

Frequently Used Terms

Franklin County Court of Common Pleas Domestic Relations Division and Juvenile Branch

***BASICS:**

Plaintiff: The person who begins a lawsuit by filing an action with the court. (as in “Plaintiff vs. Defendant”)

Defendant: The person against whom the lawsuit is filed. This person defends, denies (as in Plaintiff vs. Defendant) the lawsuit or may be the person charged with a crime in a criminal action (as in State vs. Defendant).

Divorce: The termination (end) of a marriage between two parties by legal action. This type of action usually begins as an adversarial action, but may end with either an agreement where all issues are resolved or a contested trial when there are terms upon which the parties are unable to agree.

Dissolution: Non-adversarial proceedings where wife and husband agree upon all provisions for legally ending their marriage. The wife and husband file a petition for such an action and must wait 30 days to obtain the dissolution. This type of action must be heard within 90 days of filing. Both parties must appear at the hearing before the Court.

Complaint: The first document filed with the clerk of courts that begins a case. The document is filed by the plaintiff asking for a divorce and the reasons for the request or is asking for custody/visitation/child support. Filing of a complaint begins the divorce proceedings or the juvenile proceedings.

Answer: A written response by the defendant to the plaintiff’s divorce complaint/juvenile complaint. Defendant has 28 days from the date he or she receives a copy of the plaintiff’s complaint to respond.

Counter Claim: An action filed by the defendant against the plaintiff. This action is filed in the same original divorce or custody/visitation/child support actions, but provides the reasons that defendant should be granted relief. If the plaintiff’s original action were to be dismissed, the counter claim filed by the defendant could stand on its own as an action.

Reply: Plaintiff’s response to a counter claim.

Continuance: Postponement of a hearing/trial in a pending case to a later date.

Pro Se: A person who represents himself or herself without an attorney.

Indigent: A person who is unable to pay fees and costs related to a case.

Guardian ad Litem (GAL): An attorney who is appointed by the court to act in the best interest of the child or children in a particular case. The guardian ad litem investigates the facts and

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reports to the court about the child's best interests. This person is a guardian just for the purposes of the lawsuit.

Transcript: Each trial or hearing is recorded electronically or by court reporter. The transcript is a written version of everything that was said at the trial or hearing in the case from the recording. The transcript is usually prepared by the court reporter or stenographer.

Mediation: A problem solving process in which a neutral third person, the mediator, helps the parties to an action find points upon which they can agree to reach a fair outcome.

Memo of Agreement (MOA): An informal writing which sets forth the parties' settlement. The MOA is then prepared as a typed final Agreed Entry/Shared Parenting Plan/Shared Parenting Decree, etc.

Moot: An issue without legal significance having been previously decided or settled. The issue is irrelevant.

Overrule: A Judge or Magistrate denies the request made to the court of one or the other of the parties. For example, denying a motion means that the motion is overruled and will proceed no further.

Sustain: A Judge or Magistrate approves, affirms, and agrees with the motion or request made to the Court. For example, granting the motion.

Genetic Testing: DNA samples are taken from a mother, child and alleged father to determine if the man is the biological father of the child. This type of testing is done when there is a dispute as to who is the father of the child of the action. This is typically a noninvasive test called a buccal swab where the inside of the cheeks are swabbed to obtain genetic material from each party and the child. The samples are sent to a lab where the samples are analyzed and a report is generated in regard to paternity of the child.

Parentage: Legal determination of the biological father of the child or children. (Also called paternity.)

Allegation: A claim or statement of what a party intends to prove, the facts as one party claims they are.

Record Hearing: Hearings held at 9:30am or 1:30pm where evidence and testimony can be presented in court.

Non-Record Hearings: Anything other than temporary orders set at 8:30am. (EX: beneficial use, vacate; GAL; drug testing; status conference; psychological; discovery).

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Post-Decree: Motions, issues, orders that proceed after the final divorce decree has been granted by the Court.

Pre-Decree: Motions, issues and orders that proceed prior to the final divorce decree.

124: A form used by the court to indicate to the clerk of courts that a motion has been disposed of or has been finalized. Also, is used to inactivate a motion.

Notarize: Signature of a notary public and seal to establish authenticity of a signature on a legal document. If a document requires a notarized signature, the party must take the unsigned document to a notary and sign in front of that person and swear that he or she is the person who signed the document and that they understand the contents of the document.

Affidavit: A written statement made or taken under oath, which is notarized. (ie: Health Insurance Disclosure Affidavit, Financial Disclosure Affidavit, Narrative Affidavit).

Ex parte Communication: Conversation with a Judge or Magistrate about a case without the other side present. Judges and Magistrates are prohibited from this behavior, which is why people are referred to the Duty Magistrate when they have questions.

Ex Parte Orders: Orders obtained without service/participation of the opposing party. This type of order is usually obtained in emergency situation.

Default Judgment: An order obtained against a defendant who has notice of an action against him or her and fails to answer, appear and or defend a claim that was brought by the other party.

***DIVORCE**

Grounds: The reason(s) under state statute for granting a divorce.

Pre-Trial: A meeting between the parties and the Court to discuss the status of the case, what issues exist in a case what evidence will be presented to the court and how issues will be handled. It is also an opportunity to resolve issues and reach an agreement.

Interrogatory: Written questions asked by one party of an opposing party, who must answer them in writing under oath within a specific time frame.

Request for Production of Documents: Request by one party for the other party to produce documentation that is relevant to the case. i.e. bank statements, employment history, child care costs, credit card bills, etc.

Motion to Compel Discovery: Motion filed to request an order from the Court for the party who failed to produce discovery to do so or face sanctions, like a fine.

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Marital Assets: Property acquired by the wife and husband during the time they were married, regardless of who owns or has title to it. Exceptions may exist.

Marital Debts: All bills, financial obligations, etc. acquired during the course of the marriage, regardless of whom (wife or husband) incurred the debt.

Qualified Domestic Relations Order (QDRO): A court order, required when some marital assets are in a particular type of retirement account requiring such an order under specific provisions of Federal Law. The order divides the retirement account into two separate accounts, one for each party.

Division of Property Order (DPO): An order issued by the court that applies to public pension and retirement plans. This type of order does not provide survivorship rights for the former spouse.

Drop List (DL): If a divorce case is filed and there is no further action taken for 6 months, the case is automatically scheduled for the "drop list" so that it can be determined if the action should proceed or be dismissed.

***CHILD SUPPORT**

IV-D Application: A form that the State of Ohio requires to be completed to receive services from the Child Support Enforcement Agency. The form must be completed in child support cases.

Arrearage: Amount of past due child support.

Impound: A court order requiring money paid for child support to be held until a pending court action is completed. The pending action will determine to whom the held funds should be released.

Obligee: Person to who support is ordered to be paid.

Obligor: Person who is ordered to pay support.

Support Enforcement Tracking System (SETS): A statewide system connecting all child support orders from the 88 counties that is used by Child Support Enforcement Agencies to manage Ohio's child support program.

Cash Medical Support: An amount ordered to be paid in a child support order toward the costs of health insurance provided by a public entity, another parent or person with whom the child resides. Private health insurance that is obtained through employment or otherwise or for other medical costs not covered by insurance. The intended purpose is to pay back the custodial parent

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or the state of Ohio for all or a portion of the medical costs incurred for the minor child or children.

Administrative Order (AO): An order of support issued by the Child Support Enforcement Agency. In order for the court to address an Administrative Order it must first be approved and adopted by the court.

Chapter 7 Bankruptcy: An action filed with the Bankruptcy Court in order to protect a person from his creditors.

Chapter 13 Bankruptcy: An action filed with the Bankruptcy Court, similar to a Chapter 7, where the person is under a repayment schedule to his creditors.

Supplemental Security Income (SSI): Benefits paid by the government to help disabled adults and children who have limited income and resources. This is not considered as income on the child support worksheet.

Federal Information Processing Standards Code (FIPS Code): A five-digit code which identifies counties in the United States. The first two digits are the FIS state code and the last three are the county code within the state. Franklin County FIPS Code is: 39049. This number is used on withholding forms for support.

Processing Charge: A fee charged by the Child Support Enforcement Agency for processing support payments. The fee is 2% of the support order.

***Objections**

Objection to Magistrate's Decision: Appeal of a decision made by the Magistrate. The Judge hears the objection to the Magistrates Decision. The Objection must be filed within 14 days of filing of the decision.

Appeal: Objection to a decision made by the Judge. This type of action is filed and heard before the Court of Appeals.

Dismiss with Prejudice: When a case or motion is dismissed with prejudice, the same action may not be filed again.

Dismiss without Prejudice: When a case or motion is dismissed without prejudice, the same action may be filed again.

Stay: A court order which temporarily suspends or stops court proceedings or the effect of the judgment pending resolution of another matter.

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Remand: When a higher court returns a case to the lower court to correct an error or to modify its original decision.

Motion to Set Aside Magistrate's Order: This is an appeal of a Magistrate's Order that is to be filed within 10 days of the filing date of that Order. This appeal is heard by the Judge.

DE Novo/Rule 75 Hearing: Hearing where the Magistrate would reconsider or modify the temporary orders in a divorce case only.

***MOTIONS**

Motion: Usually a written request for some type of action or decision to be made by the court. It may also be requested orally before the Magistrate or Judge in a pending litigation. The written motion is filed in the Clerk's Office and served on the party/parties.

60(A) Motion: Written request to correct a clerical error/correction to an Entry, Decision or Order.

60(B) Motion: Written request to set aside or undo a prior judgment.

Motion to Vacate: Requires showing of cause, usually to have the other party move out of the marital residence.

Motion for Beneficial Use: Written request made when the other party leaves the residence voluntarily and normally there is no case to order them to vacate. However, the party remaining in the residence does not want to worry about the other party who vacated returning at any time. Can also apply to use of vehicles and furnishings.

***ORDERS**

Addendum: A written addition to an order or agreement

Ex Parte Order: An order granted by the Judge based upon one side's sworn statement in an emergency situation.

Civil Protection Order (CPO): An order granted by a Domestic Court to protect a victim of domestic violence.

Vacating an Order: An order issued by a court to set aside or do away with a particular order as if it never existed.

Termination of an Order: The end of the order on the effective date of the order.

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Temporary Restraining Order: A temporary order from the court that prevents parties from disposing of any of their assets, money, real estate, etc., including permanently removing children from the jurisdiction of the Court, while the case is pending. These orders are safeguards to protect the parties' interests and to maintain things as they are until a final order is issued.

Temporary Orders (T.O.): An order from the court that is temporary in nature. It controls until the final hearing for the divorce/final custody or until changed by a subsequent temporary order. A status conference is held to determine if an agreement can be made. If no agreement is made, the court will issue a status conference order scheduling the filing of narrative affidavits. The decision is made by the Court based on the affidavits submitted by the parties.

Shared Parenting Plan: A plan that addresses all child related issues that are relevant to the care of the children, including physical arrangements, child support obligations, provisions for children's medical and dental care, school placement, and parenting time. In this plan, both parents are considered residential parents and legal custodians of the child or children. There is a designation as to the school placement parent. The shared parenting decree incorporates the plan into an order of the court.

Shared Parenting Decree: A decree that finds the shared parenting plan to be in the best interest of the child or children and incorporates the plan into the decree, making it an order of the court.

Capias: An arrest warrant for a person's failure to appear for a court hearing after having been served with an order to appear.

Summons: A writ to notify the person named that an action has been commenced against him in the court and that he is required to answer the complaint and/or appear.

Judgment Entry: A court order signed by the judge. Judges issue their own orders and also sign entries to journalize Magistrate's Decisions.

Habeas Corpus: A writ that is usually used to bring a prisoner before the court to determine the legality of his imprisonment. It may also be used to bring a person in custody before the Court to give testimony, or to be prosecuted. In this court often used to force a parent to bring a child to the court.

***RULES/PROCEDURES**

Ohio Revised Code (ORC): Is the code of the laws of Ohio, including all criminal, traffic, delinquent, unruly, and abuse/neglect/dependency complaints. Each statute contained in the code is numbered and the specific statute violated is referred to in the complaint by this numerical designation.

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Local Rules: A set of rules that has been developed by the local jurisdiction to govern matters that are not already determined by Federal or State rules of Civil Procedure. ie: Franklin County uses State and Franklin County Local Rules of Procedure.

Clerk of the Court: An elected official or an officer appointed by a court of justice who has charge of the clerical work of the court; keeps the records and seal; issues service of process, enters judgments and orders, and provides certified copies of documents from the official record.

File Stamped: A stamp on a document made by the Clerk of Courts indicating the date and time that the document became an officially filed document. E-filed documents have a date and time stamp at the top of each page.

Jurisdiction: The power or legal authority of the Court to hear and decide a case. (State to State).

Venue: The geographical location within the state where a case is tried, determined by law and court rules. (County vs. County).

Uniform Interstate Family Support Act (UIFSA): Statutes adopted in most states to help parents establish parentage and obtain or enforce child support orders when the other parent resides in a different state. A petition is initiated in one state (the initiating state) and sent to another state (the responding state) for hearing.

Registration of Foreign Order: A request made by another state to have their order adopted by the court for purposes of enforcement and/or modification. This is part of the UIFSA statutes.

Certification: Used within the state of Ohio. The child must live in Franklin County. This term can also refer to a case moved from Domestic Court to Juvenile Court within the same county.

Transfer: Moving a case from one county to another. Parties may have moved out of the jurisdiction and transferring of the case is for purposes of convenience. The court with the order must agree to relinquish jurisdiction and the court where the order is to be transferred must agree to accept the action.

Local Domestic Court Rule 27 – Parenting Time Schedule: A model schedule used as a guideline in Franklin County Domestic Court for parenting time. The parties may tailor this schedule when necessary to best fit their situation and what is in the best interest of the child.

Local Juvenile Court Rule 22- Parenting Time Schedule: A model schedule used as a guideline in Franklin County Juvenile Court for parenting time. The parties may tailor this schedule when necessary to best fit their situation and what is in the best interest of the child.

***TRIAL**

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Hearing: A formal proceeding where parties and witnesses are heard and evidence to prove the case is submitted by both sides to the Judge or Magistrate who will make a decision.

Testimony: Answers to questions given by a witness under oath. Usually at a trial or in an affidavit or at a deposition.

Examination: The examination of a witness consists of a series of questions, asked by a party to the action or his attorney, to bring knowledge to the court or jury which the witness has of the facts or matters in dispute.

Cross Examination: After a witness has given evidence, the other party or the other parties' attorney has the opportunity to ask questions of that same witness. The purpose of this type of examination is to get the witness to say something helpful to their side or to cast doubt on the witness's prior testimony.

Evidence: Any kind of matter presented to the judge or magistrate at trial through witnesses, records, photographs, lab tests or documents for the purpose of convincing the court of the truth or falsity of key facts.

Subpoena: A court order to a witness requiring them to appear and give testimony.

Subpoena Duces Tecum: A command to a witness to produce documents or papers in his possession that are pertinent to the issues of a pending case at a trial or hearing.

Brief: A written statement of a party's position including a summary of the facts, a statement of the questions of law involved, and the arguments and legal authorities upon which a party relies. It serves as each party's principal submission to the court prior to its decision, but cannot include new evidence.

Discovery: The disclosure by one party of facts, documents or information to the opposing party who needs this material to properly prosecute or defend the case. Information is gathered through the Discovery process by interrogatories, depositions and requests to produce documents.

Deposition: The sworn testimony of a witness/party. The witness/party is placed under oath and the attorneys take testimony by asking questions of that person and a record of the statements is made by a court reporter. This is a discovery/fact finding tool prior to trial and is not a court proceeding. It usually takes place at an attorney's office.

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