:	
	:	
JOHN SMITH	:	
	:	<u>Motion</u>
Defendant.	:	

If you were the Defendant at the time the original action was filed, you are still the Defendant. If you were the Plaintiff in the original action, you are still the Plaintiff.

If you file an initiating motion **after** your final decree has been filed, this is a post-decree motion and the case is being **reopened**. The Clerk of Court will serve the first initial pleading you file on the opposing party. A form to initiate service is attached. You will complete the form and instruct the Clerk how to serve the opposing party. For example, service can be made by certified mail or personal service.

Civil Rule 10(A)(B)(C)(D) and (E) gives **detailed information on the form of a motion and how your request to the court should be formatted**. The Civil Rule may refer to the motion as a pleading (which it is) but do not let the language confuse you, the format is the same.

Hearing Date and Service Instruction

If there is no proof of service filed with the Clerk of Courts that states the date the opposing party was properly served, the hearing will not go forward. Federal and state law requires **both** parties have the opportunity to be present at a hearing. It also requires both sides have a chance to be heard or to respond to a motion. This cannot happen if the opposing party does not know that you have filed your motion.

Please pay close attention to the Civil Rules regarding service. A motion or pleading that requires a hearing will need to contain a **Notice of Hearing**. The notice must be served by certified mail or in some cases by personal service. The Notice of Hearing must be placed at the end of the motion and state the following:

◆ The opposing party’s name and address. This is placed at the **beginning** of the notice.

◆The **time** and **date** of the hearing and the **Court's address**. This will be in the **body** of the notice. The preparer will insert **blank lines** for the time and date of the hearing. The preparer will also insert **blank lines for the name of the Judge or Magistrate who will preside over the hearing**. The Assignment Commissioner will write in this information **after** the motion or pleading has been approved by the Compliance Office.

◆A signature line for your signature. The signature line is placed at the **end** of the notice. Under the signature line, You will list your **name, address, and telephone number**.

Example of a Hearing Notice

To:

Jane Doe
1234 Any Street
Anytown, Ohio

You are notified that a hearing is schedule on _____, 2003 at ____ a.m./p.m., before _____, at the Greene County Domestic Relations Court. The Court is located at 595 Ledbetter Road, Xenia, Ohio 45383

John Doe
1234 That's My Street
My Town, Ohio
(937)555-5555

Subsequent to filing an initiating motion, any paperwork that is filed in the Domestic Relations Court **must** be served or sent to the opposing party. A small paragraph, placed at the **end** of the document, is needed to inform the Court of the method you used to send a copy of your motion or pleading to the other party. The paragraph will be titled "**Certificate of Service**". The following information is to be included in the paragraph:

◆ The date a copy was sent or served upon the opposing party.

- ◆ The methods used to send or serve the copy.
 1. Certified mail. This is the preferred method because there is proof the other party was served.
 2. Regular United States Mail
 3. Hand delivered.

- ◆ Also include the opposing party's address the motion or pleading was sent to.

- ◆ A signature line for your signature. Underneath the signature line, type or legibly print your printed name, address, and telephone number.

FOR EXAMPLE

Certificate of Service

I, John Doe, sent a copy of my motion to Jane Doe, at 1234 Any Street, Anytown, Ohio by regular United States Mail (or by certified mail or hand delivery, specify which one is used.) on July 28, 2004.

John Doe
123 That's My Street
My Town, Ohio.
(937)555-5555

Approval by the Compliance Office

After your motion has been approved by the Compliance Office, you may file it with the Clerk of Courts. The Compliance Office will call and inform you if the motion has been approved or needs additional information. The Clerk of Courts will not file a *pro se* motion in a domestic relations case until it is approved by the Compliance Office. A hearing date will not be assigned until the *pro se* motion has been approved by the Compliance Office.

Costs and the Clerk of Courts

There will be costs involved for filing your motion. The costs will be paid by you. The Clerk of Courts will have that information. However, the employees of the Clerk of Courts are **laypersons** and cannot offer you legal advice. Any legal advice you might receive from a layperson connected with the Greene County Common Pleas Court is not endorsed by this Court and is only that person's opinion.

Contempt Motions

A Contempt Motion requires personal service. When personal service is requested, a separate **written** request must be submitted to the Compliance Office. A form is attached that is used by the Clerk's office. This form will be completed by you and will inform the Clerk how to serve the opposing party, either by certified mail or personal service. A copy of the form is attached. The request will be made to the Clerk of Courts but **will not** be submitted to the Clerk until approved by the Compliance Office.

Objections to A Magistrate's Decision and Order

Objections are filed pursuant to Civil Rule 53(E). The Ohio Civil Rules can be found in any public library as part of the Ohio Revised Code or over the internet. The objection must be specific and state exactly what you object too. You also must obtain a transcript of the proceedings. The matter cannot be reviewed without a transcript. A form for obtaining a transcript is attached. A transcript will be prepared at a cost to you.

UNDER OHIO LAW, LEGAL ADVICE CAN ONLY BE OBTAINED THROUGH AN OHIO LICENSED ATTORNEY

*Pro se (Latin) For himself or herself; in his or her own behalf. For example, *pro se* representation means that a person will handle his or her own case in court without an attorney. [pronounce: pro say] Oran's Dictionary of the Law, second edition

**RULES GOVERNING THE COURTS OF OHIO \ OHIO RULES OF CIVIL
PROCEDURE WITH STAFF NOTES**

RULE 10. Form of pleadings

**RULES GOVERNING THE COURTS OF OHIO \ OHIO RULES OF CIVIL
PROCEDURE WITH STAFF NOTES \ RULE 10. Form of pleadings**

Text of Rule

**RULES GOVERNING THE COURTS OF OHIO \ OHIO RULES OF CIVIL
PROCEDURE WITH STAFF NOTES \ RULE 10. Form of pleadings \ Text of Rule**

(A) Caption; names of parties. Every pleading shall contain a caption setting forth the name of the court, the title of the action, the case number, and a designation as in Rule 7(A). In the complaint the title of the action shall include the names and addresses of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(B) Paragraphs; separate statements. All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by numbers in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(C) Adoption by reference; exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument attached to a pleading is a part thereof for all purposes.

(D) Copy must be attached. When any claim or defense is founded on an account or other written instrument, a copy thereof must be attached to the pleading. If not so attached, the reason for the omission must be stated in the pleading.

(E) Size of paper filed. All pleadings, motions, briefs, and other papers filed with the clerk, including those filed by electronic means, shall be on paper not exceeding 8 ½ x 11 inches in size and without backing or cover.¹

¹ All pro se paperwork must be stamped by the Compliance office prior to filing it with the Clerk.

(Amended, eff 7-1-85; 7-1-91)

RULE 11 Signing of pleadings, motions, or other papers

**RULES GOVERNING THE COURTS OF OHIO \ OHIO RULES OF CIVIL
PROCEDURE \ RULE 11. Signing of pleadings, motions, or other papers**

Text of Rule

Every pleading, motion, or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address and attorney registration number, if any, shall be stated. A party who is not represented by an attorney shall sign the pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by these rules, pleadings need not be verified or accompanied by affidavit.

The signature of an attorney or pro se party constitutes a certificate by the attorney or party that the attorney or party has read the document; that to the best of the attorney's or party's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the document had not been served. For willful violation of this rule an attorney or pro se party, upon motion of a party or upon the court's own motion, may be subjected to appropriate action, including an award to the opposing party of expenses and reasonable attorney fees incurred in bringing any motion under this rule. Similar action may be taken if scandalous or indecent matter is inserted.

(Amended, eff 7-1-94; 7-1-95)



**GREENE COUNTY CLERK OF COURTS
TERRI A MAZUR, Clerk
INSTRUCTIONS FOR SERVICE**

TO: THE GREENE COUNTY CLERK OF COURTS

YOU ARE INSTRUCTED TO MAKE SERVICE BY

PERSONAL **CERTIFIED MAIL** **REGULAR MAIL**

UPON:

NAME:

AT:

SPECIAL INSTRUCTIONS FOR SERVER: Please serve the above party with a copy of the

Attorney/Pro Se: _____

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

_____	:	CASE NO. _____
	:	
Plaintiff,	:	JUDGE STEVEN L. HURLEY
	:	
-VS-	:	
	:	
	:	REQUEST FOR
	:	TRANSCRIPT
_____	:	
	:	
Defendant.	:	
	:	

TO THE COURT REPORTER:

Please prepare a transcript of the hearing held on _____ before _____ in Courtroom_____. I acknowledge that I am responsible for the cost of the transcript and can be reached at the address and telephone number supplied below.

Signature of Attorney/Requester

Printed Name of Attorney/Requester

Address of Attorney/Requester

Telephone Number of Requester

Service of Copy :

Denise Unger, Domestic Relations Court