

## DIVISION 6 COURT RULES

### A. EX PARTE ORDERS

1. *Ex parte* Orders are an extraordinary form of relief. This Judicial District has adopted Local Rules relating to *ex parte* Orders which have been approved by the Supreme Court of the State of Kansas. *Ex parte* relief is also allowed in various statutes throughout the Family Law Code Revised. Accordingly, *ex parte* Orders may be obtained in Division 6 under the applicable laws and rules. If a party is requesting *ex parte* relief of any kind, a motion is required which sets forth, in detail, the factual and legal basis for the relief, whether the relief requested is a parenting plan, child support, maintenance, exclusive possession of the residence, or any other request. For example, all requests for exclusive possession of a residence must establish, through a verified petition or motion, how the request is compliant with Local Rule 25. A request for a parenting plan must establish why the proposed parenting plan is in the best interests of the minor child(ren) pursuant to K.S.A. 23-3203 and discuss what the parenting time has been up to the time of filing. Although not required, counsel could also indicate whether or not the proposed plan is agreed to by the parties. A request for maintenance must include an explanation of need and ability to pay as required by the laws of the State of Kansas. Simply filing a Domestic Relations Affidavit is not a sufficient request for maintenance. Any proposed Order without a motion sufficiently explaining the factual support for the request will be subject to revision or rejection and counsel can set a review hearing regarding their request for a temporary order and the rejections or changes to the proposed order.
2. Counsel are reminded of Rule 3.3(b)(d) of the Kansas Rules of Professional Conduct which require all counsel in an *ex parte* proceeding to inform the court of all material facts known to the lawyer which will enable the court to make an informed decision, whether or not the facts are adverse. Any attorney failing to comply with this rule is subject to sanctions and a disciplinary complaint.

### B. MOTIONS

1. No motion regarding child support will be heard unless a child support worksheet and Domestic Relations Affidavit have been filed pursuant to K.S.A. 23-3002(b) and Rule 139 at least 14 days prior to the hearing, pursuant to Local Rule 8. By exception to this rule, the motion may be heard if the non-moving party waives the objection to the 14 day requirement. The 14 day requirement is not applicable in an *ex parte* request, but the worksheet and affidavit requirements still apply.
2. No motion, including an *ex parte* request, regarding a parenting plan will be heard unless a proposed parenting plan has been filed pursuant to K.S.A. 23-3212. The proposed parenting plan must be separate from the motion and be in the form of a

proposed Order. If the non-moving party disputes the proposed parenting plan, a responsive parenting plan must be filed and served before the hearing.

3. Absent leave of court, a motion will not be scheduled on the docket until it has been filed with the clerk.
4. Counsel are advised that if there is an expectation of review by the Judge prior to a hearing date (such as a motion to continue), a chambers copy must be provided. Electronic delivery is preferred.
5. After a Motion to Compel has been filed, counsel must schedule a conference call with the court to discuss the motion being placed on a motion hearing docket. Any party to such a motion is reminded that K.S.A. 60-237 will be strictly applied.
6. If a motion regarding any form of temporary order has been properly before the court in excess of 14 days, the court may rule on the motion at a hearing or via written decision, even if the motion was not specifically noticed for hearing on the date and time in question.

#### C. JUDGE'S E-QUEUE

1. Any Order (including Orders to Withdraw) submitted in the electronic queue more than 3 days prior to the non-appearance hearing will be rejected and will need to be refiled.
2. Every Order submitted must be in Word format. If .pdf exhibits are necessary, such as a signature page, they may be submitted separately.

#### D. PRETRIAL CONFERENCES

1. Parties must participate with counsel for a mandatory settlement conference at least 14 days prior to a scheduled Pretrial Conference. This conference must be scheduled to receive a Pretrial Conference setting, unless leave of court is granted.
2. Parties are to submit a Pretrial Order in the electronic queue at least two days prior to any Pretrial Conference. Petitioner's counsel is to prepare a proposed joint Order and forward it to Respondent's counsel at least 7 days prior to the hearing. If this procedure is not followed and the proposed Order not timely submitted, the court may consider sanctions, waiver of positions or rescheduling of the Pretrial Conference.
3. Party attendance is mandatory at all Pretrial Conferences unless a party is granted leave of court to appear only by counsel.

#### E. EMERGENCY HEARINGS

1. No emergency hearings under K.S.A. 23-3219 will be conducted via telephone as sworn testimony is required.

#### F. PARTY ATTENDANCE

1. Absent leave of court, parties are required to appear in person at all motion hearings and trials.

#### G. MINOR CHILD TESTIMONY

1. Any party who desires to call a minor child to testify, or desires to admit child testimony in some other form, in any proceeding, must file a Notice of Intent to Call Minor Child as a Witness, pursuant to Local Rule 19. The notice must be filed at least 14 days prior to the hearing date and a conference call must be scheduled for the court to make the proper considerations as required by Local Rule 19. Failure to adhere to Local Rule 19 may result in sanctions for any attorney or party who brings a minor child into the courtroom with the intent to testify without prior approval from the court.

#### H. NUNC PRO TUNC ORDERS

1. All motions requesting a Nunc Pro Tunc Order must have a proposed Nunc Pro Tunc Order placed in the Judge's electronic queue at the time of filing. "Nunc Pro Tunc" means "now for then". Therefore, the entire new Order, labeled Nunc Pro Tunc Order, with the proposed changes, must be filed as the proposed new Order if the motion is granted. A proposed Order that simply has the corrections and refers back to the original Order for the remaining provisions will be rejected.

#### I. SECOND-UP TRIAL SETTINGS

1. In an attempt to reduce the time parties have to wait for final trials, the following second-up procedure will be used whenever a trial is set:
  - A. The court will assign a first-up trial date.
  - B. The court will then assign an earlier, second-up trial date.
  - C. 21 days prior to trial, the court will contact the first up attorneys and/or parties to confirm that the first-up trial is still proceeding.
  - D. If counsel for the second-up trial is notified that the date has become available at least 14 days prior to the second-up setting, the second-up trial date will be the date of the trial and the first-up trial date will be released.

E. If counsel for the second-up trial is notified that the date has become available less than 14 days prior to the trial date, the trial will occur if both sides agree.

J. TRIAL CONTINUANCES

1. If counsel and/or parties jointly request a continuance of a final trial setting based on a belief that the matter is settled, the parties must either upload the final documents to the judge's e-queue or appear at the regularly scheduled trial time to present the agreement on the record. If the agreement is uploaded, the trial remains in place and scheduled to go until the documents are approved. Once approved, the trial setting is then cancelled.