IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION, GEAUGA COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet

Conduct During A Hearing

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background

If a Hearing is required to resolve all your issues, then generally the Judge has the authority to conduct the Hearing in an informal manner.[1] Nevertheless, you should assume that the Judge will conduct the Hearing in a formal manner. If the Hearing results from you filing a complaint or a motion, then the Judge will likely ask you to proceed first. Essentially the presentation of your case to the Judge will likely consist of (1) an Opening Statement, (2) the presentation of evidence, and (3) a Closing Argument.

The Role of the Judge. Your case will be heard by the Judge and not a jury.[2] You need to be aware of the Judge's role, and what the Judge will do and not do.

- The Judge will act in an impartial manner. The Judge will not speak to you or otherwise communicate with you in any manner about your case, at any time (before, during, or after the Hearing) without all other parties (or their attorney) being present or involved in the communication. This is true even if you have a simple question regarding a procedural rule. However, keep in mind that you can visit the Help Center and perhaps your questions can be answered by the Help Center staff.

- The Judge will decide your case only upon relevant and admissible evidence that the parties present to the Judge during the Hearing. You have the burden to present such evidence needed to convince the Judge of the key facts in your case. You must be sure that all facts that you allege in your complaint or motion are proved by such evidence. The Judge must follow the law.

[1] Ohio Rules of Juvenile Procedure – Rule 27

[2] Ohio Rules of Juvenile Procedure – Rule 27(A)(3). It is possible that the Judge will appoint a magistrate to hear your case.

The law determines what evidence the Judge may consider.[3] After determining the truthfulness of the facts based upon the relevant evidence presented, the Judge will apply the applicable law to the facts as determined by the Judge and render the decision or court order accordingly.[4]

- The Judge may not help you present your case. If the Judge helps you or points out mistakes that you have made, then the Judge could be acting in a manner that is unfair to the other parties. Again, the Judge must act in a neutral manner. When you choose to represent yourself, then you assume the responsibility of presenting your evidence to the Judge in the manner required by law.

Courtroom Behavior.

Understanding how to conduct yourself in the courtroom will improve your chances to obtain the result that you seek. Additionally, the Court has a rule that governs conduct in the courtroom. Attached as Exhibit A is Local Rule 7, which sets forth those rules of Conduct. Below are some requirements and suggestions for courtroom behavior.

- Make a good impression. Be on time for your Hearing. Consider arriving at least 30 minutes before the scheduled time. Let the Judge's bailiff know that you have arrived. You must wear appropriate attire. Dress neatly. Consider dressing as though you were going for a job interview.[5]

- Respect the Court and the Judge.

    - Unless the Judge otherwise instructs you, stand when the Judge enters the courtroom and sit down when the Judge instructs you; stand when the Judge speaks to you and when the Judge leaves the courtroom; and refer to the Judge as "Your Honor."

    - Do not bring food into the courtroom, and do not chew gum or tobacco in the courtroom. There is no smoking in the courthouse. Do not bring beverages into the courtroom.

    - You may not bring a radio, camera, or video transmission or recording device of any nature without first obtaining the Judge's consent.

    - You must turn off cellphones, pagers, and other electronic devices (such as a "tablet") before entering the courtroom. If you take such equipment into the courtroom, you must place that equipment in the designated holders in the rear of the courtroom.[6] You may be instructed to leave your cellphone outside the courtroom. You may not use any such devices in the courtroom for any purpose (for example, for communication, taking pictures, or video) without first obtaining the Judge's consent.

    - If you are required to bring your children to the courthouse, then arrange for someone to be with your children during the Hearing. Do not bring your children into the courtroom without first obtaining the Judge's consent.

[3] See generally the Ohio Rules of Evidence.
[4] For example, if your case involves the allocation of parental rights and responsibilities concerning minor children, then the applicable law will include R.C. § 3109.04 and related case law.
[5] For men, that could mean a business suit, dress shirt and tie. For women, that could mean business-like clothing, like what a bank officer might wear.
[6] Local Rule 7(C)

- Respect the Opposing Party. Do not communicate directly with another party while in the courtroom. In all events, never argue with, or interrupt, the other party in the courtroom. While in the courtroom, you must only communicate with the Judge. The Judge will tell you when to speak. Always conduct yourself in a polite, reasonable, and respectful manner, even if the other party acts otherwise. Always remain calm.

- Tips During the Hearing.

    - Bring your trial notebook with you and keep it handy.[7] Be sure to have a notepad and a pen to make notes during the Hearing.

    - The Judge or the other party may ask you questions. *If you do not understand the question, then say so*. Never answer a question until you fully understand the question.

    - Be direct. If you do not know the answer, then say so. Do not guess or speculate. Do not be afraid to admit that you do not know the answer. At all times, and in all events, be truthful and honest.

    - Take your time when answering a question. Give the question as much thought as you need to understand the question before you give your answer. Without doing it too often, consider asking that the question be repeated.

    - To the extent possible, answer a question with "Yes" or "No" before giving an explanation. Also, you do not need to give an explanation if the "Yes" or "No" response is enough – especially if you are being cross-examined by your opponent.

    - Be sincere. Do not be sarcastic or argue with the Judge or with the other party (or an attorney). Remain calm.

    - If you are stating a date, time or place, *be exact* if possible. If you cannot be exact, then state that you are estimating.

    - Speak clearly and distinctly, using words and phrases that you understand. Avoid speaking too fast. Take your time. Without shouting, speak loud enough so that all persons in the courtroom can hear you.

    - Be courteous to the Judge, even if the Judge acts in a manner that you do not like.

    - If you first obtain the Judge's consent, you may bring a friend with you for moral support, but that person must remain silent in the courtroom. If the person will be a witness, then that person may only speak while giving testimony.

[7] See Information Sheet "Preparing Your Case" regarding the preparation of a trial notebook.

Basics of the Rules of Evidence.

The primary purpose of the Rules of Evidence is to explain what type of evidence the Judge may consider as the Judge determines whether your allegations of fact in your complaint or motion are truthful. For example, you may have alleged in your complaint or motion that your request to be appointed the Residential Parent (that is the custodial parent) of your minor children is "in the best interest of your minor children." For the Judge to determine that is a truthful statement you must present to the Judge evidence that will convince the Judge of the truthfulness of your allegation. You should read the Ohio Rules of Evidence. Without providing you with a complete explanation of the Rules of Evidence, below are a few key concepts.

Relevance.[8] Perhaps the most basic rule is that there must be a logical connection between the evidence that you present to the Judge and the fact that you are trying to prove. To be relevant does not mean that the evidence must conclusively prove the truthfulness of an allegation. Evidence is relevant if it makes the truthfulness of an allegation a little more probable. For example, if you are trying to prove that on a certain occasion, when your opponent was in the presence of the minor children, and your opponent was drunk, then testimony that your opponent was stumbling and had slurred speech is relevant, even though that evidence is not conclusive and there could be another explanation for such behavior.

Hearsay.[9] Generally, a witness is only permitted to testify to what the witness has personally observed or heard. A witness must testify only to what the witness perceived through his or her five senses (i.e. sight, hearing, touch, taste, smell). With few exceptions, the witness will not be permitted to testify to what the witness learned from another person. That is called Hearsay testimony. For example, if a doctor, who examined your opponent, told you that to allow your opponent to have custody of the minor children would clearly not be in the best interest of the minor children, then you would not be permitted to testify in court as to what the doctor told you. Another example might be a school teacher who observed behavior of your opponent that is detrimental to the minor children and that teacher told you about the incident. You cannot testify as to what the teacher told you. You must have the teacher come to the Hearing as your witness and tell the Judge what the teacher observed. For the Judge to consider the opinion of the doctor, you would have to present the doctor as a witness during the Hearing and have that doctor give his opinion to the Judge. The primary reasons for that rule is that (1) the doctor was not under oath when he made that statement to you, and (2) unless the doctor testifies in Court, your opponent does not have the opportunity to cross-examine the doctor.[10] There are a few exceptions to the Hearsay Rule, which are explained in the Ohio Rules of Evidence.[11]

Opinion.[12] Generally a witness will not be permitted to state an opinion. The witness can only testify as to what he or she observed or heard. Based upon what the witness observed, the witness will not be permitted to state that changing the Residential Parent is or is not in the best interest of the minor children. For example, a neighbor may have seen your opponent driving erratically in his car after leaving a neighborhood bar, with one of the minor children in his car.

[8] See Ohio Rules of Evidence – Article IV "Relevancy and Its Limits."
[9] See Ohio Rules of Evidence – Article VIII "Hearsay."
[10] Another option might be to take the deposition of the doctor and present the deposition to the Judge at the Hearing if permitted by the Ohio Rules of Evidence and the Judge. See Information Sheet "Preparing Your Case" regarding depositions.
[11] One example is a statement by a minor child in a child abuse case – Evid.R. 807 (Ohio Rules of Evidence).
[12] See Ohio Rules of Evidence – Article VII "Opinions and Expert Testimony."

The Judge would allow that neighbor to testify to what the neighbor observed, but may not allow the neighbor to state that he or she believed the driver was drunk.

An exception to that rule is that an "expert" will be permitted to render an opinion if the opinion falls within the expertise of the witness.[13] If in fact you present a witness to testify as an expert to render an expert opinion, you must spend some time at the beginning of the expert's testimony to qualify the witness, or rather to convince the Court that the witness is indeed an expert. This will likely include questions regarding the witness' education and experience. Until the Judge is convinced that the expert is qualified, the Judge may not permit the witness to render an opinion.

Authentication.[14] In addition to witness testimony, another form of evidence is a document, which could be a letter, an email, a photograph or video, a diary, a hotel receipt, or a text message. Before the Judge will accept and consider a document that you present as evidence, you must convince the Judge that the document is genuine.[15] For example, if you want the Judge to consider an email, then you should have the person who received the email testify that he or she did receive the email, and that the copy you intend to give the Judge is an accurate copy of that email. Another example is that if you want the Judge to consider a photograph, you may need a witness (who might be the photographer) to testify that the photograph fairly depicts what the witness observed.

Rules of Evidence are Not Self-Executing. The Judge may consider evidence, which is presented, that is not permitted by the Rules of Evidence. For example, if your opponent presents evidence that violates the Hearsay Rule or a document that has not been properly authenticated, then you have the burden to object to that evidence. If you do not make a timely objection, then the Judge may consider that evidence even though it violates the Rules of Evidence. You need to carefully listen and consider all evidence presented by your opponent, including the testimony of witnesses. If you believe that any evidence is not permitted by the Rules of Evidence, then you should stand up and tell the Judge that you object – simply stating "Objection Your Honor." The Judge will say "Sustained" (meaning the Judge agrees with you) or "Overruled" (meaning the Judge disagrees with you). He may ask you the reason for your objection, in which case you will need to state the Rule of Evidence that is violated – such as the Hearsay Rule. Even if you do not object, sometimes the Judge may disallow evidence, especially of the violation is blatant, but you cannot rely upon the Judge protecting you from your opponent introducing improper evidence.

Presenting Your Case.

Properly presenting your case to the Judge requires a considerable time commitment by you and a willingness to learn a great deal of information on several topics, including the Ohio Rules of Evidence. While this Information Sheet presents to you a few highlights, in addition to reading the Ohio Rules of Evidence you should consider obtaining and reading a book titled "*Represent Yourself in Court – How to Prepare and Try a Winning Case – 5th Edition* by Paul Bergman.

[13] Evid.R. 702 (Ohio Rules of Evidence).

[14] See Ohio Rules of Evidence – Article IX "Authentication and Identification" and Article X "Contents of Writings, Recordings and Photographs."

[15] Evid.R. 901(b) (Ohio Rules of Evidence) gives several examples.

Opening Statement. When the Hearing begins, the Judge may ask you if you want to give an opening statement of your case. If he does not, you could ask the Judge to be given an opportunity to give a brief opening statement before you proceed to present your evidence to the Judge. In any event, be prepared to give a brief opening statement. Prepare both an outline and a word-for-word statement of your opening statement before the Hearing. Even if you do not have the opportunity to give it, the opening statement should provide you with a road map for presenting your evidence. You should print out your opening statement outline and word-for-word statement and place them in your trial notebook. If necessary, you can read the word-for-word statement to the Judge, but ideally you would present the opening statement using the outline.

The purpose of the opening statement is to tell the Judge each of the key facts that support your case, which you will prove to the Judge using your witnesses and documents. For example, one key fact that you intend to prove may be that since the Court's last order regarding the Residential Parent, there has been a change of circumstances that justify changing the Residential Parent. You might tell the Judge something like:

> "Your Honor, I will prove that since the Court's last order regarding the Residential Parent, which was issued on April 1, 2016, there has been a change of circumstances that justify you appointing me as the Residential Parent. The change of circumstances includes [describe the specific changes]. I will prove the change of circumstances using my testimony, and the testimony of my neighbor - Mrs. Brown, and the child's doctor – Dr. White." Additionally, I will provide two emails that I received, and one email that Dr. White received."

Essentially, the opening statement gives you the opportunity to:

- State the key facts you intend to prove, which should be set forth in your complaint or motion,
- Introduce the witnesses who will testify, with a brief summary of what each witness will tell the Judge,
- Describe the documents you intend to introduce into evidence, which could include an expert's report.

At the conclusion of the opening statement, you should tell the Judge what exactly you want the Judge to order. Again, that should be set forth at the end of your complaint or motion.

DO's and DON'Ts During Your Opening Statement

- Do speak slowly and clearly
- Do stand when speaking to the Judge
- Don't be argumentative or personally attack your opponent
- Don't attack the opponent's case, stick to what you intend to present to the Judge.
- Don't discuss the credibility of your witnesses or the lack of credibility of your opponent's witnesses.

If during the Hearing you will be presenting your evidence after your opponent presents his or her case, then you have a small advantage. First, you have an opportunity to present your opening statement after your opponent has presented his or her opening statement. You now know what your opponent intends to prove to the Judge and how he or she intends to prove it, and you can contrast your evidence with that of your opponent – in effect, telling the Judge that

there are two sides to the story. Second, you may ask the Judge to allow you to present your opening statement AFTER your opponent presents all his or her evidence and BEFORE you present your evidence. That places you in a better position to contrast your case with that of your opponent, and to some degree explain to the Judge some of the weaknesses in the evidence of your opponent, and the strength of the evidence you will now present to the Judge.

Witness Testimony.

Your Testimony. If you are going to testify in order to prove the key facts of your case – such as "there has been a change in circumstances," or that the court order you are requesting is "in the best interest of the minor children," then you need to think about what you will tell the Judge. Generally speaking, you can only testify to what you know – based upon what you observed or heard – and not what someone told you. It is a bit awkward if you do not have an attorney, because when you take the witness stand, there is no one to ask you questions.

In any event, make an outline of what you want to tell the Judge about what you observed that tends to prove the truth of the key facts that you alleged in your complaint or motion. Place that outline of your testimony in your trial notebook. Begin the outline with a brief introduction of who you are – your full name, your address, the names of your minor children and birth dates, the residence of the minor children and their schools. Review your complaint or motion that you filed with the Court, and as to each statement of fact in your complaint or motion, and determine what you can tell the Judge about what you know, in each case based upon your first-hand knowledge. You may not be permitted to take your outline with you when you testify, but know that if you do, your opponent may be permitted to read your outline. Just before you finish your testimony, consider asking the Judge if you can review your outline so that you can refresh your recollection of what you intend to tell the Judge.

Testimony of Other Witnesses. Preparation is critical. Before calling a witness, you should know exactly what questions you will ask the witness and what answers your witness will give the Judge. As to each witness, make an outline of the questions you will ask, and what the witness will say in response. For example, if the witness observed your opponent acting in a manner that is detrimental to the best interest of the minor children you might ask the witness – "On June 5 of last year, did you observe Mr. X at the park located at 123 Main Street?" Assuming your witness responds "yes" then the next question would be "what did you observe?"

In all events, your witness must be truthful. If your witness makes an untruthful statement and you know it to be untruthful, then you should tell the Judge.

You should practice with the witness before the Hearing. For example, if one key fact is that there has been "a change in circumstances", then you need to understand what the witness will tell the Court, based upon the witness' first-hand knowledge, which tends to prove that there has been a change in circumstances.

When you ask the witness to testify, after the witness has been duly sworn, you should begin by having the witness identify himself or herself – stating the full name, address, and relationship, if any, to you, the minor children, or your opponent. Perhaps have the witness explain any employment or business that the witness is engaged in.

Avoid asking your witness a "Leading Question." The Judge may not allow the witness to answer the question. A leading question is a question that suggests the answer. For example, suppose a neighbor of your opponent observed the opponent strike the child on the head several times with his or her fist. You could ask the witness – "On June 5th, in the afternoon, did you observe Mr. X in his backyard with the child?" "What did you observe?" What you cannot ask is "On June 5 did you observe Mr. X, in his backyard, strike the child on the head several times with his fist?" That is an example of a leading question.

Testimony of Expert Witness. Typically, an expert witness will testify giving an "expert" opinion. Generally, the Judge will not permit a witness to give an opinion. Using the example above, where Mr. X hit the child several times on the head, while the witness can testify to what he or she observed, what the witness will not be allowed to do is give an opinion. For example, the Judge would probably not permit you to ask that witness - "In your opinion, do you think striking the child on the head several times is not in the best interest of the child or is harmful to the child?"

However, a properly qualified expert witness may be permitted to render an expert opinion either as a witness or in a written report that could be introduced into evidence. You must convince the Judge that the witness is in fact an expert and the opinion is within his expertise.

As with any witness, be sure to spend time with the expert witness before the Hearing so that you clearly understand the opinion that the expert is willing to render. Outline the questions you need to ask the expert in order to (1) qualify the witness – that is demonstrate to the Judge the expertise of the expert, and (2) render the expert opinion.

Documents. You can introduce as evidence certain documents such as a letter, an email, a photograph or video, a diary, a hotel receipt, or a text message. Before doing so, you need to label the documents if you have not already done so before the Hearing. You must first give a copy to the Judge and to each other party at the Hearing. You must "authenticate" the document (see the discussion above regarding authentication). In addition to authentication, you may need to "lay a foundation" for the document, which differs depending upon the nature of the document. "Laying a foundation" for a business receipt could be different than "laying a foundation" for a hospital record." For example, if the document is a photograph, then "laying the foundation" may be having the witness state that the photograph fairly represents what the witness observed. When you offer the document as evidence, your opponent will have an opportunity to object, typically based upon relevancy or that it is not properly authenticated, or that there has not been a proper foundation. The Judge will then decide whether to accept the document as evidence.

Cross-Examination. When your opponent is presenting his or her case, including the direct examination of his or her witnesses, after your opponent concludes his or her examination – typically saying to the Judge – "No further questions Your Honor," the Judge will turn to you and say "Would you like to cross-examine the witness?" This is your chance to ask questions of your opponent's witness. You can decline. Sometimes even the most experienced trial lawyer will decline to cross-examine. If you decide to cross-examine, always be courteous toward the witness, no matter what the witness may have said and DO NOT argue with the witness. Typically, it is a good idea to ask a few carefully prepared questions. You may not want to ask a question if you do not have a pretty good idea what will be the answer. You do not want to give the witness the

opportunity to restate and reinforce testimony that is harmful to your case. The cross-examination of an expert witness can be quite difficult unless you have the assistance of another expert.

Generally, there are two purposes or goals to cross-examination. First, sometimes your opponent's witness may state something that is helpful to your case. With careful cross-examination, you may be able to get that witness to state even more information that could be helpful to your case, especially if you know that the witness has additional and helpful information that was not stated during his or her direct examination. Unlike the direct examination of your witnesses, during cross-examination, you are permitted to ask "leading" questions. For example, you could ask "Isn't it true that you saw Mr. X slap Johnny in the face in the grocery store?" – forcing the witness to answer with a Yes or No. The second goal is to "impeach" the witness. Impeachment means trying to show the Judge that your opponent's witness is not truthful or rather not credible.[16] If you can show that the witness is untruthful in one respect, then perhaps the Judge will conclude that the witness is also untruthful in other statements made by the witness. Credibility may be challenged by establishing that the witness has a certain relationship with your opponent, or would have a reason or incentive to be untruthful, or perhaps has a bad reputation, such as the conviction of certain crimes.[17] However, once again, it is important that at all times, as you cross-examine your opponent's witness that: (1) you ask your questions in a calm and purposeful manner, without showing anger or other such emotions toward the witness, and (2) you do not argue with the witness.

Seldom does cross-examination work out as you might see in a movie or TV show. At the end of the day, usually you will make your case, and convince the Judge, based upon your testimony and the testimony of your witnesses, and not upon the cross-examination of your opponent's witnesses.

Closing Argument. After all parties have indicated to the Judge that they are finished presenting their evidence, the Judge may allow each party to make a closing argument. Notice the difference between opening "statement" and closing "argument." The purpose of the opening statement is to state to the Judge the evidence that you intend to introduce during the Hearing. The Judge will not permit you to make an argument that the evidence you intend to introduce does, in fact, prove the truthfulness of the key allegations that you stated in your complaint of motion. By contrast, the closing argument does permit you to make an argument that your evidence does indeed prove the truthfulness of your key allegations. Note, however, that argument does not mean that you can yell, pound the table, or be rude to your opponent. Argument means telling the Judge, in a calm but forceful manner, that there is a logical connection between your evidence and the facts you are required to prove.

Be aware that the Judge has observed your evidence and is aware of the applicable law. Your closing argument can and should be brief and to the point as opposed to making a closing argument to a jury. Here are a few key points to consider:

- Prepare and rehearse your closing argument before the Hearing. You know what evidence you intend to introduce at the Hearing. You should prepare an outline of your closing argument, which will review the evidence that you have presented to the Judge and explain how that evidence proves the key allegations in your complaint or motion.

[16] Evid.R. 607, 608, 609, 613, and 616 (Ohio Rules of Evidence).
[17] Evid.R. 609 (Ohio Rules of Evidence).

- Be sure that you can connect the evidence that you have introduced during the Hearing to each fact that you have alleged in your complaint or motion. For example, if you are asking the Judge to change the current court order regarding the Residential Parent and to appoint you as the Residential Parent you need to prove the truthfulness of at least two allegations. First, you need to convince the Judge that since the last order there has been a "change of circumstances," which will justify you being appointed as the Residential Parent. In your closing argument, you should point out to the Judge what evidence you presented to the Judge that will justify a finding of a "change in circumstances." Second, you need to convince the Judge that appointing you the Residential Parent is in the "best interest of the minor children." Likewise, in your closing argument, you should point out to the Judge what evidence you presented will justify a finding of a "best interest of the minor children." Be sure to review the Information Sheet – "Parental Rights and Responsibilities" regarding the facts that you must prove to the Judge to obtain a change of the Residential Parent. The phrase "change in circumstances" has a particular meaning. Generally, a "change in circumstances" must be that of the child or the Residential Parent, but not merely a change of circumstances for the noncustodial parent.

- When appropriate, you should discuss the credibility of witnesses. If evidence was presented that either supports the credibility of your witnesses or challenges the credibility of your opponent's witnesses, then explain that evidence to the Judge. In other words, tell the Judge why it is that your evidence is more reliable.

- At the conclusion of your closing argument, tell the Judge exactly what you want the Judge to order. That should be set forth at the end of your complaint or motion. Be direct and clear.

- Do not state your opinion. Stick to the evidence that was presented and explain how that evidence supports your allegations. For example, explain to the Judge how the evidence supports or proves your allegation that there has been a change of circumstances and that the Judge's order, which you are requesting, is in the best interest of the minor children.

- Do not discuss evidence that was not presented to the Judge or that the Judge ruled was not admissible – for example Hearsay evidence.

- If you are permitted to present your closing argument first, then you should consider asking the Judge whether you can have some time after your opponent has given his or her closing argument to rebut or challenge certain statements or arguments made by your opponent during his or her closing argument. This gives you the last word before the Hearing is concluded.

<u>What if You Like the Prior Dispositional Order</u>?

It may be that your opponent seeks to change a prior dispositional order by filing a motion. An example may be that the Court had previously appointed you as the Residential Parent, and now your opponent has filed a motion seeking to be appointed the Residential Parent. The burden rests upon your opponent to present evidence at the Hearing to convince the Judge that there has been a "change of circumstances" since the last court order and that it is in the best interest of the minor children to change the appointment of the Residential Parent. It may be possible for you to sit in the courtroom and do

nothing. It may be that you do not need to present any witnesses or any documents. Rather, you can simply challenge the evidence introduced by your opponent and cross-examine your opponent's witnesses. Before the Hearing, you really need to think about how you will act while in the courtroom as your opponent presents his or her evidence. You too will have the opportunity to present evidence that, in effect, negates the allegations made by your opponent in his or her motion. You may introduce evidence to show that there has not been a change of circumstances and it is not in the best interest of the minor children to change the Residential Parent. Like your opponent, before the hearing, you must decide whether you will testify, whether you will call other witnesses, and whether you will present documents to the Judge. Likewise, you will want to prepare outlines and other notes regarding the evidence that you will introduce and prepare a trial notebook. You should prepare questions that you will use when you cross-examine your opponent's witnesses, including your opponent if he or she testifies. You too should prepare an opening statement and a closing argument before the Hearing.

The Juvenile Court Process.[18]

1. Filing Complaint (or Motion). If no case regarding the child(ren) has ever been opened in the Court, then the process begins by filing a Complaint.[19] If a case regarding the child(ren) has been opened in the Court, or opened and later "closed," then the case and the process is reopened by filing a Motion.

2. "Review Hearing" or "Shelter Hearing."[20] If the complaint or motion requests an emergency custody order, and the Court grants the order on an "ex parte" basis (all other interested parties are not present when granted), then typically the Court will set a hearing the next day, allowing all interested parties to be present to raise their objections to a temporary custody order.[21] In a temporary custody matter, the Court may request that Geauga County Job & Family Services be present.

3. Preliminary Conferences.[22] Before the Adjudicatory Hearing, the Court may hold one or more Preliminary Conferences. The purpose is to consider such matters that promotes a fair and expeditious proceeding. The Court may do so on its own, or you may request a Preliminary Conference. A Preliminary Conference may be helpful to exchange a witness or exhibit list, review discovery requests, and perhaps facilitate a settlement.

   > **Note**: If you wish to request a Preliminary Conference, then consider preparing and filing the form titled "Motion for Preliminary Conference" (GC Juv 012).

4. Adjudicatory Hearing.[23] Typically, the Court will set the date of the Adjudicatory Hearing when the complaint or motion is filed. The Adjudicatory Hearing is the hearing where the parties present their evidence, make opening statements and closing arguments. Except in rare cases (typically a serious juvenile criminal matter) there is no jury. The Court will record the proceeding by video tape.[24] At the end of the Adjudicatory Hearing the Court will enter an order that determines all issues, whether they involve custody, paternity, child support, parenting time, etc.

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[18] See generally the Ohio Rules of Juvenile Procedure http://www.supremecourt.ohio.gov/LegalResources/Rules/juvenile/JuvenileProcedure.pdf

[19] See Juv.R. 10.

[20] See Juv.R. 13(D).

[21] The Court must set a "review hearing" 72 hours after it is issued or before the end of the next court day after the day on which it is issued, whichever occurs first. See Juv.R. 13(B)(3).

[22] See Juv.R. 21

[23] See Juv.R. 29.

[24] See Juv.R. 37.

In all cases, except for an abuse, neglect, or dependency action brought by the Geauga County Job & Family Services (and sometimes by a nonparent), the Court will order a final disposition of the case.

5. Dispositional Hearing. In cases of abuse, neglect, or dependency brought by the Geauga County Job & Family Services (and sometimes brought by a nonparent) under R.C. 2151.23(A)(1), if the Court determines a child to be abused, neglected, or dependent, then the Court must hold a Dispositional Hearing following the Adjudicatory Hearing to decide the disposition. The Court may hold the Dispositional Hearing the next day, but must set the Dispositional Hearing no later than 30 days after the Adjudicatory Hearing. The Court may decide to hold the Dispositional Hearing no later than 90 days following the Adjudicatory Hearing in certain circumstances.

What if You Do Not Like the Dispositional Order?

- Magistrate. If your hearing was held before a magistrate rather than the Judge, then the magistrate, during the course of the proceedings, may issue orders [such as an order for a drug test, a discovery ruling, or a temporary order of custody or parenting time (visitation)], and at the end of the proceedings, will issue a final decision. The primary rules governing a magistrate are set forth in Civ.R. 53.[25]

    - Objecting to Magistrate's Interim Orders. If during the proceedings before a magistrate you disagree with a magistrate's interim order, then Civ.R. 53(D)(2)(a) allows you to prepare and file a Motion to Set Aside Magistrate's Order. That motion must state your reasons with particularity and must be filed no later than 10 days after the magistrate's order is filed. The pendency of that motion to set aside or does not stop the effectiveness of the magistrate's order, though the magistrate or the court may terminate or pause the effectiveness of a magistrate's order.

        Note: If you want to object to an interim order by a magistrate, then consider using form GC Juv 046 (Motion to Set Aside Magistrate's Order). You must deliver a copy to all parties by certified mail, return receipt requested.

    - Objecting to Magistrate's Final Decision. If you disagree with the magistrate's final decision (i.e., dispositional order), there are two steps to consider:

        - Request for Findings of Fact and Conclusions of Law. If the magistrate's dispositional order is general in nature, without setting forth specific findings of fact, based upon the evidence presented, and conclusions of law, then Civ.R. 52, Juv.R. 29(F)(3), and Juv.R. 40(D)(3)(a)(ii) allows you to file a Request for Separate Findings of Fact and Conclusions of Law, which will require the magistrate to more carefully explain the basis for the magistrate's dispositional order. You must file that request no later than seven days after the magistrate's final decision is filed.[26] Be aware that the Magistrate may require that you prepare and submit proposed findings of fact and conclusions of law.

            Note: If you want to request specific findings of fact and conclusions of law, then consider using form GC Juv 031 (Request for Separate Findings

[25] See Ohio Rules of Civil Procedure at:
<https://www.supremecourt.ohio.gov/LegalResources/Rules/civil/CivilProcedure.pdf>
[26] See Ohio Civ.R. 53(D)(3)(ii); and Ohio Juv.R. 40(D)(3)(a)(ii).

of Fact and Conclusions of Law). You must deliver a copy to all parties by certified mail, return receipt requested.

- Objection to Final Decision. Civ.R. 53(D)(3)(b) and Juv.R. 40(D) describe the process for objecting to the magistrate's dispositional order. You must prepare and file written objections within 14 days after the magistrate's dispositional order is filed. If you filed a Request for Separate Findings of Fact and Conclusions of Law, then the 14-day period starts on the date that the magistrate files a decision that includes findings of fact and conclusions of law.

  If your objection is to a finding of fact, then no later than 30 days following the filing of your objections, you must cause to be prepared and filed a transcript of proceedings that relates to the finding of fact that you object to.[27] The transcript must be prepared by a court-approved court reporter. The failure to timely cause the preparation of the transcript of proceedings will limit the ability to appeal the magistrate's decision.[28] If a transcript is not available because there is no video/audio recording of the Hearing, then you should supply an affidavit that sets forth the evidence presented at the Hearing to the extent possible. If you need more time, then you can request, in writing, an extension of time. Objections to a magistrate's dispositional order must be specific.[29]

  If you meet the qualifications of indigency, then you may be able to obtain financial assistance to pay the cost of the transcript of proceedings – see the Information Sheet titled "Rights of Indigent Litigant."

  WAIVER OF RIGHT TO APPEAL. A key point is that if you fail to timely and correctly object to a magistrate's final decision, then you will be prohibited from appealing any error committed by the magistrate other than a "plain error."[30]

  A magistrate's dispositional order is not effective until that order is adopted by the Judge.[31] If one or more objections to a magistrate's decision are timely filed, then the Judge shall rule on those objections. In ruling on objections, the Judge will undertake an independent review as to the objected matters to ascertain whether the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the Judge may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.[32]

  Note: If you want to object to a magistrate's dispositional order, then consider using form GC Juv 047 (Objections to Magistrate's Decision). You must deliver a copy to all parties by certified mail, return receipt requested.

- Findings of Fact and Conclusions of Law. If your hearing is before the Judge rather than the magistrate and if the Judge's dispositional order is general in nature, you should consider filing a

[27] Ohio Juv.R. 40(D)(3)(b)(iii).
[28] *In re. B.J.,* 2019-Ohio-1059 [5th App. Dist.]
[29] *In re M.H.,* 2017-Ohio-1110 [5th App. Dist.]
[30] Ohio Civ.R. 53(D)(3)(b)(iv)
[31] Ohio Civ.R. 53(D)(4)(a)
[32] Ohio Civ.R. 53(D)(4)(d)

request for findings of fact and conclusions of law, which is permitted under Civ.R. 52 and Juv.R. 29(F)(3) and requires the Judge to more carefully explain the basis for the dispositional order. You must file that request no later than seven days after the Judge's dispositional order is announced. Be aware that the Judge may require that you prepare and submit proposed findings of fact and conclusions of law. Requesting the findings of fact and conclusions of law is likely to be helpful if you decide to file an appeal.

Note: If you want to request specific findings of fact and conclusion of law, then consider using form GC Juv 031 (Request for Separate Findings of Fact and Conclusions of Law). You must deliver a copy to all parties by certified mail, return receipt requested.

- Filing an Appeal. If you desire to appeal a final court order, then you should promptly review the Help Center information sheet titled "The Appellate Process." Be aware that if you fail to comply with all the appellate requirements in a timely manner, you may forfeit your right of appeal. We highly recommend that you obtain the assistance and legal advice of an attorney. Being successful in a Court of Appeals without an attorney may be more difficult than proceeding in a trial court without an attorney. Again, if you qualify as indigent, you may have the right to appointed counsel for appellate purposes – see the Information Sheet titled "Appellate Process."

LEGAL PRACTICE IN THE JUVENILE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY JUVENILE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

APPENDIX A

Rule 7 Conduct in Court. All Persons present in the Court's facility shall conduct themselves in a respectful, dignified manner at all times. Any conduct that interferes or tends to interfere with the proper administration of the Court's business is prohibited.

A. Dress Code. All persons having business with the Court (including witnesses) shall dress appropriately for the importance of the occasion. Attorneys shall dress professionally. The Court may order those not appropriately dressed to leave the Court's facility until they are appropriately dressed.

B. Treatment of Others. Before, during, and after any formal or informal proceeding, all persons shall communicate with each other in the Court's facility, in a respectful and dignified manner. At all times, Attorneys shall abide by Rules 3.1 through 3.6 of the Ohio Rules of Professional Conduct.

C. Proper Decorum. No person may engage in any conduct that is distracting or disruptive to the Court's business. Spectators and non-participants in court proceedings shall sit in the designated area in the rear of the courtroom and conduct themselves in a manner that is not disruptive to the proceedings. Except as otherwise permitted by the Court, only Parties and Attorneys are permitted in the seating in front of the Judge or magistrate. All mobile phones, pagers, tablets, computers, and other electronic devices shall be turned off, and cellphones shall be placed in the designated holders in the rear of the courtroom, while in the courtroom, except as the Judge, magistrate, or staff member otherwise permits. No person may bring any weapons (except for Law Enforcement Officers or authorized court staff), alcoholic beverages, or illegal substances into the Court's facility, and no person may smoke, vape, use electronic cigarettes, drink alcoholic beverages, or partake in the use of illegal substances while in the Court's facility. In a courtroom, no person may (a) phone, text, email, or otherwise engage in activities not directly related to the purpose at hand during any formal or informal proceedings or conference, (b) chew gum, or (c) bring any food or drink into a courtroom, except as the Judge or magistrate otherwise permits. The Court may ask or order any Person who violates this GJL Rule 7(C) to leave the courtroom or the Court's facility.

D. No Recording Devices. No person may record any proceeding, formal or informal, in the Court's facility, including a courtroom, using a mobile phone, pager, tablet, voice recorder, video camera, or other recording device, except as the Judge or magistrate otherwise permits via prior written consent or court order.