

## **RULE NO. 11 DOMESTIC CASES**

### A. Newly filed divorce and paternity actions.

1. *Filing of Petition.* At the time a party files a divorce or paternity action, the clerk will give the petitioner a date and time to appear for a status docket.

#### 2. *Status Docket.*

a. At the status docket, the court will hear any divorce cases in which the parties have entered into an agreement concerning child support, parenting time, and division of property and debts and any cases in which the respondent is in default, so long as the documents served with the divorce petition include a document that contains the following language:

Please take notice that a divorce hearing is scheduled be held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 9:00 a.m. or as soon thereafter as is convenient to the Court, before the Honorable \_\_\_\_\_, District Judge, Division \_\_\_\_\_ in the Judicial and Law Enforcement Center, 111 East 11<sup>th</sup> Street, Lawrence, Kansas 66044.

If you do not file an answer within the time period specified in the summons or appear in court on the above date, a default judgment may be entered against you as to all matters over which the court has jurisdiction.

b. If the respondent has filed an answer or appears at the status docket and the parties state that the parties have not reached agreement on all issues, the court will set a status conference or pretrial hearing at a future date. The court will determine the appropriate nature of the future hearing on a case by case basis.

#### 3. *Status Conferences.*

a. The judge of Division 2 will hold status conferences on Tuesdays between 11:00 a.m. and noon.

b. The judge of Division 3 will hold status conferences on Thursdays between 3:00 p.m. and 5:00 p.m.

4. *Motions.* Parties wishing to set motions for hearing should contact the administrative assistant for the division to which the case has been assigned. Routine motions will be set for a proffer hearing on a date established by that division for proffer hearings. Motions requiring more

than thirty minutes or requiring testimony of witnesses will receive a special setting

a. The judge in Division 2 will hear motions by proffer on Tuesdays between 11:00 a.m. and noon.

b. The judge of Division 3 will hear motions by proffer on Mondays at 4:00 p.m.

5. *Pretrial Conferences.* The parties to a divorce case which has been set for a contested hearing must set the case for a pretrial conference prior to the contested hearing. The parties shall exchange pretrial questionnaires five days before the date of the pretrial conference. At the pretrial conference the court will direct the parties to prepare a pretrial order that will govern the conduct of the trial. The parties should exchange proposed parenting plans and lists of witnesses and exhibits prior to the pretrial conference and should determine which exhibits can be admitted by stipulation at the pretrial conference. The pretrial order will replace the suggested findings of fact previously required by the court.

6. *Certificates of Divorce or Annulment.* Prior to presenting evidence at a final divorce or annulment hearing the petitioner, or the respondent if the respondent is the only party that is going to present evidence, shall submit to the court a completed, typed certificate of divorce or annulment form. The clerk will not furnish certified or conformed copies of Journal Entries until the typed certificate of divorce or annulment form has been received by the court.

7. *Paternity Cases.* Attorneys have an obligation to evaluate the facts in all paternity cases and determine whether the facts require a *Ross* hearing. If the attorney determines that such a hearing is necessary the attorney should prepare an order appointing a guardian-ad-litem for the child and set the matter for hearing.

8. *Mandatory Divorce Education Classes and Child Custody Mediation*

a. All parents in divorce, annulment, separate maintenance, protection from abuse and post paternity actions involving issues regarding minor children of the relationship shall attend a divorce education class approved by the Douglas County District Court.

b. Each parent shall be responsible for prepayment of the fee for the class. At its discretion the court may assess this expense to one or both parties as costs in the action.

c. Parties to a contested case involving issues of child custody, parenting schedules and/or parenting rights must attempt to settle the issues through mediation prior to setting the case for final hearing.

d. The court will not set a divorce, annulment, separate maintenance action or post paternity proceeding involving minor children of the relationship for final hearing until the parents have complied with this rule. The court may waive this requirement for good cause.

e. The court may require the parties to attend a Divorce Education Class or a similar program prior to hearing a motion for change of custody.

## B. Ex Parte Orders

1. Ex parte orders containing provisions that restrain the disposition of property or contact between the parties shall restrain both parties equally.

2. A party filing an ex parte request for a restraining order that requires either party to leave the home should file a domestic relations affidavit and should include in the affidavit supporting the request the following information in addition to all other matters required by law:

- a. a paragraph stating whether either party has left the home;
- b. a paragraph stating whether either party has alternative housing available (e.g. relative and friends), and the parties' financial ability to obtain alternative housing; and
- c. a paragraph stating the health conditions of both parties.

3. A party filing an ex parte request for temporary custody of a minor child should include in the affidavit supporting the request, in addition to all matters required by law, the following:

- a. a paragraph describing with specificity any special circumstances that would make temporary sole custody rather than temporary joint custody appropriate;
- b. a statement as to which parent presently has custody of the child;
- c. a paragraph stating whether either party has left the home, and if so, whether the child or children accompanied the party;
- d. a paragraph stating which parent has furnished the majority of the personal care for the child(ren); and
- e. a paragraph stating whether any child has special needs that a specific parent has been meeting.

4. A party requesting a child support order, whether the request is for a temporary order or an order approving child support contained in a separation agreement, must submit with the proposed child support order a completed, typed Domestic Relations Affidavit and a typed, suggested Child Support Worksheet completed in accordance with the Kansas Child Support Guidelines. A party requesting a maintenance order shall submit a

completed, typed Domestic Relations Affidavit prepared pursuant to Supreme Court Rule 139.

5. Any attorney or party who submits to the court a motion and proposed ex parte order granting child support shall include an additional copy of the order, clearly marked "Court Trustee" together with a copy of the Child Support Worksheet and the Domestic Relations Affidavit required by Supreme Court Rule 139 and Administrative Order No. 128. The affidavit shall include the residences, business addresses, and properly redacted Social Security numbers for both parties.

### C. Post Divorce Issues

1. Motions to enforce parenting time and motions to enforce or modify child support are assigned to the Pro-tem Division.
2. Cases that involve issues other than or in addition to motions to enforce parenting time and motions to enforce or modify child support will continue in the division to which the case was originally assigned.
3. Post divorce cases involving issues other than enforcement of parenting time are subject to the requirements of Section A.8. of this rule.