

Chapter 5 - Case Management / Scheduling

Rule 5.01 - Case Generating Orders

- (A) **Mutual Restraining Order.** Upon the filing of a Complaint, the Court will issue a mutual restraining order that shall be served by the Clerk.
- (B) **Mandatory Disclosures.** In every new action for divorce or legal separation, the Clerk will issue a Mandatory Disclosure Order at the time the action is filed. Plaintiff shall be deemed served with the Mandatory Disclosure Order upon the initial filing. The Mandatory Disclosure Order shall be served on the defendant with the summons.
1. Within 30 days of the filing of an Answer, each party shall disclose to the other all of the items as ordered. The disclosure required shall be made by electronic mail, facsimile, regular mail, or hand delivery to the other party's attorney, or party if unrepresented. Documents disclosed are not filed with the Court.
 2. Failure to comply with the Mandatory Disclosure Order may result in sanctions, including, but not limited to the following: a finding of contempt, award of attorney fees, dismissal of claims; and restrictions upon the submission of evidence.
- (C) **Parent Education Program**
1. The parties to an initial filing of a divorce, legal separation, annulment, or dissolution in which there are minor children, shall attend a Court approved parent education program.
 2. Upon initial filing of a divorce, legal separation, annulment, or dissolution, an order shall issue requiring the parties to attend the Court approved parent education program.
 3. No final hearing shall be held on a petition for dissolution in which there are minor children until both parties attend the education program.
 4. No final decree of divorce, legal separation or annulment in which there are children shall be issued until both parties attend the Court approved parent education program unless leave of court is obtained.

Rule 5.02 - Magistrate Order of Reference

- (A) All magistrates are referred all domestic relations matters, including but not limited to divorces, parentage proceedings, actions for legal separation, dissolutions, annulments, pre-decree and post-decree motions, domestic violence petitions, anti-stalking petitions, actions for establishment of support in Title IV-D cases, actions to enforce prior child and spousal support orders, actions to enforce support orders of this Court in Title IV-D cases, actions filed pursuant to foreign decrees and support orders and motions relating to the issuance, modification and termination of child support enforcement orders.
- (B) Magistrates shall have the power to hear any pretrial or post-judgment motion in any case, and any trial of any case, as directed by the Administrative Judge. In addition, Magistrates shall have the power to hear Petitions for Domestic Violence Civil Protection Orders, both ex parte and full hearings, and related motions, as authorized by the Standing Order of Reference signed by the Administrative Judge and shall issue a Magistrate's Order in compliance with R.C. 3113.31, Civ.R. 53(D)(2)(a) and Civ.R. 65.1, and Sup.R. Form 10.01-H.

Rule 5.03 - Case Management Plan [Reserved]

Rule 5.04 - Scheduling of Hearings [Reserved]

Rule 5.05 - Continuance of Hearing

- (A) **General.** The granting or denying of any continuance of any hearing shall be at the sole discretion of the Court. Hearings scheduled with counsel will not be continued absent extraordinary circumstances.
- (B) **Definite Date Required.** No event will be continued without contemporaneously reassigning a definite date for the event being continued.
- (C) **Motion.** Motions to continue a hearing not made at a hearing must be in writing and state the following:
1. The reason for the request.
 2. The number of previous continuances requested, at whose request, and whether granted.
 3. Whether opposing counsel/litigant was contacted and whether he/she objects or consents to the continuance.
 4. Whether the client is aware of the request (when motion is made by an attorney) and whether the client consents, or if this cannot be obtained, an explanation of why consent cannot be obtained.
- (D) **Conflicting Hearing.** If the reason for continuance is a conflict of hearing assignment date, a copy of the time-stamped order/notice for the conflicting assignment shall be attached and the attorney shall affirmatively state that the conflicting assignment will be proceeding to the best of the attorney's knowledge.
- (E) **Time.**
1. Conflicting assignment: motion must be filed no later than (7) seven days after the filing of the Notice of Hearing.
 2. For all other reasons, the motion shall be filed within (7) seven days of the identification of the circumstances.
 3. Absent extraordinary circumstances, the motion shall be filed no less than (7) seven days prior to the scheduled hearing date.
- (F) **Proposed Order.** The motion must be accompanied by a proposed order containing a notice of the new hearing date and signature line entering of the new date. If the motion is granted, the Court will serve the entry on the moving party and all other parties listed in the certificate of service.
- (G) **Persistent Continuance or Extensions.** Attorneys who persistently request continuances and extensions may be ordered to submit detailed calendar information for the purpose of scheduling or may be limited in the number of matters for which the attorney may enter appearance or may be required to provide substitute counsel.
- (H) **Notification.** If the motion is granted, it is the obligation of the moving party to notify all case connected individuals including the opposing counsel/self-represented litigant,

Guardian ad litem, CSEA, and any witnesses of the moving party. The non-moving party shall be responsible for notifying his/her witnesses.

Rule 5.06 - Pretrial Hearings Procedure and Expectations [Reserved]

Rule 5.07 - Discovery & Experts [Reserved]

Rule 5.08 - Trial /Evidentiary Hearings [Reserved]

Rule 5.09 - Involuntary Dismissal and Other

- (A) **Nonappearance of a Party.** If a party seeking relief fails to appear on a scheduled hearing date, either in person or by counsel, the Court may enter an order dismissing the action for want of prosecution. If the other party fails to appear, either in person or by counsel, and the party seeking relief does appear, the Court may allow the case to proceed and hear and determine all matters.
- (B) **Unprepared for Trial or Hearing.** If a party and/or counsel thereof appears on the scheduled hearing date and shows good cause why he/she is not prepared to proceed, the Court shall make such orders as are proper. If a party and/or counsel thereof appears but is not prepared and fails to show good cause for not being prepared, the Court may enter an order dismissing the action for want of prosecution, if the unprepared party is seeking relief, or proceed with the case and determine all matters, if the unprepared party is not seeking the relief.
- (C) **Motion to Dismiss.** A motion seeking to dismiss the action of an adverse party shall state specifically which claims are sought to be dismissed, identifying the document caption and date of filing of that/those claim(s). When made in writing, the motion shall be captioned Motion to Dismiss and explicitly state whether seeking to dismiss “all claims” or “partial”.

Rule 5.10 - Voluntary Dismissal of Own Claim(s)

- (A) **General.** Voluntary dismissal of a claim shall comport with Civ.R. 41(A).
- (B) **Caption.** The caption shall explicitly state whether the dismissal is “all claims” or “partial”.
- (C) **No Counterclaim or Counter/Competing Motion Pending.** Request for dismissal shall be by Notice of Dismissal and shall state whether the party seeks to dismiss all claims of that party or, if partial, which claims are sought to be dismissed, identifying the document caption and date of filing of that/those claim(s). Unless all claims are voluntarily dismissed under this rule, the case shall remain pending.
- (D) **Counterclaim or Counter/Competing Motion Pending.** If a counterclaim or counter/competing motion is pending, regardless of whether served, request for dismissal shall be made by motion. The motion shall state whether the party seeks to dismiss all claims of that party or, if partial, which claims are sought to be dismissed by identifying the document caption and date of filing of that/those claim(s). A prepared entry shall be submitted to the Court.

The case remains pending until ordered otherwise by the Court.

(E) Domestic/Dating Violence Actions.

1. Once a Petition for Domestic/Dating Violence Order is set for full hearing pursuant to Civ.R. 65.1 and R.C. 3113.31, a notice of dismissal or request to dismiss the petition will be considered not sooner than the date of the full hearing.
2. If upon petition a request for *ex parte* relief was requested and granted by the court, a subsequent notice of dismissal of the petition does not dismiss the action and does not vacate the *ex parte* order.
3. If dismissal is granted, the Court shall issue an order vacating the *ex parte* order and submit an amended form to the National Crime Information Center (“NCIC”).