

# TWENTY-FOURTH JUDICIAL DISTRICT COURT RULES

## DOMESTIC EARLY INTERVENTION TRIAGE PROGRAM

*Adopted and Effective: May 25, 2005*

*Revisions Adopted: August 30, 2006, Effective: January 1, 2007*

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**24<sup>th</sup> JUDICIAL DISTRICT COURT PARISH OF JEFFERSON STATE OF LOUISIANA LOUISIANA CIVIL  
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**TWENTY-FOURTH JUDICIAL DISTRICT COURT RULES**  
**DOMESTIC EARLY INTERVENTION TRIAGE PROGRAM**

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**Chapter 22. JURISDICTION OF THE COURT**

**Chapter 23. ORGANIZATION OF THE COURT**

**Rule 23.0 Divisions of Court**

**A.** Domestic cases in the 24<sup>th</sup> Judicial District Court shall be randomly allotted to all the divisions in the same manner as civil cases and shall be designated as domestic.

**B.** Domestic Cases Defined

Domestic cases shall consist of:

1. All domestic actions which involve separation, divorce or annulment proceedings; and all issues which are ancillary thereto;
2. All child related actions in marital and non-marital domestic cases and all issues ancillary thereto, except as provided herein;
3. All civil domestic protective orders issued including actions filed pursuant to The Domestic Abuse Assistance Act, The Post-Separation Family Violence Relief Act and Uniform Abuse Prevention Orders;
4. All actions filed seeking to have a foreign judgment or order, or judgment or order of any other judicial district of this state, recognized and enforced which are described within these rules;
5. Enforcement of orders in any of these matters, including the issue of contempt of court.

**C.** The District Court

All matters allotted to the domestic docket shall be heard by the district judge to whom the case is allotted in a timely manner unless the matter is resolved before the domestic commissioner or the domestic hearing officer as provided for in these rules. Nothing herein shall be construed or interpreted to limit the jurisdiction or authority of any district judge. It is the goal of the 24<sup>th</sup> Judicial District Court that each district judge hold an aggregate of two domestic rule days per month and an aggregate of one domestic trial week per month. The domestic docket may be commingled with other dockets.

Emancipations and annulment proceedings shall be heard exclusively by the district court. These matters are excluded from the jurisdiction of the domestic commissioners and domestic

hearing officers.

**D. Domestic Commissioners**

**1. Appointment of Domestic Commissioners**

The position of domestic commissioner for the 24<sup>th</sup> Judicial District Court, pursuant to La. R.S. 13:717, which shall consist of one or two domestic commissioners to hear matters as set forth herein, has been established.

**2. Purpose:**

The domestic commissioner position has been created to facilitate an expedited process for the handling of domestic matters.

**3. The Powers and Responsibilities of the Domestic Commissioner**

**a)** Administer oaths and affirmations.

**b)** Conduct domestic abuse hearings including actions filed pursuant to the Domestic Abuse Assistance Act, the Post Separation Family Violence Relief Act, and Uniform Abuse Prevention Orders.

**c)** In cases where domestic abuse issues are pending, or where there has been a finding of domestic abuse, the domestic commissioner will address the issues normally heard by the domestic hearing officer with objections therefrom made to the district court as set forth in 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A).

**d)** Hear ex parte applications for immediate temporary/provisional custody and visitation rights which are pled under one of the following statutes:

**i.** La. R.S. 46:2131 et seq., Domestic Abuse Assistance Act;

**ii.** La. R. S. 9:361, 363, 364 Post Separation Family Violence Relief Act;

**iii.** La. R.S. 9:372;

**iv.** La. C.C.P. Art. 3601 et seq.;

**v.** La. C.C.P. Art. 3945.

**e)** Hear objections to recommendations from the hearing officer on stand alone non-support matters (allegations of back due child support which have previously been set when there is no motion to modify child support pending.)

**f)** Hear disputes concerning discovery and issuance of subpoenas.

**g)** Following a domestic hearing officer conference sign the interim judgment of the court ordering the implementation of the hearing officer recommendations pending filing of objections and a hearing before the

- h) Render consent judgments under La. C.C. Art. 3071 and uncontested judgments.
- i) Render and sign judgments and orders confirming default judgments in accordance with the general provisions of law.
- j) Grant uncontested divorces under La. C.C. Arts. 102 and 103, or pursuant to R.S. 9:307.
- k) Hear exceptions and motions for extension of time.
- l) Act as duty domestic commissioner, from 9:00 a.m. to 4:30 p.m. with one and one-half (1½) hours for lunch, to address issues of immediate danger on an emergency basis when the domestic commissioner to whom a case has been allotted is unavailable and the issue relates to matters within the powers and responsibilities of the domestic commissioner.
- m) Fine and punish for contempt of court in the same manner as a district court judge, as set forth in La. C.C.P. Arts. 221 through 227, when the allegedly contumacious conduct relates to a matter within the powers and responsibilities of the domestic commissioner, including finding of contempt before a hearing officer, as set forth herein.
- n) Sign all orders pertaining to the duties enumerated above.

#### 4. Limited Powers

*Pursuant to La. R.S. 13:717(F)* the powers of the domestic commissioner are limited to those specifically enumerated herein. Nothing herein shall diminish the powers of the district court.

#### 5. Signing of Orders

The commissioner shall be available, from 9:00 a.m. to 4:30 p.m. with one and one-half (1½) hours for lunch, for the signing of all orders allowed under these powers.

### E. Domestic Hearing Officers

#### 1. Appointment of Domestic Hearing Officers

There is hereby established the position of domestic hearing officer for the 24<sup>th</sup> Judicial District Court pursuant to La. R.S. 46:236.5. There shall be one or more domestic hearing officers to hear matters as set forth herein. The domestic hearing officers shall be appointed by the 24<sup>th</sup> Judicial District Court en banc and serve at the pleasure of the court.

#### 2. Qualifications

- a) The domestic hearing officer shall be a full-time or part-time employee of the

- b)** The domestic hearing officers shall be prohibited from appearing or practicing before the 24<sup>th</sup> Judicial District Court or the Jefferson Parish Juvenile Court. Domestic hearing officers shall additionally be prohibited from handling any domestic law or domestic abuse matters in the State of Louisiana. This prohibition shall not be construed to create a conflict of interest within the meaning of the Rules of Professional Responsibility for a law firm in which a domestic hearing officer may be a member, partner or associate.
- c)** Other than the restrictions listed in (b) above, the domestic hearing officers shall be allowed to practice law, but such practice shall not interfere with their job duties and responsibilities as domestic hearing officer. Full time hearing officers are paid for seven (7) hours of work per day.

**3. Compensation**

The court en banc shall fix the salary or salaries of the hearing officers and any other personnel hired or employed to implement this procedure.

**4. Purpose**

The domestic hearing officer position is created to facilitate an expedited process, for the handling of domestic matters including divorce and all issues ancillary to a divorce proceeding pursuant to La. R.S. 46:236.5.

**5. Powers and Responsibilities**

- a)** The domestic hearing officers shall have authority to perform and shall perform any and all duties assigned by the court en banc which are consistent with La. R.S. 46:236.5 (C) (1) (2) (3) (4) and (5).
- b)** The domestic hearing officer shall act as a finder of fact and shall hear and make written recommendations to the court concerning any domestic matters, including but not limited to the following:

  - i.** All issues which are ancillary to a domestic proceeding, including but not limited to:

    - a.** use and occupancy of movables and immovables;
    - b.** establishment, modification and method of collection of spousal support;
    - c.** injunctive relief, except pursuant to La. R.S. 9:361 and 9:372 where there is an allegation of domestic abuse, fear for



- vi. Hear and make recommendations on default orders or rules to show cause, if the absent party does not respond to notice;
- vii. Hear and make recommendations on the punishment by the commissioner or court for constructive contempt of an order of the court, commissioner, or hearing officer;
- viii. Issue bench warrants for the failure to respond to summons, or appear at hearings, or produce documents; as ordered by the hearing officer;
- ix. Prepare a suggested scheduling order where appropriate;
- x. Accept voluntary acknowledgments of support liabilities and stipulated agreements setting forth the amount of support to be paid;
- xi. Sign and issue all rules nisi, orders to appear and show cause, and other orders necessary to the performance of the duties of the office;
- xii. Prepare consent judgments, where appropriate, following the domestic hearing officer conference for immediate signature by all parties and the domestic commissioner;
- xiii. Schedule additional conferences, hearings, rule dates as necessary.

## **Chapter 24. SCHEDULING HEARINGS AND TRIALS; ORDER OF BUSINESS**

### **Rule 24.0 Scheduling Hearings; Scheduling Trials**

#### **A. Hearing or Trial Date before the District Court**

##### **1. The District Court**

All domestic matters shall be heard by the district judge to whom the case is allotted in a timely manner, unless the matter is resolved before the domestic commissioner or the domestic hearing officer as provided for in these rules.

- a) **Objections to Orders.** A party shall have three (3) days from the receipt of the order, ruling, or judgment of the domestic commissioner to file a written objection to said order, ruling or judgment. Thereafter, the order, ruling or judgment of the domestic commissioner shall become the order, ruling or judgment of the court pursuant to La. R.S. 13:717.
  - i. Rendition of the judgment in open court constitutes notice to all parties present. La. C.C.P. Art. 1914.
  - ii. If neither a party nor counsel is present, the objection shall be filed within three (3) days of receipt of the judgment or order. Notice of the signing of the judgment or order shall be reduced to writing, filed in the record, and mailed in conformity of La. R. S. 13:717.

- b)** At the time an objection from an order, ruling, or judgment of the domestic commissioner is filed, the clerk of court shall endeavor to set a hearing or trial date on the docket of the district judge to whom the case was allotted within not less than thirty (30) nor more than thirty-five (35) days where an earlier date is not required by law, or these rules. When the matter was previously set on the district court's docket upon filing of the original pleading in question, the objection shall be heard on the district court's docket as originally set.

In the case of an emergency, the district judge to whom the case was allotted shall address the matter immediately; if that judge is truly unavailable, the duty judge shall address the matter immediately.

- c)** If the hearing date before the district judge has not already been set, notice of said hearing date with the pleading shall be mailed or served in conformity with La. C.C.P. Art. 1313 et seq. upon the parties or counsel at the same time as service of the objection unless notice was given in open court or waived by both parties.
- d)** Any party who is aggrieved by a judgment entered by a district judge on objection from a decision of the domestic commissioner may appeal or take a writ from that judgment in the same manner as any other judgment entered by a district court.

## **2. The Domestic Commissioner**

- a)** At the time a petition, motion, or rule to show cause is filed in which an issue exists which is within the authority and responsibility of both the district court and the domestic commissioner, the clerk of court shall endeavor to set the matter, except as listed below, on the docket of the domestic commissioner within not less than thirty (30) nor more than thirty-five (35) days of filing where an earlier, or later, date is not required by law. Exceptions may be set for hearing by motion of the exceptor prior to the scheduled hearing before the domestic commissioner.
- b)** The clerk of court shall endeavor to set a hearing or trial date before the district court division to whom the case is allotted for not less than forty (40) nor more than fifty-five (55) days following the filing of the original pleading in question, unless a shorter, or longer, period is required by law.
  - i.** In the case of an emergency, the domestic commissioner to whom the case was allotted shall hear the matter without delay. If that domestic commissioner is truly unavailable, the other domestic commissioner, the district judge to whom the case is allotted, or the duty judge, in that order, shall hear the matter without delay. In the case of an objection to a ruling of the domestic commissioner, in an emergency matter, the district court shall hear the matter without delay.
  - ii.** All initial pleadings filed pursuant to the Domestic Abuse Assistance



- d) Upon filing of all pleadings in any ongoing matter within the authority and responsibility of the domestic hearing officer, the clerk of court shall deliver to the plaintiff and the defendant *a Notice of Hearing Officer Conference and Notice of Hearing Date of Suit, Hearing Officer Conference Order, Hearing Officer Conference Affidavit, and Statement of Income and Expenses* by the means described above.
  - i. A new affidavit and statement of income and expenses must be completed in any cases in which there are changes in the answers to the questions asked in the affidavit or statement of income and expenses.
  - ii. The *Hearing Officer Conference Affidavit and Statement of Income and Expenses* shall be completed and delivered to the opposing party and to the hearing officer not later than five (5) days, exclusive of weekends and legal holidays prior to the domestic hearing officer conference.
  
- e) A party shall have three (3) days from the receipt of the recommendation or order of the domestic hearing officer to file a written objection to said recommendation or order. Thereafter, the recommendation of the domestic hearing officer shall become the judgment of the court. The objecting party shall file a memorandum on the law and facts with the district court judge within five (5) working days of the date the objection is filed.
  - i. Presentation of the recommendation or order to the parties and/or counsel at the hearing officer conference constitutes notice to all parties present.
  - ii. If neither the party nor that party's attorney is present, the objection shall be filed within three (3) days of receipt of the recommendation or order. Notice of the signing of the recommendation or order shall be mailed in conformity with La. C.C.P. Art. 1313. Receipt is presumed five (5) days after mailing.
  - iii. The court or domestic commissioner shall hear the objection to the hearing officer recommendation or order on the date previously set pursuant to Rule 24.0 (3) (B), as set forth in Rule 23.
  
- f) Any party who is aggrieved by a judgment entered by a district judge on appeal from an objection from a recommendation of the domestic hearing officer may appeal or apply for a writ from that judgment in the same manner as any other judgment entered by a district court.

#### 4. Hearing matters timely

Any matters within the powers and responsibilities of the domestic commissioner or the domestic hearing officer which cannot be heard in a timely manner or within the

delays prescribed by law or the rules of court shall be heard in a timely manner and within the delays prescribed by law or the rules of court by the judge of the division to whom the case was allotted. In case of emergency where the district judge to whom the case was allotted is truly unavailable, by the duty district judge.

**5. Voices for Children**

At the time an original petition is filed in any domestic case in which children are involved, an order shall be issued requiring that both parents, and children between the ages of 5 and 16, attend Voices for Children and provide the court with certification of attendance. Failure to attend within sixty (60) days of filing may result in sanctions.

**Rule 24.1 Order of Business**

**A. The Order of Business**

Except in emergencies the court should give cases preference in the following order:

1. Any matters, whether criminal, domestic or civil, seeking injunctive or emergency relief such as expropriations, habeas corpus;
2. Interdiction;
3. Criminal cases;
4. Domestic cases;
5. Non-domestic civil cases.

**B. Domestic Hearing Officer Conferences**

1. Domestic hearing officer conferences will normally be scheduled on Monday through Friday from 8:00 o'clock a.m. to 4:30 o'clock p.m.
2. Domestic hearing officer conferences will normally be scheduled for one and one half (1½) hours, unless a party or counsel makes a written request for a conference period of up to two hours.
3. The hearing officer may, in his or her discretion, schedule additional conferences, hearings, rule dates as necessary.
  - a) If there are complicated or extraordinary issues that will require a longer hearing officer conference, the parties shall notify the hearing officer of this fact at the time the initial pleading is filed. Thereafter, the hearing officer will schedule a longer hearing officer conference to accommodate the issues in the case.
  - b) If the hearing officer determines that there exists a situation which demands immediate attention, the hearing officer may schedule the hearing officer conference at an earlier date at the request of the parties.

- c) All attorneys shall bring their calendars to the hearing officer conference to facilitate in scheduling additional conferences or rule dates.
- 4. Attendance and participation at hearing officer conferences is mandatory for attorneys and litigants.
- 5. Motions to continue hearing officer conferences are discouraged. Where possible, no hearing officer conference should be continued except within the delays prior to the pre-set date before the district court or domestic commissioner.
- 6. When any matter set before the domestic hearing officer and the district court or domestic commissioner is completely resolved before the hearing date, the mover(s) or their counsel shall immediately notify the hearing officer and the district court or domestic commissioner, in writing, by fax or mail, that the matter has been resolved so that other matters may be set.
- 7. The written recommendation of the hearing officer shall contain all of the following:
  - a) A statement of the pleadings;
  - b) A statement of the findings of fact by the hearing officer;
  - c) A statement as to the findings of law based on the pleadings and the facts, including his or her opinion thereon;
  - d) A proposed judgment.
- 8. Consent Judgments
  - a. Every effort will be made to reduce all agreements reached between the parties at the hearing officer conference to a consent judgment prepared contemporaneously with the hearing officer conference while the parties and their attorneys are present before the hearing officer.
    - i. The hearing officers will make every attempt to prepare these consent judgments for the parties during the hearing officer conference.
    - ii. The court will provide computers and printers to permit counsel of record to prepare these consent judgments before leaving the courthouse at times when the hearing officer is unable to prepare the judgment. The court encourages counsel to prepare these judgments before leaving the courthouse.
    - iii. All consent judgments which have been reduced to writing during the hearing officer conference shall immediately be presented to the domestic commissioner for signature and filed into the record; in any instance in which no domestic commissioner is available, before the duty judge.



**C. Duty Officers**

Each week one district judge shall act as duty judge. The duty judge shall remain in the courthouse from 9:00 a.m. until 4:00 p.m. except for one and one-half (1½) hour lunch break. The duty judge should handle all matters on the domestic docket which would regularly be handled by the district judge to whom a case is allotted, in instances in which the district judge to whom a case is allotted is truly unavailable. Truly unavailable means not in the courthouse.

**Rule 24.2 Rule Day**

It is the goal of the 24<sup>th</sup> Judicial District Court that each district judge hold an aggregate of two domestic rule days per month and an aggregate of one domestic trial week per month.

**Rule 24.3 Matters Resolved Prior to a Scheduled Hearing Date**

When any matter set before the district court, the domestic commissioner, or the domestic hearing officer, is completely resolved before the hearing date, mover(s) or their counsel shall immediately notify the district court, domestic commissioner and/or the hearing officer that the matter has been resolved.

**Chapter 25. ALLOTMENT, RE-ALLOTMENT AND TRANSFER OF CASES;  
FORM OF PLEADINGS**

**Rule 25.0 Allotment of Cases**

- A.** Domestic cases shall be allotted to divisions of the court by the clerk of court in the same manner as civil cases and shall be designated as domestic.
- B.** No case shall be allotted which has not been regularly filed and docketed.
- C.** At the time of filing, each case shall be simultaneously assigned by random allotment to a district judge and a domestic commissioner.
- D.** Domestic hearing officers shall be assigned to district court divisions. Domestic hearing officer conferences for cases allotted to a division of district court will be conducted by the domestic hearing officer assigned to that division of court. If the assigned domestic hearing officer is truly unavailable any other domestic hearing officer may conduct the domestic hearing officer conference.
- E.** The proceeding first filed, unless abandoned or dismissed as a matter of law, shall be the proceeding for all subsequent litigation in the case. Upon filing, the clerk shall certify whether there are prior domestic pleadings filed between the same parties.
- F.** At the time an initial pleading in a domestic case is filed, the clerk of court shall provide the parties or their attorneys with the following forms: *Notice of Hearing Officer Conference and Notice of Hearing Date of Suit, Hearing Officer Conference Order, Hearing Officer Conference Affidavit, and Statement of Income and Expenses* in the manner set forth in Rule

- G. Litigants represented by the Pro Bono Project, New Orleans Legal Assistance Corporation, New Orleans Family Services, Tulane Law School Clinic, Loyola Law School Clinic and litigants who are receiving public assistance or who qualify under La. C.C.P. Art. 5183 shall enjoy the rebuttable presumption of pauper status.

**Rule 25.1 Pleadings in Allotted Cases**

- A. All pleadings or motions between the same parties filed in domestic cases must be filed in the first suit filed by either party.

The proceeding first filed, unless abandoned or dismissed as a matter of law, shall be the proceeding for all subsequent litigation in the case.

1. Upon filing, the clerk shall certify whether there are prior domestic pleadings filed between the same parties.
  2. Where there is an earlier case between the same parties the clerk of court shall transmit the earlier record to the court along with the new filing and conform to the requirements of 24 J.D.C. Domestic Rule 25.
- B. When pleadings are filed in any new or ongoing matter within the authority and responsibility of the domestic hearing officer, 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (3) (D) shall be complied with.

**Rule 25.2 Pleadings in Unallotted Cases**

**Rule 25.3 Court's Signature**

- A. Whenever possible judgments should be presented to the court or commissioner for signature immediately following the hearing.
- B. Attorneys and litigants presenting judgments to the court for signature at a time after the judgment is rendered must comply with Uniform District Court Rule 9.5 and 24<sup>th</sup> J.D.C. Domestic Rule 28.
- C. Attorneys presenting judgments to the court for signature at a time after the judgment shall present the judgment to the court for signing within ten (10) days of the date the judgment was rendered or agreement reached. When a dispute exists which causes a judgment to remain unsigned for more than ten (10) days, the parties shall obtain a transcript of the court's oral judgment and set the matter for an immediate status conference/rule with the district judge, domestic commissioner or domestic hearing officer as appropriate.
- D. When the district judge, domestic commissioner or other domestic hearing officer to whom a case is allotted is truly unavailable the duty judge, domestic commissioner or domestic hearing officer shall sign pleadings presented as necessary and as allowed by La. C. C. P. Art. 194. The duty judge, domestic commissioner, and hearing officer shall be available each day of scheduled duty from 8:30 a.m. to 12:00 noon and from 1:30 p.m. until 4:00 p.m.

## **Rule 25.4 Form of the Pleadings**

- A.** All domestic pleadings filed shall be designated as such on the face of the pleading and docketed as such by the clerk of court.
  - 1.** Suit captions in all annulment, divorce and separation matters and all domestic cases shall include the parties' full names together with a woman's maiden name and her married name if applicable, and the judge's division, commissioner and hearing officer to which it is allotted.
  - 2.** Divorce petitions shall clearly state within the title of the suit whether the petitioner is seeking a divorce under La. C.C. Art. 102 or 103, or R.S. 9:307.
- B.** Any pleading, brief, memorandum and/or correspondence filed with the court shall be furnished contemporaneously and in the same manner to the opposing counsel or party, if unrepresented, and shall be accompanied by a certificate of compliance with this rule.
- C.** The delays for filing of pleadings, briefs or memoranda and response thereto prior to hearing shall, except where specifically addressed in these rules, conform to the Uniform District Court Rules 9.8, 9.9, 9.10.
- D.** When a pleading is filed in any domestic matter where child custody and visitation, child support, spousal support, community property, use and occupancy of movables and immovables is or may become an issue, the parties shall complete a *Hearing Officer Conference Affidavit, and Statement of Income and Expenses* in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.0 A (3) (C) unless current forms have previously been filed.
  - 1.** The clerk of court shall cause to be served upon counsel for the opposing party, or the opposing party where unrepresented, a certified copy of the original pleading and the forms required by 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (3) (C) and (D).
  - 2.** The forms shall be completed and exchanged by the parties and delivered to the hearing officer not less than five (5) working days prior to the hearing officer conference.
- E.** In any domestic matter in which pleadings and/or hearing officer packets are filed which do not substantially conform to the rules of this court, or judgments are not submitted in a timely manner, the district judge, the domestic commissioner or the domestic hearing officer may impose such sanctions as it may deem appropriate, and as provided by law, including but not limited to:
  - 1.** A denial of the right to oral argument;
  - 2.** A continuance of the hearing to permit opposing counsel to adequately prepare for the hearing;
  - 3.** An award of costs, including reasonable attorney's fees, to the opposing party, to compensate such party for the time and expense lost; The reasonable attorney's fee sanction shall be up to \$250.00 from the offending attorney or pro se litigant to the aggrieved attorney or pro se litigant. This sanction shall also be applicable to

4. A summary ruling against the party who failed to submit proper pleadings timely.
5. A finding of contempt and imposition of fines and penalties.

**Rule 25.5 Signing Pleadings**

**Rule 25.6 Re-Allotment of Cases**

**Rule 25.7 Transfer of Cases**

- A. A domestic case which is allotted as a new case where a case already exists between the same parties which has neither been abandoned or dismissed shall be transferred to the division of court to which the original pleading was allotted and consolidated with the first filed case in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 25.1.
- B. This rule shall be applied so that cases remain with the division, domestic commissioner and domestic hearing officer to which they were first allotted and the parties appear before the same division, domestic commissioner and domestic hearing officer in all matters.

**Rule 25.8 Allotment of Cases Requiring a Protective Order**

- A. If a protective order is the initial proceeding filed, it shall be randomly allotted to a district judge, and domestic commissioner.
- B. If at the time of filing of a petition for protective order, a proceeding between the same parties has been filed, the petition for protective order shall be filed in the original case.
- C. The domestic commissioner shall conduct domestic abuse hearings including actions filed pursuant to the Domestic Abuse Assistance Act, the Post-Separation Family Violence Relief Act, and Uniform Abuse Prevention Orders within the delays allowed by law.
- D. Appeals from judgments of the domestic commissioner shall be filed in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A) (1).

**Chapter 26. DISCOVERY**

**Rule 26.0 General Provisions Governing Discovery**

- A. All discovery shall be conducted in conformity with Louisiana Code of Civil Procedure Chapter 3, Art. 1420 et seq. which are incorporated herein by reference.
- B. All discovery shall, until Uniform Louisiana Family and Domestic Relations Rules are codified, conform to Louisiana Uniform District Court Rules 10.00 et seq. which are incorporated herein by reference.

**Rule 26.0 Interrogatories**

- A. Discovery requests propounded pursuant to La. C.C.P. Art. 1420, et seq. shall be served upon

- B. During an entire proceeding, written interrogatories served in accordance La. C.C.P. Art. 1457 shall not exceed thirty-five (35) in number, including subparts, without leave of court.
- C. If relief is sought pursuant to La. C.C.P. Art. 1469, concerning discovery which has been propounded, copies of the discovery requests in issue and responses, if any, shall be filed with the court contemporaneously with the filing of any such motion.

**Rule 26.1 Discovery Motions**

Before filing any discovery motion, the moving party must comply with Rule 10.1 of the Uniform Louisiana District Court Rules.

**Rule 26.2 The Manner In Which Discovery Motions Shall be Addressed by the Court**

- A. At the time a discovery motion is filed in which an issue exists which is within the authority and responsibility of both the district court and the domestic commissioner, the clerk of court shall endeavor to set the matter on the docket of the domestic commissioner in not less than thirty (30) nor more than thirty-five (35) days of filing where an earlier date is not required by law, or within the delays allowed by law, if shorter. Discovery motions may be heard on an earlier date if both parties and the domestic commissioner are available and notice and delays are waived.
- B. At the time a discovery motion is filed, the clerk of court shall also endeavor to set a hearing date before the district division to whom the case was allotted in not less than forty (40) nor more than fifty-five (55) days following the filing of the original discovery motion, unless a shorter period is required by law, then within the delays required by law. The objection may be heard on an earlier date if both parties and the district judge are available and notice and delays are waived.
- C. A party shall have three (3) days from the receipt of the order, ruling, or judgment of the domestic commissioner to file a written objection to said order, ruling or judgment in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A) (1).
- D. Notice of the order, ruling, or judgment of the domestic commissioner shall be given to all parties as provided in 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A).
- E. If no written objection is filed with the clerk of court as prescribed above, the order, ruling, or judgment of the domestic commissioner shall become a judgment of the court and shall be signed by a district judge. The judgment after signature by a district judge shall be served upon the parties in accordance with the law. The duty to present a final judgment to the district court is incumbent upon the parties.

## **Chapter 27. PRE-TRIAL, SCHEDULING AND STATUS CONFERENCES**

### **Rule 27.0 Request**

- A.** Pre-trial conferences, scheduling, and status conferences are not mandatory, but may be scheduled in individual cases by the judge, or the domestic commissioner as to matters within his or her areas of responsibility, either on the judge or commissioner's own motion or on request of a party in conformity with La. C.C.P. Art. 1551.
- B.** The following matters may be considered at the pre-trial, scheduling or status conference in conformity with La. C.C.P. Art. 1551.
  - 1.** The simplification of the issues, including the elimination of frivolous claims or defenses;
  - 2.** The necessity or desirability of amendments to the pleadings;
  - 3.** What material facts and issues exist without substantial controversy, and what material facts and issues are actually in good faith controverted;
  - 4.** Proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;
  - 5.** Limitations or restrictions on or regulation of the use of expert testimony under La. Code of Evidence Art. 702;
  - 6.** The control and scheduling of discovery;
  - 7.** The identification of witnesses, documents, and exhibits;
  - 8.** Such other matters as may aid in the disposition of the action.
- C.** During such conferences, the parties are expected to disclose their respective positions and to stipulate as to all matters not at issue. The court or commissioner shall cause such stipulations to be placed on the record to conserve time at trial or hearing. The parties at such conference may likewise be required to state objections or lack thereof to any exhibit, document, photograph, or other such evidence which another party to the suit proposes to offer in evidence.
- D.** At such conferences, the court or commissioner, in its discretion, may seek to advise and assist the parties to achieve a voluntary resolution of their differences.
- E.** The court or commissioner should not be expected, at any stage of the proceedings, to force any compromise upon reluctant counsel or parties. Counsel are expected to appear at conferences knowing what authority, if any, their respective client will grant with respect to resolving the differences between the parties. If there is any reasonable prospect of compromise, counsel are expected to exert reasonable efforts to that end prior to and during such conferences.
- F.** The court or commissioner, within the areas of his or her responsibility, may require counsel for the parties to confer in advance of the conference for the purpose of arriving at all

- G. If a party's attorney fails to obey a pre-trial order, or to appear at the pre-trial, scheduling or status conference, or is substantially unprepared to participate in the conference or fails to participate in good faith, the court, or commissioner, on its own motion or on the motion of a party, after hearing, may make such orders as are just, including orders provided in La. C.C.P. Art. 1471 (2), (3), and (4). In lieu of or in addition to any other sanction, the court may require the party or the attorney representing the party or both to pay the reasonable expenses incurred by noncompliance with this paragraph, including attorney fees.
- H. The judge or commissioner, as to matters within his or her area of responsibility, shall render an order which recites the action taken at the conference. Such order controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

#### **Rule 27.1 Scheduling**

- A. A party requesting a pre-trial, scheduling or status conference must deliver the original and one copy of a motion to the clerk of court. The clerk of court shall file the original in the suit record, and route the copy to the judge or commissioner as to matters which are within the commissioner's area of responsibility.
- B. The court or domestic commissioner, as to matters within his or her area of responsibility, shall set the conference at a time when the court or commissioner and both parties are available.
- C. Notice of the date of the conference shall be mailed by the court or commissioner, where appropriate, to all counsel of record. The notice shall contain information about the pre-trial order if the court or commissioner requires that one be filed.
- D. The conference may be held by any appropriate means, including in person, by telephone, or teleconference, at the direction of the court or commissioner where appropriate.

#### **Rule 27.2 Pre-Trial Orders**

- A. Upon receipt of a request for a pre-trial, scheduling or status conference, the court or the commissioner, as to matters within his or her areas of responsibility, may order that a written pre-trial order be submitted.
- B. If a pre-trial order is required, it shall conform to the pre-trial order form contained at Appendix-5 or to the form specified by the court or commissioner in his or her notification to the parties of the conference date.

### **Chapter 28. PROCEDURE**

#### **Rule 28.0 Agreements and Stipulations**

- A. All consent matters shall be set on the docket of, or heard by, the domestic commissioner to whom the case was allotted. If that commissioner is truly unavailable, the matter shall be set

1. Consent judgments prepared by the hearing officer at the conclusion of the conference shall be referred immediately to the domestic commissioner to be signed; if the domestic commissioners are truly unavailable, by the duty judge as described above.
  2. The domestic commissioner shall be available to place consent judgments resulting from hearing officer conferences on the record and to sign them on completion of the hearing officer conference. If the domestic commissioners are truly unavailable, the domestic commissioners office shall inform the duty judge who shall make him or herself available for this purpose.
  3. Consent matters, other than those resulting from a hearing officer conference, may be placed on the docket of the domestic commissioner and may be docketed Monday through Friday by tendering to the clerk of court, by hand or by facsimile, by 2:00 p.m. on the day preceding the hearing, the printed slip provided by the clerk for this purpose and set as described above at subparagraph 2. If the domestic commissioners are truly unavailable, these matters shall be set on the docket of the duty judge or as described above at paragraph A.
- B.** Consent judgments, when reduced to writing, shall be signed by all counsel of record and/or the parties and filed in the record and submitted to either the district judge or domestic commissioner for signature.
- C.** Consent judgments resulting from a hearing officer conference, but not prepared at the conclusion of the conference while both parties are present, shall be prepared and submitted to the court by the party ordered by the hearing officer to do so within ten (10) days of the hearing officer conference. If there is an objection, the objecting party shall immediately submit the objection to the hearing officer in writing with the hearing officer's recommendation sheet. In the event the judgment is not circulated to counsel for all parties and to unrepresented parties, within five (5) days after the hearing officer conference, the other party may prepare and present a judgment, in accordance with La. District Court Rule 9.5, to the domestic commissioner. If the judgment is submitted without the opposing counsel's signature or if the judgment is submitted in a matter where the opposing party is unrepresented, the judgment shall be presented to the domestic commissioner with the hearing officer's recommendation sheet.
- D.** The court will accept agreements and stipulations between counsel concerning the conduct, trial or continuance of a matter only if they are:
1. Written and filed in the record; or
  2. Made in open court and entered on the minutes; or
  3. Otherwise acknowledged in writing by the parties or their counsel.

- E.** Written stipulations of counsel shall be signed by all counsel of record and filed in the record. If such stipulations are reached at a hearing officer conference or a pre-trial conference while the domestic commissioner or the court is in session, the stipulations may be dictated into the record.
- 1.** Any written stipulation regarding child support shall include a statement that the child support award is in accordance with the Louisiana Child Support Guidelines. If the stipulation is not in accordance with the guidelines, then the reasons for deviations shall be set forth in the stipulation.
  - 2.** Any written stipulation or judgment involving joint custody shall include a Joint Custody Implementation Plan. See the Family Law Handbook for a suggested plan.
  - 3.** Any written stipulation or judgment involving modification of child support shall comply with La. R.S. 9:311 and La. R.S. 9:313. Any judgment of child support shall also be accompanied by the State Case Registry Data Form and shall include an order requiring that the parents provide the state case registry with any change in the information required by La. R.S. 9:313 (B) (1).
- F.** Any judgment, stipulation or agreement may include a provision for payment of court costs.

**Rule 28.1 Payment of Costs Prior to Voluntary Dismissal**

Any party filing a motion for voluntary dismissal shall obtain from the clerk of court a certification that all costs have been paid.

**Rule 28.2 Continuances**

- A.** Continuances are governed by La. C.C.P. Arts. 1601-1605, and La. District Court Rule 9.17 both with reference to discretionary grounds and peremptory grounds.
- B.** Unopposed motions for continuance shall be submitted in writing. The attorney or party filing such motion shall affirmatively represent within the body of the motion that the other party or counsel has been consulted and has no objection to granting the continuance. Deliberate failure of an attorney or party to comply with this rule may subject such attorney or party to appropriate sanctions. Each unopposed motion for continuance shall contain an order resetting the hearing date, unless the parties have agreed to an indefinite continuance of the matter.
- C.** Opposed motions for continuance shall be submitted for contradictory hearing before the court. No ex parte motions for continuance shall be granted over the objection of opposing counsel, or unrepresented parties, except for good cause shown.
- D.** Motions to continue hearing officer conferences shall be directed to the hearing officer to whom the case is allotted.
- 1.** Hearing officer conferences shall be continued only for good cause shown. Every attempt shall be made to conduct hearing officer conferences on the date and time originally set.
  - 2.** Whenever possible, hearing officer conferences shall be reset only within the period

3. Hearing officer conferences shall not be continued without date unless the case is being dismissed, except for good cause.
4. Upon granting a motion to continue a hearing officer conference to a date after the scheduled district court date, the hearing officer shall notify the district court of the continuance and shall reset the matter on the dockets of both the hearing officer and the district court.

### **Rule 28.3 Oral Arguments**

Oral argument is a privilege, not a right, and is within the court's discretion. Whenever possible the court will afford any party an opportunity for oral argument.

### **Rule 28.4 Extension of Time to Plead**

- A. Any motion for extension of time shall state:
  1. The date on which the defendant or responding party was served;
  2. Whether a hearing officer conference, commissioner, or district court date is set and, if so, the date and time; and
  3. Whether the motion is the first or a subsequent request.
- B. Every attempt shall be made to hold hearing officer conferences and district court and commissioner hearings and trials on the dates originally set. In the event a motion for extension of time is granted, every attempt shall be made to grant the extension of time for a period which will preserve the hearing officer conference, commissioner and district court dates originally set.
- C. Except by written consent of all parties, or for good cause shown, only one order will be signed ex parte extending the time for pleading and such extension will not be in excess of thirty (30) days beyond the time allowed by law.
- D. Motions and rules for any other extensions or exceptions shall be tried contradictorily, with preference.

### **Rule 28.5 Hearing Before Judge to Whom Case Allotted**

- A. Matter Heard by Judge to Whom Allotted.

Except matters reserved to the domestic commissioners and domestic hearing officers by these rules and except as allowed by La. C.C.P. Art. 253.3, all contested matters must be heard by the judge to whom the matter was allotted. If all parties and both judges consent, a judge other than the one allotted the action may hear the matter. The judge to whom the action has been allotted may designate any other judge to sign such orders and set such hearings, and in his or her absence, to hear such matters as necessary to comply with law, or when deemed to be an emergency, in accordance with La. C.C.P. Art. 253.3.

**B. Allotment; Signing of Pleadings in Allotted.**

To the extent allowed by La. C.C.P. Art. 253.3, the 24<sup>th</sup> Judicial District Court may designate in accordance with the local rules and as set forth in Appendix 3 of the La. District Court Rules: (1) those matters that ordinarily will not be allotted to a particular division of the court and instead will be signed by the duty judge or commissioner or by any judge authorized to sign such pleadings; and (2) those pleadings that, although filed in actions that will be allotted, may be presented for signature to the duty judge or commissioner or to any judge authorized to sign such pleadings.

**Chapter 29. FEES FOR ATTORNEYS APPOINTED TO REPRESENT ABSENTEE DEFENDANTS**

**Rule 29.0 Fees for Attorneys Appointed to Represent Absentee Defendants**

- A.** The fee for appointment as attorney to represent an absentee defendant is fixed at the sum of \$375.00. Additionally, reasonable costs, such as certified mail and/or advertisement, shall be paid with leave of court. Litigants desiring the appointment of an attorney to represent an absentee shall deposit the fee, at the time of filing the request for appointment, with the clerk of court, and shall certify to the court in the order seeking such appointment that the fee has been paid in full in advance. The court may order an additional fee for the appointed attorney should it be necessary for multiple court appearances or extraordinary efforts to discharge duties pursuant to the appointment.
- B.** Attorneys appointed after the filing of a petition for divorce required by La. C.C. Art. 102 and before the filing of the rule to show cause required by La. C.C. Art. 102 shall be re-appointed, if necessary, at the time of the filing of the rule to show cause, unless the court determines such re-appointment is not possible. Impediments to such re-appointments shall be brought to the court's attention at the time of filing of the rule to show cause. Attorneys accepting the initial appointment thereby consent to subsequent re-appointment.
- C.** It is the duty of an attorney appointed to represent a defendant who is a non-resident, or absentee, to act in accordance with La. C.C.P. Art. 5093, et. seq. The plaintiff, or counsel, shall furnish to the attorney appointed to represent the absent defendant all information which he or she may have concerning the whereabouts of the absent defendant. All correspondence by an attorney appointed to represent an absentee shall be directed to the absentee by registered or certified mail.
- D.** In all cases for separation and divorce where the defendant resides in a foreign country the government of which is recognized by the government of the United States, the attorney appointed by the court to represent the absent defendant shall, immediately upon his appointment, notify the consul or consular agent of such foreign country, in writing, of the number and title of the suit, the ground(s) of the complaint, the last known address of the absent defendant, and the name and address of the attorney for the plaintiff.

**Rule 29.1 Requirements to Receive Appointments**

In order to receive an appointment as an attorney for an absentee, an individual must be a member in good standing of the Louisiana State Bar Association.

## **Chapter 30. ENROLLMENT AND WITHDRAWAL OF COUNSEL**

### **Rule 30.0 Enrollment and Withdrawal of Counsel**

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record.

- A.** The withdrawing attorney who does not have written consent from the client must make a good faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney must deliver or mail this notice to the client before filing any motion to withdraw.
- B.** If the action or proceeding has been assigned to a particular division of the court, then the motion to withdraw must be submitted to the judge presiding over that division.
- C.** Any motion to withdraw must include the following information:
  - 1.** The motion must state the current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney must also furnish this information to the clerk of court.
  - 2.** If a scheduling order is in effect, a copy of it must be attached to the motion.
  - 3.** The motion must state whether any conference, hearing, or trial is scheduled, and, if so, its date.
  - 4.** The motion must include a certificate that the withdrawing attorney has complied with paragraph (a) of Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Article 16. A copy of the written communication required by paragraph (A) must be attached to the motion.
- D.** The court may allow an attorney to withdraw on ex parte motion if:
  - 1.** The attorney has been terminated by the client; or
  - 2.** The attorney has secured the written consent of the client and of all parties or their respective counsel; or,
  - 3.** No hearing or trial is scheduled, or the case has been concluded.
- E.** If paragraph (D) does not apply, then an attorney may withdraw as counsel of record for a litigant only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's former client must be served with a copy of the motion and rule to show cause why it should not be granted.
- F.** If counsel's withdrawal would delay a scheduled hearing or trial, the court may deny the motion to withdraw, unless exceptional circumstances exist.

**G.** Paragraphs (A) through (F) do not apply to an ex parte motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:

1. The court may grant the motion without a hearing. Movers must furnish the court with a proposed order.
2. Substitution of counsel will not by itself be good cause to alter or delay any scheduled matters or deadlines.

## **Chapter 31. WAIVER OF SERVICE AND CITATION**

### **Rule 31.0 Forms Required for Waiver of Service and Citation**

- A.** In conformity with La. C.C.P. Art. 1701(B), when a defendant in an action for divorce under La. C.C. Art. 103 (1), by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a judgment of default maybe entered against the defendant the day on which the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public. The judgment may be obtained by oral motion in open court or by written motion mailed to the court, either of which shall be entered in the minutes of the court, but the judgment shall consist merely of an entry in the minutes. Notice of the signing of the final judgment as provided in La. C.C.P. Art. 1913 is not required.
- B.** Waiver of service and notice of a La. C.C. Art. 102 divorce petition shall be accomplished by use of the waiver form in Appendix-6.
- C.** Waiver of service and notice of a La. C.C. Art. 102 rule for divorce, shall be accomplished by use of the form in Appendix-7.
- D.** Waiver of service and notice of a La. C.C. Art. 103 divorce petition shall be accomplished by the use of the waiver form in Appendix-8.

## **Chapter 32. DOMESTIC VIOLENCE PROTECTIVE ORDERS**

### **Rule 32.0 Forms, Notices and Orders Required**

- A.** Any petition, motion, rule to show cause or application for a temporary restraining order, preliminary injunction or permanent injunction filed pursuant to La. R. S. 9:361, 9:372 (unless filed incidental to divorce where there is no allegation of domestic abuse, fear for safety or imminent danger), La. C.C.P. Art. 3601 et seq., La. R.S. 46:2131, et seq., or La. R.S. 13:4248, or any motion to modify or dissolve an existing Louisiana Uniform Abuse Prevention Order, shall:
  1. Include a legible and fully completed Louisiana Uniform Abuse Prevention Order in a form approved by the Louisiana Protective Order Registry and prepared for the signature of the presiding judge.
  2. Be heard by the domestic commissioner within the delays allowed by law.

3. Be signed by the domestic commissioner or the district judge on Louisiana Protective Order Registry form orders.
  4. Be forwarded by the clerk of court to the Louisiana Protective Order Registry no later than the end of the next business day after the order is signed.
- B.** Objections to a judgment or order of the domestic commissioner shall be filed in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24 A.1. If the district judge to whom the case is allotted is unavailable during the delays allowed by law, the matter shall be heard by the district judge, *on duty at the time the hearing occurs*, within the delays allowed by law.
1. If all parties are present before the domestic commissioner, the objection shall be filed within three (3) days of receipt of the judgment or order.
  2. If a party is not present before the domestic commissioner, the judgment or order shall be reduced to writing and filed in the record, and the objection shall be filed within three (3) days of notice of the judgment or order as issued by the clerk of court.

### **Chapter 33. CONFIRMATION OF DEFAULTS AND UNCONTESTED MATTERS UNDER LA. C.C. Art. 103 ACCORDING TO LA. C.C.P. Art. 1702 E**

#### **Rule 33.0 Preliminary defaults**

The domestic commissioner may enter all preliminary defaults under C.C. Art. 103 filed in accordance with La. C.C.P. Art. 1702 E.

#### **Rule 33.1 Confirmation of defaults**

- A.** The domestic commissioner may confirm all preliminary defaults under La. C.C. Art. 103 in accordance with La. C.C.P. Art. 1702 E.
1. To confirm a preliminary default under La. C.C. Art. 103(1) and La. C.C.P. Art. 1702 (E), petitioner shall submit to the commissioner in chambers or in open court:
    - a. The complete record;
    - b. Affidavit of non-military service and non-covenant marriage;
    - c. An affidavit executed by the petitioner within thirty (30) days of rendering the judgment attesting to facts sufficient to obtain a divorce. One affidavit containing all required facts may be submitted in lieu of multiple affidavits.
    - d. The original and one or more copies of the proposed judgment;
    - e. Notation from the clerk of court that no answer has been filed and that all costs have been paid.

2. Nothing herein shall preclude the petitioner from proving his/her case by live testimony.

**Rule 33.2 Judgments of Divorce in Chambers Pursuant to La. C.C.P. Art. 1702 E**

Confirmation of default judgments maybe rendered in chambers on petitions for divorce in accordance with the requirements of Rule 33.1.

**Rule 33.3 Summary Judgment of Divorce in Chambers Pursuant to La. C.C. Art. 103(1) and La. C.C.P. Art. 969**

If all parties are represented by counsel, and an answer has been filed, the petitioner or defendant in an uncontested case, shall submit to the court:

- A. A written joint stipulation of facts, request for judgment, and a sworn verification by each party;
- B. A proposed judgment containing a certification that counsel and each party agree to the terms thereof;
- C. The complete record.

**Rule 33.4 Forms Required for Waiver of Service and Citation**

See Appendices 6, 7, and 8.

**Rule 33.5 Time When Waiver May be Signed and Filed**

Waiver of service may not be signed or filed until the affiant receives a certified copy of the filed petition. (See C.C.P. Art. 1701 (B))

**Rule 33.6 Consent Judgments and Stipulations of Fact on Incidental Matters and Community Property**

The domestic commissioner may address all consent judgments and stipulations of fact on incidental matters and community property.

- A. The parties must submit to the court:
  1. An original and one or more copies of the consent judgment or stipulation signed by both parties and all counsel of record; and
  2. The complete record.

**Rule 33.7 Time When Domestic Commissioner Will Address Default Judgments, Consent Judgments and Stipulations.**

The domestic commissioner will take up default judgments, consent judgments and stipulations at times throughout the day.

## **Chapter 34. DIVORCES PURSUANT TO LA. C.C. ART. 102.**

### **Rule 34.0 Rules to Show Cause**

- A. Hearings of La. C.C. Art. 102 rules to show cause why a divorce should not be granted may be heard by the domestic commissioner.
- B. Verified rule to show cause why a divorce should not be granted pursuant to La. C.C. Art. 102 shall contain the following: (See La. C.C.P. Art. 3952)
  - 1. The date the parties physically separated;
  - 2. The date the petition for divorce was filed;
  - 3. The date the petition for divorce was served; and
  - 4. Statement of non-reconciliation.
- C. At the hearing of the La. C.C. Art. 102 rule to show cause why a divorce should not be granted a checklist for divorce under La. C.C. Art. 102 and a statement that the rule is contested or uncontested shall be filed in the record. See Appendix-9.
- D. The domestic commissioner may appoint an attorney to represent the absent defendant.
- E. At the hearing, the mover's attorney should offer and introduce for filing the entire record and the C.C. Art. 102 divorce checklist contained at Appendix-9. The attorney appointed to represent an absent party shall offer a note of evidence at the hearing.
- F. If the rule for divorce is uncontested, the commissioner shall grant the divorce if appropriate.

### **Rule 34.1 Required Affidavits**

- A. At the hearing on the rule to show cause, the mover must submit the following affidavits:
  - 1. An affidavit executed after the filing of the rule to show cause, that the parties have lived separate and apart continuously, for at least 180 days prior to the filing of the rule to show cause, that they are still living separate and apart and that mover desires to be divorced; and
  - 2. An affidavit of non-military service and an affidavit that the parties did not contract a covenant marriage. One affidavit containing all required facts may be submitted in lieu of multiple affidavits.

### **Rule 34.2 Attorney Certifications**

Before a rule for divorce pursuant to La. C.C. Art. 102 may be heard, the moving party must file into the record a certification of the truthfulness of the statements contained in the La. C.C. Art. 102 divorce checklist. This certification may be satisfied by signing the checklist.

### **Rule 34.3 Dismissal of Divorce**

All motions to dismiss petitions for divorce shall state that the petition was filed pursuant to La. C.C. Art. 102. In compliance with La. C.C.P. Art. 3958, a petition for divorce filed pursuant to La. C.C. Art. 102 shall be dismissed only upon joint motion of the parties and payment of all court costs, or upon contradictory motion of the plaintiff, to be heard by the district judge. A judgment of dismissal rendered pursuant to La. C.C.P. Art. 3958 shall be without prejudice to any separation of property decree rendered under La. C.C. Arts. 2374 and 2375.

## **Chapter 35. SPOUSAL AND CHILD SUPPORT MATTERS ANCILLARY TO CIVIL DIVORCE PROCEEDINGS**

### **Rule 35.0 Use of Hearing Officers**

#### The Domestic Hearing Officer

The domestic hearing officers shall perform hearing officer conferences on all matters set forth in Rule 23 (E) (5) of these rules including but not limited to all spousal and child support matters, except in cases where there is an unresolved allegation or finding of domestic abuse as defined in Rule 23 (E) (5) (b) (i) (c) and 23 (E) (5) (b) (iv) of these rules.

#### Forms Required

1. At the time a petition, motion, or rule to show cause is filed in which an issue exists which is within the authority and responsibility of the domestic hearing officer both the petitioner and the opponent will receive, from the clerk of court, the forms set forth in 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A) (3) which must be addressed/and or completed in accordance with the instructions contained in 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A) (3).
2. The domestic hearing officer may at any time order the submission of additional relevant information and may order the submission of a pre-trial order, or a memorandum of fact or law.

#### Scheduling Hearings and Trials; The Order of Business

1. At the time a petition, motion, or rule to show cause is filed in which an issue exists which is within the authority and responsibility of the domestic hearing officer, the clerk of court shall schedule these matters in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A) of these rules.
2. Notice of the domestic hearing officer conference, and ensuing hearing or trial date shall be served with the pleading to the defendant, counsel for the opponent, or unrepresented parties at the same time as service of the petition, motion, or rule to show cause.
3. The domestic hearing officer conferences shall be scheduled in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.1 (B) of these rules.

**Rule 35.1 Notice and Exchange of Information**

- A. Notice of any hearing, rule or trial will be given in conformity with the Louisiana Rules of Civil Procedure and these rules.
- B. The initial exchange of information will occur as set forth above at Rule 35.0 of these rules.
- C. Subsequent discovery will be governed by the Louisiana Code of Civil Procedure and as ordered by the hearing officer, domestic commissioner or the district court as permitted by the Louisiana Code of Civil Procedure and these rules.

**Rule 35.2 Child Support Worksheet**

- A. See Rule 35 and Appendix 3 and 4 for hearing officer conference affidavit and statement of income and expenses.
- B. The parties may conduct discovery on the child support and spousal support issues as permitted by the Louisiana Code of Civil Procedure and jurisprudence.
- C. Child Support shall be calculated and established pursuant to La. R.S. Art. 9:315, et seq.

**Rule 35.3 Pre-Trial Conferences**

- A. See Rule 35 of these rules for domestic hearing officer conferences.
- B. See Rule 27.0 of these rules for pre-trial conferences. Pre-trial conferences, scheduling, and status conferences are not mandatory, but may be scheduled in individual cases by the judge, or the domestic commissioner as to matters within his or her areas of responsibility, either on the judge or commissioner's own motion or on request of a party in conformity with La. C.C.P. Art. 1551.
- C. The domestic hearing officer, domestic commissioner or district judge may, at his or her discretion, order that a pre-trial order or a memorandum of fact or law be prepared for submission prior to any motion, rule, hearing, trial or conference.

**Rule 35.4 Income Assignment Orders**

- A. An income assignment order such as the order contained in Appendix-10 shall be issued in each case where child support and/or spousal support is awarded, pursuant to La. R.S. 46:236.3 and La. R.S. 9:303.
- B. Pursuant to La. R.S. 46:236.5 (B), the court hereby assesses a fee of thirty-five dollars (\$35.00) on every petition, motion or rule filed wherein support or enforcement of support is demanded after October 31, 1987 in order to fund the administrative cost of the expedited process. The court also has the discretion to assess and collect fees not to exceed five (5%) percent of the total support obligation pursuant to said statute.
- C. The court hereby assesses a fee of five (5%) percent on all obligations of support which are assessed through a contempt proceeding.

- D. Support obligations shall be paid to the court only by money order, certified check or cashiers check.

### **Rule 35.5 Interim Orders**

- A. Interim orders for custody, child support, spousal support and other incidental relief shall be addressed in the manner described in Rules 24(A)(3)(e) and 35.0 of these rules and pursuant to La. R.S. 9:315.1 (C) (5) and 46:236.5.
- B. If one party does not provide the necessary financial information for the hearing officer to make a determination as to the amount of child or spousal support, the hearing officer shall have the authority, within his or her discretion, to set an interim child support amount based upon the financial information provided by the other party. This interim order shall be without prejudice and shall not affect the retroactivity of the claims of either party, except as precluded by law.
- C. Objections from the hearing officer recommendations shall be addressed to the district court in the manner and at the time set forth in Rules 23(E) of these rules.
- D. An interim order shall be without prejudice to either party in subsequent proceedings.
- E. Prior to a consent between the parties or a judicial determination of the merits of the support demand, the recommendation of the hearing officer shall be signed by the domestic commissioner and shall be deemed an interim order for support, without prejudice to either party.
- F. Prior to a hearing with the district court, if there is a material change in circumstances and either party or counsel believes such change would justify a modification of the interim order, a new meeting with the hearing officer may be scheduled on the motion of any party provided there is sufficient time in which to do so. The motion shall specifically set forth the alleged change in circumstances.
- G. Unless ordered by the district judge, in cases of demands for final spousal support, the hearing officer will not consider or make recommendations with respect to final spousal support until a determination of fault is made by the district judge.

### **Rule 35.6 Arrearages**

- A. Arrearages of child or spousal support shall be addressed in the manner described in Rules 23 (E), and 24.0 (A) (1) and (3) of these rules, and pursuant to La. R.S. 46:236.5.
- B. All pleadings to establish executory child or spousal support arrearages or in which contempt is sought for failure to pay spousal support or child support, shall be accompanied by a sworn affidavit executed by the party filing said pleadings, an attested copy of which shall be served upon the defendant, setting forth the following:
  - 1. An itemized list of all past due payments, including date due and amount.
  - 2. An itemized list of all payments received, including the dates of receipt.
  - 3. The total amount of arrearages.

- C. Five (5) days before the hearing office conference, the defendant shall file a sworn affidavit, with accompanying proof of payment, setting forth a response to the information required in paragraph 2 and deliver a copy of same to the plaintiff and the domestic hearing officer.
- D. In any case in which an immediate income assignment has not been issued, the case shall be subject to immediate income assignment upon a delinquency of an amount equal to one month's support. (La. R.S. 46:236.3)

## **Chapter 36. CHILD SUPPORT PURSUANT TO HEARING OFFICER PROCEEDING**

### **Rule 36.0 Notice and Exchange of Information**

- A. Notice shall be given and information exchanged in conformity with Rule 24.0, Rule 25, Rule 35.0 and Rule 35.6 of these rules.
- B. Discovery shall be conducted in accordance with the Louisiana Code of Civil Procedure and Rule 26 of these rules.
- C. The court shall assess fees in conformity with La. R.S. 46:236.5 (B).

### **Rule 36.1 Fixing Child Support**

- A. Title IV-D AFDC and non-AFDC (Social Security Act) cases are generally handled by the Jefferson Parish District Attorney by contract or the Regional Office of the La. Dept. of Social Services through the Jefferson Parish Juvenile Court.
- B. In all child support cases pending in the 24<sup>th</sup> J.D.C. child support shall be set in accordance with La. R.S. 9:315 et seq.
- C. Any written stipulation or judgment involving child support shall conform with La. R.S. 9:313. Any judgment of child support shall also be accompanied by the State Registry Data Form.

### **Rule 36.2 Appeal**

- A. Objections to hearing officers recommendations shall be made in conformity with Rules 24(A)(3)(e) and 35.5(C) of these rules.
- B. Objections to intrastate registration of support orders for modification and enforcement pursuant to La. C.C.P. Art. 2785 et seq. shall be set on the docket of the domestic commissioner pursuant to Rule 23(D) of these rules. Objections to the domestic commissioner's ruling shall be made in conformity with Rule 24(A) of these rules.

### **Rule 36.3 Income Assignment Orders**

In all child support orders that are not being enforced by the Department of Social Services, the court shall comply with La. R. S. 9:303 and La. R.S. 46:236.3.

- A. The original order shall include an immediate income assignment order unless there is a written agreement between the parties or the court finds good cause not to require an immediate income assignment. (La. R.S. 9:303)
- B. In any case in which an immediate income assignment has not been issued, the case shall be subject to immediate income assignment upon a delinquency of an amount equal to one month's support. (La. R.S. 46:236.3)
- C. In any matter wherein a party hereinafter referred to as "payor" is found to owe past due child support and/or spousal support, the payor shall pay all future current support and/or arrearage through the 24<sup>th</sup> Judicial District Court Collection System. The payments shall be made by means of an income assignment order or direct payment to the court.

#### **Rule 36.4 AFDC Paternity Suits**

Title IV-D AFDC paternity suits are generally handled by the Jefferson Parish District Attorney's Office by contract or the Regional Office of the Department of Social Services in the Jefferson Parish Juvenile Court.

#### **Rule 36.5 Criminal Non-Support**

Criminal non-support matters are generally handled through the Jefferson Parish District Attorneys office in Jefferson Parish Juvenile Court.

#### **Rule 36.6 Arrearages**

All petitions, motions and rules to show cause which allege support arrearages shall be set and heard pursuant to Rule 23 (E), Rule 24.0 (A) (1) and (3), and Rule 35.6 of these rules, and pursuant to La. R.S. 46:236.5.

#### **Rule 36.7 Procedure for Posting/Recording Payments**

- A. The following procedures will be followed by the computer collection system in posting payments received when the payment is not in the exact amount ordered by the court (the payment is either more or less than that ordered by the court):
  - 1. First, the payment will be posted to current support due, (spousal and/or child support) beginning with the first payment date ordered in the judgment;
  - 2. Second, the remainder of the payment, if any, will be posted to any amounts due on a prior judgment (arrearage);
  - 3. Third, the remainder of the payment, if any, will be posted to any overdue current support payment or any overdue arrearage payment.
- B. Prior to the posting of any payments, a court collection fee (in the percentage ordered by the court) will be deducted from the payment.
- C. The computer print-out, which displays the payments that are received and disbursed by the 24<sup>th</sup> Judicial District Court, is generated specifically for state audit purposes. All computer print-outs are stamped with the following caveat: "Unaudited, Not an Official Record of the Court, Reference Copy Only".

- D. Any party requesting a copy of the computer print-out sheet, which displays the payments that are received and disbursed by the 24<sup>th</sup> Judicial District Court collection system, shall pay to the 24<sup>th</sup> Judicial District Court a fee of five (\$5.00) dollars per copy.

## **Chapter 37. PARTITION OF COMMUNITY PROPERTY**

### **Rule 37.0 Commencement of Proceedings**

- A. All partition actions shall be commenced by petition, supplemental petition or reconventional demand and shall include a description of the claims the party seeks to have decided by the court, and shall comply in all other respects with La. R.S. 9:2801. All partitions shall be filed in the same suit number of the divorce and/or separation of property action between the same parties and allotted to a district judge, domestic commissioner and domestic hearing officer in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 23.0 (A).
- B. Community property issues shall be discussed at the time of the initial hearing officer conference.
- C. At the request of either party, or at the time of filing a motion to set the partition for trial, or on order of the court, the partition matter shall be set for a hearing officer conference within thirty (30) days.
- D. During the hearing officer conference, the hearing officer may recommend the appointment of experts and prepare a suggested scheduling order in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 23 (E)(5)(C)(v) and (ix).
- E. The written recommendation of the hearing officer concerning partition of property shall contain all of the following:
  - 1. A statement of the findings of fact of the hearing officer;
  - 2. Recommendations regarding experts;
  - 3. A proposed scheduling order setting a date for a follow-up conference with the hearing officer to exchange and review the sworn descriptive lists and expert reports. The scheduling order shall contain a date for a follow-up hearing date before the district judge and/or a trial date, and any and all pertinent cut-off dates; and
  - 4. The proposed scheduling order shall be signed by the domestic commissioner. Objections to the proposed scheduling order shall be filed in accordance with Rule 24 (A) (1) of these rules.

### **Rule 37.1 Sworn Detailed Descriptive List**

- A. Sworn detailed descriptive lists shall be filed, traversed or concurred with in accordance with La. R.S. 9:2801 and 24<sup>th</sup> J.D.C. Domestic Rule 37.0.
- B. A rule to show cause why any time period should not be extended shall be heard by the domestic commissioner.

### **Rule 37.2 Pre-Trial Procedures**

- A. At the discretion of the district judge, a pre-trial conference may be scheduled before the district judge not less than thirty (30) days prior to trial.
- B. Except for good cause shown, at least fourteen (14) days prior to the pre-trial conference with the district judge, counsel and/or the parties shall meet jointly, in person, to prepare a joint pre-trial order. At the joint meeting, counsel and/or the parties in attendance shall make a good faith effort to narrow the issues, reach joint stipulations to dispose of uncontested matters, discuss and attempt to resolve any matters concerning the authenticity or admissibility of exhibits produced in response to discovery, and attempt a settlement of the matter.
  - 1. All attorneys of record are responsible for arranging the joint meeting at a mutually agreeable time and location and are responsible for personally attending the meeting.
  - 2. At the joint meeting, counsel and/or the parties are to prepare a joint pre-trial order substantially in compliance with the hearing officer scheduling order contained in Rule 37.0 (E) (3).
  - 3. The parties shall deliver the completed pre-trial order to the district judge at least three (3) working days before the pre-trial conference.
  - 4. No attorney shall be compelled to meet with an unrepresented party.
- C. It shall be the responsibility of counsel representing any party, and/or parties, if unrepresented, who is an employee participant in a benefit plan in which the community possesses an interest to obtain all available forms and other necessary information from the plan administrator before the joint meeting of counsel and/or parties which shall be submitted to the court and to opposing counsel, or the opposing party if unrepresented, so that a Qualified Domestic Relations Order (QDRO) can be prepared as directed by the court.
- D. The court may, on its own motion, or on motion of either party, require a separate hearing, prior to a trial on the merits, on:
  - 1. contested issues of law or fact;
  - 2. issues of the separate or community nature of assets or obligations;
  - 3. valuation of assets, liabilities or reimbursements.

Decisions on questions of law or fact shall be considered preliminary findings for appeal purposes. No appeal may be taken until the final judgment is signed covering all community property issues heard pursuant to La. R.S. 9:2801 et seq. See La. C.C.P. Art. 1915.

### **Rule 37.3 Extensions and Continuances**

Except for emergencies, any ex parte motion, including, but not limited to, a motion for a continuance, shall be in writing and shall set out in detail the effort of the applicant to inform opposing counsel, or in the case of an unrepresented individual, the opposing litigant, of the content of the motion and the date and time the motion will be presented to the court. Except for

unusual circumstances, the court shall hear from opposing counsel or litigant before acting on an ex parte motion.

#### **Rule 37.4 Sanctions**

Failure by an attorney or unrepresented litigant to comply with Chapter 37, La. R. S. 9:2801 or any other rules of the Code of Civil Procedure relating to partitions may result in sanctions.

#### **Rule 37.5 Summary Proceedings**

- A.** The trial of the traverses of the sworn descriptive list may be by summary procedure. The court, in its discretion, may by ordinary procedure try and determine at one hearing all issues, including those raised in the traverses. La. R.S. 9:2801.
- B.** Special Masters.
  - 1.** The court shall have the power to appoint a special master, with the consent of all parties, in those cases involving extraordinary, unique, or complex issues of fact and/or law. The costs shall be divided between the parties as ordered by the court.
  - 2.** The special master shall act as the court's (a) advisor on facts, (b) expert on the law, and (c) organizer of any evidence or experts.
  - 3.** The special master may take testimony and evidence, if necessary, to complete the report to the judge. The testimony shall be taken in the same manner as a deposition. Evidence/documents may be requested by letter. The special master is not to conduct a full trial, but is to advise the court through written memorandum of the facts the experts have found and submit expert legal opinions on the specific issues needed to be addressed, including how the partition should be decided.
  - 4.** The special master shall complete his investigation within ninety (90) days. In a written memorandum, the special master may request additional time, which may be granted upon good cause shown. A copy of the memorandum shall be provided to the parties by certified mail. Each party shall report to the court within ten (10) days of the receipt of the memorandum, whether its content is accepted in its entirety, or specifically list those items still in dispute, or items to which the party will stipulate.
  - 5.** The court may then indicate whether or not it will follow the memorandum. Either party shall retain the right to a full trial on the merits, should they disagree with the memorandum; however, the court retains the right to cast one party for all of the special master's costs and fees, if that party makes a frivolous motion for a full trial on the merits. La. C.C.P. Arts. 863 and 864 and the Disciplinary Code shall be used to determine if the motion for trial is frivolous. See La. R.S. 13:4165.
- C.** The court shall have the right to appoint any experts needed to perform valuation and/or classification of any property in the community or between the co-owners. The court, in its discretion, shall apportion the cost of the expert(s) between the parties.

#### **Rule 37.6 Alternatives for Resolution of Disposition of Assets**

The parties may choose, or the court on its own motion, may order:

- A. An auction to be conducted using the bid list form.
- B. Alternative Selection: The compiled lists shall be divided by placing each item on a separate slip of paper with each grouped according to category. The first party shall draw blind, a slip containing the name/description of an item from the first category. That party shall then set a price for the item drawn. Said category and price shall be within the parameters of the two values contained on the sworn detailed descriptive list given to the other party who has the option to buy or refuse the item at that price. If the party refuses, then the party who drew the item and set the price, must purchase the property at that price. The parties then alternate drawing from the category until the disposition of all items in that category. The parties shall continue in this process for all categories.
- C. Appraisal Preliminary to Partition: Within thirty (30) days of submission of a joint written motion signed by both parties or their counsel, the court shall appoint such appraiser(s) as, in its discretion, are required to determine the fair market value of both movables and/or immovables. Fees and costs associated with the work of the appraiser(s) shall be taxed as costs of court and shall be considered in the final accounting. As ordered by the court, the parties shall pay the fee and costs of appraisal. When there are liquid assets of the community, the court may order the fees and costs of the appraisal(s) to be paid from those liquid assets prior to a final accounting. At the time of the appointment of the appraiser(s), the court may order the parties, to deposit, into the registry of the court, in advance, estimated fees and costs.
- D. Dispute Resolution: The judge may appoint an expert pursuant to La. R.S. 9:2801 (3), La. C.C.P. Art. 192 and La. C.E. Art. 706.
- E. By agreement of the parties, the court may appoint a mediator to address community property issues.
- F. The parties may also choose to address the community property issues through the collaborative process. See Rule 39.0 of these rules.

**Rule 37.7 Form of Judgment**

- A. All judgments submitted for signature shall contain the name of the judge, the name, current mailing address, telephone number, and bar number of all counsel of record, or the name, current mailing address, and telephone number of the parties if not represented by counsel, whether the judgment is partial, final or interlocutory, and whether by default or after a trial or contested hearing.
- B. In property partition cases:
  - 1. It shall be the responsibility of counsel, and/or parties, if unrepresented, to prepare and submit a QDRO and/or other plans for employees' benefits, along with the judgment to be signed by the trial judge if necessary for the release of retirement funds.
  - 2. All property partition judgments shall contain appropriate conveyance language.

## **Chapter 38. CUSTODY AND VISITATION ORDERS**

### **Rule 38.0 Provisional/Temporary Custody**

- A.** Provisional/temporary custody is defined as custody on a temporary basis for a defined period or pending completion of a condition precedent or subsequent.
- B.** The injunctive relief afforded either party to an action for divorce or other proceeding which includes a provision for the provisional/temporary custody of a minor child shall be governed by the additional provisions of La. C.C.P. Art. 3945.
- C.** All pleadings seeking an order for provisional/temporary custody shall be assigned to a domestic commissioner and a district judge and shall be set and heard in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 23.0 (D) and Rule 24.0 (A) (1) and (2).

### **Rule 38.1 Ex Parte Custody Orders**

- A.** An ex parte order of provisional/temporary custody of a minor child shall **not** be granted unless it complies with all provisions of La. C.C.P. Art. 3945.
- B.** All ex parte applications for immediate provisional/temporary custody and visitation rights shall be pled under one of the following statutes:
  - 1. La. R.S. 46:2131 et seq., Domestic Abuse Assistance Act;
  - 2. La. R.S. 9:361, 363, 364, Post Separation Family Violence Relief Act;
  - 3. La. R.S. 9:372;
  - 4. La. C.C.P. Art. 3601, et seq.;
  - 5. La. C.C.P. Art. 3945.
- C.** All pleadings seeking an ex parte order for temporary/provisional custody shall be assigned to a domestic commissioner and a district judge and shall be set and heard in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 23.0 (D) and Rule 24.0 (A) (1) and (2).

### **Rule 38.2 Interim Orders**

- A.** Interim custody is defined as non-emergency custody, without prejudice, pending a final determination of the issue.
- B.** The court may grant interim custody and/or visitation orders if a full hearing on the issues cannot be held and there is demonstrated a need for present access of the applicant to the child(ren). In such event, at a subsequent hearing, custody and/or visitation may be modified without the necessity of showing any change in circumstances.
- C.** A custody hearing may be closed to the public pursuant to La. C.C. Art. 135.
- D.** In any custody proceeding upon the motion of any party, the recommendation of the hearing officer, or on its own motion, for good cause shown, the court may order an evaluation by a

mental health professional pursuant to La. R.S. 9:331.

- E.** The court for good cause shown may, after a contradictory hearing, order a party in a custody or visitation proceeding to submit to specified drug tests and the collection of hair, urine, tissue and blood samples pursuant to La. R.S. 9:331.1.
- F.** The court may order the parties to mediate their differences in a custody or visitation proceeding pursuant to La. R.S. 9:332 et seq.
- G.** All petitions seeking interim or final custody shall be assigned to a domestic hearing officer and a district judge and shall be set and heard in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 23.0 (E) and Rule 24.0 (A) (1) and (3).

**Rule 38.3 Submission and Implementation of Joint Custody Plans**

- A.** In a proceeding in which joint custody is decreed or consented to, the court shall render a joint custody implementation order except for good cause shown. This order shall comply with La. R.S. 9:335. See the Family Law Handbook for a suggested plan.
- B.** The joint custody implementation plan may include provisions for:
  - 1. Living arrangements for the child(ren) (based on a time allocation schedule), including transportation;
  - 2. Financial support;
  - 3. Visitation;
  - 4. Holidays, birthdays and vacation visitation;
  - 5. Relocation costs, if applicable;
  - 6. Travel arrangements and expenses, if applicable;
  - 7. Education;
  - 8. Religious training;
  - 9. Access to the child(ren)'s records;
  - 10. Medical and dental care including consent for medical care and surgery, and qualified medical orders;
  - 11. Financial responsibility for medical and dental care and/or insurance;
  - 12. Right to access and communication between the child(ren) and parents;
  - 13. Conflict resolution; and
  - 14. Any other provisions which will assist in developing a plan of joint custody.

- C. When any party seeks joint custody, each party shall, not later than five (5) days prior to the trial of the issue, file with the court and submit a copy of a proposed joint custody implementation plan to the judge and the other party.
  - 1. In any case in which joint custody is agreed to between the parties at or before a hearing officer conference, a joint custody implementation plan shall be submitted to the domestic commissioner for signature within the delays and in the manner prescribed by 24<sup>th</sup> J.D.C. Domestic Rules 25.3 and 28.
  - 2. Attorneys presenting joint custody implementation plans to the court following a trial must first submit the plan to the opponent for signature within the delays and in the manner prescribed by Uniform District Court Rule 9.5.

**Rule 38.4 Modification of a Custody or Visitation Order**

- A. All motions seeking modification of a custody or visitation order shall be assigned to a domestic hearing officer and a district judge and shall be set and heard in conformity with 24<sup>th</sup> J.D.C. Domestic Rule 24.0 (A).
- B. Bergeron v Bergeron, 492 So.2d 1193 (1986) and its progeny shall apply in all cases in which a modification of custody is requested.
- C. Proposed modifications of custody or visitation orders in which relocation of a child(ren) residence is involved shall comply with La. R. S. 9:355.1 et seq.

**Rule 38.5 Alternative Procedures (Mediation, Parenting Classes)**

- A. The court, or the commissioner, as to matters within his or her area of responsibility, may
  - 1. order an evaluation of a party(ies) or the child(ren) in a custody or visitation proceeding for good cause shown pursuant to La. R. S. 9:331;
  - 2. order a party to submit to specified drug tests and the collection of hair, urine, tissue, and blood samples for good cause shown, after a contradictory hearing pursuant to La. R. S. 9:331.1; and
  - 3. order the parties to mediate their differences pursuant to La. R.S. 9:332 et seq.
- B. At the time an original petition is filed in any domestic case in which a child(ren) is involved, the court shall issue an order requiring that both parents, and children between the ages of 5 and 16, attend Voices for Children pursuant to Rule 24 (A) (5) of these rules.
- C. For good cause shown, after a contradictory hearing, the court, or the commissioner, as to matters within his or her area of responsibility, may appoint an attorney to represent the child. The fees for such representation shall be set by the court and paid by the parties as ordered by the court. See La. R.S. 9:376.
- D. For good cause shown, after a contradictory hearing, the court, or the commissioner, as to matters within his or her area of responsibility, may order, and the hearing officer may recommend, either parent to participate in mental health treatment, drug or alcohol treatment, parenting or anger management classes, alcoholics or narcotics anonymous as a condition of

## Chapter 39. OTHER RULES

### Rule 39.0 Other Rules

#### A. Collaborative Divorce Procedures

1. Pursuant to a written agreement of the parties and their attorneys, a domestic proceeding may be conducted under collaborative procedures.
2. Collaborative procedure requires the parties and their collaborative professionals to agree in writing to use their best efforts in good faith to resolve a domestic dispute without resorting to judicial intervention except to file the case, file the collaborative representation agreement, stipulations, settlement agreement, have the court approve the settlement agreement, make the legal pronouncements, and sign the orders required by law to effectuate the agreement of the parties as the court determines appropriate.

The parties' counsel may not serve as litigation counsel except to file the case, file the collaborative representation agreement, file stipulations, file the collaborative settlement agreement and to ask the court to approve the collaborative settlement agreement.

A multidisciplinary collaborative team model includes provisions for the following mandatory collaboratively trained professionals: an attorney for each party, a mental health professional "coach" for each party, a financial expert and a child's mental health professional.

A non-multidisciplinary collaborative team model includes provisions for a collaboratively trained attorney for each party, and other professionals as can be agreed upon by the parties and their counsel.

3. Upon filing an approved agreement to use collaborative procedures, all local rules of case management are suspended for the duration of the collaborative process.
4. An agreement to use collaborative procedures must include provisions:
  - a) for a binding non-participation agreement excluding the participating collaborative professionals from any further non-collaborative domestic representation upon termination of the collaborative proceeding; and
  - b) for an agreement for full and candid exchange of information between the parties, their attorneys, and all other collaborative professionals as necessary to reach a proper evaluation and settlement of the case; and
  - c) for an agreement to suspend court intervention in the dispute and the application of otherwise applicable court rules while the parties are using collaborative procedures; and

- d)** for hiring experts, as jointly agreed, to be used for the benefit of the parties; and
  - e)** for withdrawal of all counsel involved in the case if the parties are unable to settle the dispute through the collaborative process; and
  - f)** for withdrawal of all collaborative professionals involved in the case and an agreement that they and their work product shall be exempt from subpoena if the parties are unable to settle the dispute through the collaborative process; and
  - g)** that anything said or any admission made for the purpose of, in the course of, or pursuant to the collaborative process is not admissible nor subject to discovery, and disclosure of the statement or admission must not be compelled in any non-criminal proceeding; and
  - h)** that no writing prepared for the purpose of, in the course of, or pursuant to, the collaborative process is admissible to discovery, and disclosure of the writing must not be compelled in any non-criminal proceeding, except in cases where both of the parties agree to stipulate to final reports being introduced; and
  - i)** that all collaborative professionals have received a minimum of two days of multidisciplinary collaborative training prior to participating in the collaborative procedure; and
  - j)** for any other provisions as agreed to by the parties consistent with a good faith effort to collaboratively settle the matter.
- 5.** If the parties have agreed to utilize a multidisciplinary collaborative team model, the agreement must include provisions for a multidisciplinary team-based approach which includes an attorney for each party, a mental health professional "coach" for each party, a financial expert and a child's mental health professional.
- 6.** Notwithstanding any domestic rule or law, a party is entitled to judgment on a collaborative settlement agreement if the agreement meets all statutory requirements of notice, due process and time delays, and is accompanied by a joint stipulation of fact signed by both parties and a consent judgment approved as to form and content by both parties and their counsel.
- 7.** Upon filing of an approved agreement to use collaborative procedures and during the pendency of the collaborative process, the court agrees not to:
  - a)** set a hearing or trial in the case;
  - b)** impose discovery deadlines;
  - c)** require compliance with scheduling orders; or
  - d)** dismiss the case.

8. The parties shall notify the court at such time as the collaborative procedures result in a settlement or withdraws from the collaborative process. If settlement is reached, the court will execute all proper orders and judgments presented. If the case withdraws from the collaborative process, the case will be placed on the regular docket subject to all local rules and management.

**NOTICE OF HEARING OFFICER CONFERENCE  
AND  
NOTICE OF HEARING DATE OF SUIT**

TO:

24<sup>th</sup> Judicial District Court

\_\_\_\_\_  
Versus

Case Number:

Division:

Parish of Jefferson, Louisiana

\_\_\_\_\_  
RULE SET BEFORE: HEARING OFFICER: \_\_\_\_\_

DOMESTIC COMMISSIONER: \_\_\_\_\_

JUDGE: \_\_\_\_\_

\_\_\_\_\_  
In the above numbered and entitled case in which you are a party or attorney for plaintiff or defendant, the following rule(s) have been filed:

A Hearing Officer Conference has been set before the above named Hearing Officer at the Thomas F. Donelon Building, 200 Derbigny Street, Gretna, Louisiana on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m./ p.m. on all issues in the above captioned matter.

In the event that an objection is made to the Hearing Officer's recommendation, the said case has been set for a hearing before the District Judge or Domestic Commissioner (circle one) on these objections together with the nonsupport related issues on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
Deputy Clerk of Court  
Parish of Jefferson

**\*\*NOTICE\*\***

FAILURE TO APPEAR AND/OR COMPLY WITH THE HEARING OFFICER CONFERENCE ORDER MAY RESULT IN AN ORDER ADVERSE TO YOUR INTEREST AND/OR SUCH OTHER ACTION AS THE COURT MAY DEEM APPROPRIATE.

IN THE EVENT OF A SETTLEMENT OR DISMISSAL OF THESE ISSUES, YOU MUST NOTIFY THE OFFICE OF THE HEARING OFFICER IMMEDIATELY AT 364-3869 AND THE OFFICE OF THE JUDGE ASSIGNED TO THE CASE.

COMPLIANCE WITH ATTACHED ORDER IS MANDATORY

Case Number:  
Division: \_\_\_\_\_

24th Judicial District  
Parish of Jefferson  
State of Louisiana

VS

\*\*\*\*\*

## HEARING OFFICER CONFERENCE ORDER

In addition to and in conjunction with the *Order(s)* signed by the Court herein on \_\_\_\_\_.

**IT IS ORDERED** that the attorneys confer with each other in an attempt to settle the issues pending in this case.

**IT IS FURTHER ORDERED** that, unless the issues before the Court have been agreed upon, the parties shall appear ***IN PERSON***, and with their respective attorneys (if represented by legal counsel), before the Hearing Officer.

**EVERY EFFORT IS MADE TO BEGIN CONFERENCES AT THE SCHEDULED TIME. YOU SHOULD BE PRESENT TIMELY OR EXPECT TO HAVE THE CONFERENCE BEGIN WITHOUT YOU. CONFERENCES IN THIS PARISH ARE GENERALLY SCHEDULED TO LAST UP TO NINETY (90) MINUTES, BUT MAY RUN LONGER. IF YOU BECOME AWARE OF CIRCUMSTANCES WHICH WILL PREVENT YOU FROM ARRIVING ON TIME OR FROM BEING ABLE TO REMAIN FOR THE DURATION OF THE CONFERENCE, IT IS YOUR RESPONSIBILITY TO CONTACT THE HEARING OFFICER AND/OR TO REQUEST A RE-SCHEDULING OF THE CONFERENCE.**

**IT IS FURTHER ORDERED** that the parties or their respective attorneys shall complete and deliver to the Hearing Officer and each other ***five (5) working days*** (Saturday, Sundays, and legal holidays excluded) prior to the Hearing Officer Conference, the following documents:

- 1) A *Hearing Officer Conference Affidavit* (attached) completed in accordance with the Local Court Rules, with complete and current information. Attach additional sheets if necessary. ***This must*** be signed by the party submitting it, in the presence of a Notary Public, under oath, and under penalty of perjury. Submitting an *unsigned Affidavit* or one which is not notarized is the same as not submitting one; however, with the permission of the Hearing Officer, a party may submit an *Affidavit* which has not been signed and notarized in advance of the Hearing Officer Conference provided the one brought to the Hearing Officer Conference is signed and notarized.
- 2) In the event the issues before the Court involve novel or complicated issues of law, please provide the Hearing Officer appropriate citations to code articles, revised statutes, and / or caselaw / jurisprudence for consideration at least one day in ***advance*** of the Conference. This does *not* require the submission of a memorandum, and is only necessary if the issues are truly novel or complicated.

**IT IS FURTHER ORDERED** that the parties or their respective attorneys shall complete and deliver to each other ***five (5) working days*** (Saturday, Sundays, and legal holidays excluded) prior to the Hearing Officer Conference, the following documents:

- 1) The last two (2) years of their state and federal income tax returns, including all attachments, specifically all schedules, W-2 forms, and any and all amended returns.
- 2) The party's last four (4) paycheck stubs or documentation reflecting the amounts received as benefits from workers' compensation, Social Security SSI, LHWCA, or maintenance & cure. In the event no pay check "stubs" are provided by an employer, other appropriate documentation reflective of the party's income shall be attached.
- 3) If a party is (a) self-employed, (b) employed by a closely-held business entity in which the party has an ownership interest, (c) paid in cash, or (d) claims to be disabled and/or is receiving disability benefits (including, but not limited to, workers' compensation, Social Security SSI, LHWCA, or maintenance & cure), that party shall be required to submit, to your opposing party and bring same to the hearing in this matter together with, business (if applicable) *and* personal tax returns for the previous two (2) years, canceled checks, check registers, and bank statements for their business (if applicable) *and* personal accounts and their business (if applicable) *and* personal credit card statements for the previous twelve (12) months. As an alternative to providing copies of canceled checks, the party may provide a true and correct copy of the checkbook register, on the condition that the register accurately reflects the date, transaction number, and payee of all checks, together with all deposits, a running balance and a current balance at the time the register is provided to the Hearing Officer and the opposing party. ***Notwithstanding, the party must still have the canceled checks available for inspection at the Hearing Officer Conference.***
- 4) Any information concerning health insurance, including proof of health insurance such as cards or policies. The party who has been primarily responsible for procuring health insurance, either through an employer or the form of

an individual policy, shall also procure the following and provide same to the Hearing Officer and the other party: documentation from the employer or insurance provider detailing the effective date of coverage, the precise cost (and the time period covered by that cost) for the health insurance and specifically detailing the difference in the cost of premiums for single coverage, coverage for a spouse, family and/or dependant coverage, and the number of individuals covered by said policy.

- 5) Documentation from child care provider(s) detailing the cost for child care, such as daycare fee schedule. Also, canceled checks and/or receipts for at least four (4) months.
- 6) Documentation from private school(s) detailing the costs for private school, including annual registration, total tuition expenses, and any *other mandatory* fees imposed (such as for books and materials), but not including the cost for school lunches or uniforms or non-mandatory supplies.

**IF THE PARTIES DO NOT HAVE ANY CHILD SUPPORT OR SPOUSAL SUPPORT MATTERS PENDING BEFORE THE COURT, IT IS NOT NECESSARY TO FORWARD TO YOUR OPPOSING PARTY THE INFORMATION OR DOCUMENTATION LISTED IN NUMBER 1-6 ABOVE.**

THUS ORDERED in Gretna, Louisiana this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
HEARING OFFICER

FAILURE TO APPEAR AND/OR TO COMPLY WITH THE HEARING OFFICER CONFERENCE ORDER MAY RESULT IN AN ORDER ADVERSE TO YOU AND/OR SUCH OTHER ACTION AS THE HEARING OFFICER AND/OR THE COURT MAY DEEM APPROPRIATE.

IF YOU NEED TO REQUEST A RE-SCHEDULING OF THE HEARING OFFICER CONFERENCE, YOU MUST DO SO THROUGH THE HEARING OFFICER (504) 364-3869. IF YOU NEED TO REQUEST A RESCHEDULING OF A COURT HEARING BEFORE THE COMMISSIONER OR DISTRICT COURT, YOU NEED TO DO SO THROUGH THE CLERK'S OFFICE AND THE OFFICE OF THE ASSIGNED COMMISSIONER OR JUDGE. IF YOU NEED TO RE-SCHEDULE **BOTH** THE HEARING OFFICER CONFERENCE AND THE COURT HEARING, YOU NEED TO DO SO THROUGH THE HEARING OFFICER, THE CLERK'S OFFICE, AND THE OFFICE OF THE ASSIGNED COMMISSIONER OR JUDGE.

IN THE EVENT OF A SETTLEMENT OR DISMISSAL OF THESE ISSUES, YOU MUST NOTIFY THE OFFICE OF THE HEARING OFFICER IMMEDIATELY AT (504) 364-3869, AND THE OFFICE OF THE COMMISSIONER OR JUDGE ASSIGNED TO THE CASE, AND THE OFFICE OF THE CLERK OF COURT.

CASE #: \_\_\_\_\_ VS \_\_\_\_\_

24<sup>th</sup> JDC  
 PARISH OF JEFFERSON  
 STATE OF LOUISIANA

DIVISION

\*\*\*\*\*

**HEARING OFFICER CONFERENCE AFFIDAVIT**

The undersigned party certifies to the Court the accuracy of the information provided below and certifies that a copy has been provided to opposing counsel or unrepresented party and the Hearing Officer at least five (5) Court days (exclusive of weekends and legal holidays) prior to the Hearing Officer Conference.

**ALL QUESTIONS MUST BE ANSWERED. ATTACH ADDITIONAL SHEETS AS NECESSARY.**

<b>A. YOUR PERSONAL INFORMATION</b>		
Your Full Name:		
Address:		
City, State, Zip:		Telephone #:
Social Security # (Optional):	DOB:	Current Martial Status:
Former Spouse(s) (Not in this case)	How Marriage Dissolved (Divorce, Death, etc)	Names & Ages of Minor Children, if any (Not children in this case)

<b>B. NAME(S) OF CHILD(REN) IN THIS CASE. (INDICATE IF N/A)</b>	<b>DATE OF BIRTH</b>	<b>CURRENT AGE</b>

<b>C. OTHER PROCEEDINGS BETWEEN THE SAME PARTIES</b> (Including, but not limited to, Support Enforcement, Domestic Abuse Cases or Juvenile Court Proceedings)	<b>DOCKET NUMBER</b>	<b>STATE / PARISH / COUNTY</b>

<b>D. YOUR CURRENT EMPLOYMENT</b> (Including all full or part time or seasonal work)			
Your Current Employer:			
Address, City, State, Zip:			Telephone #:
Position:	Length of Employment:	Salary/Wages: \$	
Your usual and customary work schedule:			
Other (bonuses, commissions, interest, dividends, rental, royalties, crop income, oil & gas revenue, etc):			
Is your employment managed, controlled, or owned by you, a relative, or family member?			
If Yes, give details:			
Are any of the following supplied to you by your employer?	Yes	No	Value (if actual value unknown, provide estimate)
Housing			\$
Automobile (Year, Make, Model)			\$
Fuel, Mileage, or Credit Card			\$
Meal Allowance			\$
Travel Allowance			\$
Health and/or Life Insurance and/or Auto Insurance			\$
Cell phone			\$
Other			\$

<b>E. OTHER PARTY'S EMPLOYMENT INFORMATION</b>
In the event the other party in this litigation fails to provide submissions to the Hearing Officer, please provide as much information as you can regarding the other party's employment, usual and customary work hours, travel obligations, income and benefits.

<b>F. YOUR PRIOR EMPLOYMENT (All full time, part time or seasonal employment)</b>			
Your Prior Employer:			
Address, City, State, Zip:			Telephone #:
Position:	Length of Employment:	Wages \$	
Other (bonuses, commissions, interest, dividends, rental, royalties, crop income, oil & gas revenue, etc):			
Was that employment managed, controlled, or owned by you, a relative, or family member?			
Were any of the following supplied to you by your employer?	Yes	No	VALUE (If actual value unknown, provide estimate)
Housing			\$
Automobile (year, make, model)			\$
Fuel, Mileage, or Credit Card			\$
Meal Allowance			\$
Travel Allowance			\$
Health, Life Insurance or Automobile Insurance			\$
Cell Phone			\$
Other			\$

<b>G. YOUR CURRENT MARRIAGE/SPOUSE (NOT THE OTHER PARTY) (If support is an issue before the Court)</b>	
If you are currently married, name of your current spouse:	
Your Spouse's current employer:	
Address, City, State, Zip:	
<b>G-2: OTHER ADULT WITH WHOM YOU LIVE</b>	
Name:	Relationship:
This person's current Employer:	Employer Address:

<b>H. YOUR OWNERSHIP OR INTEREST IN A HOME OR REAL ESTATE</b>	
Do you own a home and/or are you paying for a home?	Address, City, State:
Estimated Value: \$	Remaining balance & number of payments:
If you are not buying a home, give the name, address and telephone number of the owner of the residence where you are living:	
Amount of rent (If any) or other arrangement:	
Do you own or have an interest in any other real estate?	
If yes, state the address, the nature of the property and its value:	

<b>I. YOUR OWNERSHIP OR INTEREST IN OTHER SPECIFIC ASSET(S)</b>					
Do you own or have an interest in any of the following:	Yes	No	Value	Balance Owed	Payments or Time Left
Real Estate or homes:			\$	\$	

Automobile(s) (make, model, year):			\$	\$	
Mobile Home(s) (brief description):			\$	\$	
Boat(s) (length and H.P. of motor):			\$	\$	
Livestock:			\$	\$	
Machinery:			\$	\$	
Stocks & Bonds (brief description):			\$	\$	
Checking Account(s) (financial institution):			\$	\$	
Saving Account(s) (financial institution):			\$	\$	
Certificate of Deposit(s) (financial institution):			\$	\$	
Individual Retirement Account (financial institution):			\$	\$	
401(k) Account (financial institution):			\$	\$	
Other Retirement Account(s):			\$	\$	
If you have any income or asset which is not shown anywhere else in this form (such as bonuses, commissions, interest, dividends, rental, royalties, crop income, oil & gas revenue, etc.)					

<b>J. CHILD CUSTODY and/or VISITATION</b> (Indicate if this is an Issue before the Court.)	Yes	No
<b>1. AREAS OF DISPUTE BEFORE THE COURT</b>		
Type of custody (joint custody, shared vs sole custody)		
Who should be designated as domiciliary parent?		
When the child(ren) is/are with each parent (visitation schedule)		
Conditions of custody or visitation (restrictions, supervision)		
2. With whom are the children presently residing? How long? Why are they living with this parent?		
3. Is there a custody/visitation order (provisional or otherwise) currently in effect?		
4. Who has been the child's primary caretaker (provide details if necessary)?		
5. What type of custody/visitation arrangement for <i>the other</i> parent is acceptable to you?		
6. If you are seeking sole custody, briefly state the reasons (please note the interim custody is presumed to be in the best interest of a child, and a party seeking sole custody has the burden of overcoming the presumption in favor of joint custody.)		
7. If you have requested <i>in a pleading already filed with the Court</i> that the other parent's custody/visitation privileges should be supervised or should have special conditions or restrictions imposed on the custody/visitation rights, please explain the factual basis for the requested supervision or restrictions:		
8. Will you agree to mediation?		
9. In your pleadings filed with the Court have you requested		

A. custody evaluations		
B: mental health evaluations		
C: substance abuse evaluations		
D: any other type of evaluation or testing, and specify.		
10. What is the factual basis alleged for the requested evaluation?		
11. Please provide any additional information or explanations that relate to child custody or visitation issues, that have not been addressed in any of the numbered sections above (or for which you did not have room above) .		

<b>K. CHILD SUPPORT</b> (Indicate if this is an issue before the Court)	Yes	No
1. Is this an initial support claim?		
2. If a modification is being requested, is it for an increase or a decrease in support?		
3. If your request for a modification is based upon a change in your income or financial circumstances, indicate your gross income at the time the support was last set by the Court (and provide a W-2 form or other supporting documentation) and the current amount of support ordered by the Court.		
3a. If your request is based upon a change in the party's <i>income and</i> financial circumstances, indicate their gross income at the time the support was last set by the Court (and provide available supporting documentation).		
4. If you are under a court order to pay child support or spousal support to an individual or child in <i>this proceeding</i> please provide the monthly amount, whether it is child support or spousal support (or both), and the name and docket number of the legal proceeding in which the order arose. Attach a copy of the judgment.		
5. If any party is self-employed or employed by a closely-held or family-run business, or one in which he or she has an ownership interest, indicate which party and the name of the business.		
6. If there is a minor child in this case under five (5) years of age, please indicate the parent with whom the child primarily resides.		
7. Are you unemployed?		
8. If so, indicate the last date on which you were employed?		
9. What is the reason for your termination of employment (quit, fired, business closed, etc.)? Attach all documentation.		
10. What is the annual cost of child care (be sure to include before-school, after-school, holiday, and summer costs in your annual cost)?		
11. Is health insurance available through the employer of either party or spouse?		
12. Who currently provides health insurance for the child(ren)?		
13. What is the actual cost of health insurance for only the child(ren)? You must provide documentation from your employer or the insurance company to show the difference in cost for single and family coverage if the child(ren) is/are covered under a family plan.		
14. If there are any child-related medical or dental expenses which are "extraordinary" (allergies, braces, ADHD, etc.) and which require either ongoing monthly payments and/or occasional payments in excess of \$250, please describe.		
15. Is/are there a child or children in private school whose support is at issue?		
16. If the child's enrollment in private school is disputed, please explain your position:		
17. What is the annual cost of tuition and fees for each child (registration, total annual tuition, books, and supply fees)?		
18. If you are seeking a deviation from the Louisiana Child Support Guidelines, state the reason(s) supporting the deviation:		

<b>L. SPOUSAL SUPPORT OR ALIMONY</b> (indicate if this is an issue before the Court)	Yes	No
--	-----	----

1. Are both parties employed?		
2. Is the spouse seeking spousal support currently employed?		
3. If so, where?		
4. Has the spouse seeking spousal support been employed during the marriage?		
5. If not, why not?		
6. What is the date of last employment of the spouse seeking spousal support?		
7. State the last income of the spouse seeking spousal support: \$		
8. What is the income of the spouse from whom support is sought?		
9. If "final periodic spousal support" is being sought by one party and opposed by the other party, please state the basis for seeking or opposing the claim for this form of spousal support (need and freedom from fault versus lack of need, inability to pay, fault) with an explanation.		
10. Is a modification or termination of spousal support being requested?		
11. If your request for a modification (either increase or decrease) is based upon a change in your income or financial circumstances, indicate your gross income at the time the support was last set by the Court (and provide a W-2 from or other supporting documentation):		
12. If your request for a modification is based upon a change in the other party's income or financial circumstances, indicate that other party's gross income at the time the support was last set by the Court (and provide a W-2 form or other supporting documentation):		

**M. ITEMIZATION OF INCOME AND EXPENSES ON A PER-MONTH BASIS. (IF SPOUSAL SUPPORT IS AN ISSUE, OR IF YOU ARE REQUESTING A DEVIATION FROM THE CHILD SUPPORT GUIDELINES, YOU MUST COMPLETE AN INCOME AND EXPENSE SHEET)**

<b>N. USE OF HOME AND/OR OTHER ASSETS</b> (indicate if this is an issue before the Court)	Yes	No
1. Who is currently residing in the former marital residence?		
2. Do you seek exclusive use of the residence?		
3. Does the other party also seek the exclusive use of the residence?		
4. Briefly state the reasons in support of your request to live in the residence (if applicable):		
5. Who has possession of the community vehicle(s) at this time?		
6. Are you requesting the exclusive use of any of those vehicles?		
7. Which one?		
8. Briefly state the reasons in support of your request to have exclusive use of a vehicle (if applicable):		
9. Are you requesting law enforcement assistance in returning to the home to retrieve clothing or other necessary items?		
10. Are you requesting the use and possession of any other assets (furniture, appliances, etc)?		
11. If yes, please list and provide an explanation:		
12. Are you requesting an opportunity to return to the home to obtain these items?		

<b>O. INJUNCTIONS</b> (Indicate if this is an issue before the Court.)	Yes	No
1. Has either party requested an injunction to preserve the community?		
2. If there is a need for an exception to such an injunction (for example, to permit a business to be able to continue to operate) provide a details explanation of the facts supporting the exception:		
3. Has either party requested an injunction against harassment?		



		\$	\$	\$		
		\$	\$	\$		

**R. OTHER ISSUES**

If (and only if) there are any other issues before the Court which are not addressed in any of the other sections above, or if you need more room to explain something from a section above, please describe them briefly below:

**I HEREBY CERTIFY** that all of the above and foregoing is true and correct to be best of my knowledge, information, and belief, that I will immediately correct any errors which I discover after this *Hearing Officer Conference Affidavit* has been completed and will call those to the attention of the Hearing Officer and the opposing party at the earliest opportunity following discovery of the error.

**I HEREBY CERTIFY** that I have provided a copy of this *Hearing Officer Conference Affidavit* to the Hearing Officer and the opposing party not less than five (5) days (exclusive of weekends and legal holidays) prior to the Hearing Officer Conference.

**I HEREBY CERTIFY** that I am aware that it is a crime to intentionally give a false answer, under oath, to any of the questions or request for information above (LSA-RS 14:123). I further certify that I have attached copies of all financial documentation as ordered by the Court.

\_\_\_\_\_  
Signature of the Party

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC



**TWENTY-FOURTH JUDICIAL DISTRICT FOR THE PARISH OF JEFFERSON  
STATE OF LOUISIANA**

NO:

DIVISION “ ”

**VERSUS**

\* \* \* \* \*

**TO: ALL COUNSEL OF RECORD**

**PRE-TRIAL ORDER**

You are hereby notified to attend a pre-trial conference on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m. with the Commissioner/Hearing Officer. Following the conference, an order may be rendered in accordance with La. C.C.P. Art. 1551.

**THE CONSOLIDATED PRE-TRIAL ORDER MUST BE DELIVERED TO THE COURT'S CHAMBERS AND ALL OTHER ATTORNEYS IN THE CASE BY SUCH TIME AS TO ALLOW SEVEN (7) DAY(S) PRIOR TO THE CONFERENCE, EXCLUDING SATURDAYS, SUNDAYS, AND HOLIDAYS.**

1. A concise summary of the facts or contentions made by all parties;
2. The contested issues of fact and law, specified with particularity;
3. A list of your will call witnesses, plus the nature of the testimony of each witness, such as testimony on the facts, medical witnesses, etc.;
4. A list of possible witnesses, including rebuttal witnesses;
5. A list of all documentary evidence you plan to use, except impeachment documents; also, a list of all exhibits you will use;
6. A listing of the facts, exhibits, etc. that you feel are not in serious dispute and can be stipulated;
7. Whenever medical conditions are at issue, a brief summary of medical reports including extent of disability, length of treatment;
8. A concise procedural history of the case including what motions and pleadings have been filed in the case and their dispositions, including any motions still pending;
9. A list of the citations and authorities relating to this case; and
10. A joint list of assets, liabilities, reimbursement claims and values for partitions.

Discovery should be complete before this pre-trial conference; therefore, except for good cause shown, only witnesses listed on the pre-trial order will be allowed to testify and only exhibits listed on the pre-trial order will be admitted in evidence at the trial on the merits.

The pre-trial conference shall be attended by the attorneys who will try the case unless prior to the conference the Court grants permission for other counsel to attend. These attorneys must familiarize themselves with the case so that settlement possibilities and stipulations concerning evidence may be made at the pre-trial conference. If this is not possible and the docket permits, the conference will be rescheduled for another date, but such delay may effect the ultimate trial date.

**FAILURE TO ATTEND OR ATTENDANCE WITHOUT FULL AUTHORITY TO ACT OR TO ATTEND UNPREPARED IS AN IMPOSITION ON THE COURT AND OPPOSING COUNSEL. SUCH ATTORNEY MAY BE HELD IN CONTEMPT OF COURT AND PENALIZED ACCORDINGLY WHILE AN EX PARTE ORDER OF DISMISSAL, DEFAULT, OR OTHER APPROPRIATE JUDGMENT MAY BE RENDERED IN THE CASE.**

Gretna, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE / COMMISSIONER

**DO NOT BE LATE !**

24<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

DOMESTIC RELATIONS DOCKET

NO. \_\_\_\_\_

DIVISION “ \_\_\_ ”

VERSUS

---

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION  
AND ALL DELAYS;  
PETITION FOR LA. C.C. ARTICLE 102 DIVORCE

---

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, personally came and appeared:

\_\_\_\_\_

who after being duly sworn did depose and state that:

Affiant does formally and expressly acknowledge receipt of a certified copy of the Petition for Divorce pursuant to LA. C.C. Article 102 filed herein, accepts service of a certified copy of said petition, and further, waives the necessity of issuance of formal citation and service of process.

\_\_\_\_\_

Sworn to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

24<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

DOMESTIC RELATIONS DOCKET

NO. \_\_\_\_\_

DIVISION “\_\_\_”

VERSUS

---

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION  
AND ALL DELAYS;  
RULE FOR LA. C.C. ARTICLE 102 DIVORCE

---

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, personally came and appeared:

\_\_\_\_\_

who after being duly sworn did depose and state that:

Affiant does formally and expressly acknowledge receipt of a certified copy of the Rule for Judgment of Divorce pursuant to LA. C.C. Article 102 filed herein on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; that affiant does accept service of a certified copy of said rule and waives: (1) the necessity of issuance of formal citation and service of process; (2) all legal delays allowed by law, particularly those delays allowed for answering and/or excepting to the pleading pursuant to LA C.C.P. Articles 1001 and 1002; (3) notice of trial pursuant to LA C.C.P. Article 1571 and appearance at trial; (4) necessity of being given notice of the signing of the judgment pursuant to LA C.C.P. Article 1913; (5) and the special notice required by R.S. 13:3491 and 13:3492.

Affiant acknowledges that the signature hereon will allow mover to go forward with the divorce in affiant's absence, and further understands that mover intends to do so.

\_\_\_\_\_

Sworn to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

24<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

DOMESTIC RELATIONS DOCKET

NO. \_\_\_\_\_

DIVISION “\_\_\_”

VERSUS

---

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION  
AND ALL DELAYS;  
PETITION FOR LA. C.C. ARTICLE 103 DIVORCE

---

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, personally came and appeared:

\_\_\_\_\_

who after being duly sworn did depose and state that:

Affiant does formally and expressly acknowledge receipt of a certified copy of the Petition for Divorce pursuant to LA. C.C. Article 103 filed herein on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; that affiant does accept service of a certified copy of said petition and waives: (1) the necessity of issuance of formal citation and service of process; (2) all legal delays allowed by law, particularly those delays allowed for answering and/or excepting to the pleading pursuant to LA C.C.P. Articles 1001 and 1002; (3) notice of trial pursuant to LA C.C.P. Article 1571 and appearance at trial; (4) necessity of being given notice of the signing of the judgment pursuant to LA C.C.P. Article 1913; (5) and the special notice required by R.S. 13:3491 and 13:3492.

Affiant acknowledges that the signature hereon will allow mover to go forward with the divorce in affiant's absence, and further understands that mover intends to do so.

\_\_\_\_\_

Sworn to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

**24<sup>th</sup> JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON  
STATE OF LOUISIANA  
LOUISIANA CIVIL CODE ARTICLE 102 DIVORCE FORM**

Case Number: \_\_\_\_\_  
 Petitioner \_\_\_\_\_  
 vs. \_\_\_\_\_  
 Division \_\_\_\_\_  
 Judge \_\_\_\_\_  
 Defendant \_\_\_\_\_

Note: Must be completed by mover's attorney and filed in open court on the date RULE is fixed for hearing.

A. THE PETITION CCP ART. 3951

- |   |      |
|---|------|
| 1. Date the Petition was filed:                                   | Date |
| 2. Is the <b>Petition</b> in the record?                          | Yes  |
| 3. Is the proper jurisdiction expressly alleged in the Petition?  | Yes  |
| 4. Is the proper venue expressly alleged in the <b>Petition</b> ? | Yes  |
| 5. Is the Petition verified by the petitioner?                    | Yes  |
| 6. Date the <b>Petition</b> was served on the defendant:          | Date |
| 7. Is the Sheriff's return in the record showing Service?         | Yes  |
| 8. Is the waiver of service in the record?                        | Yes  |

B. RULE TO SHOW CAUSE CCP ART. 3952

- |  |      |
|--|------|
| 9. Date the parties physically separated:  | Date |
| 10. Date the <b>Rule</b> was filed:  | Date |
| 11. Is the <b>Rule</b> in the record?  | Yes  |
| 12. Does the <b>Rule</b> allege:   |      |
| (a) proper service of the <b>Petition</b> or waiver of service of the <b>Petition</b> ?  | Yes  |
| (b) that 180 days or more have elapsed since service or execution of a written waiver of service of the <b>Petition</b> ?              | Yes  |
| (c) that the parties have lived separate and apart continuously for the 180 days previous to the filing of the <b>Rule</b> ?           | Yes  |
| (d) that Notice was issued pursuant to R.S. 13:3491  | Yes  |
| 13. Is the <b>Rule</b> verified by the affidavit of the Petitioner?  | Yes  |
| 14. Was the <b>Rule</b> filed within 2 years of service of the Petition or execution of the written waiver of service of the Petition? | Yes  |
| 15. Is the sheriff's return of service of the <b>Rule</b> in the record?   | Yes  |
| 16. Is the waiver of service of the <b>Rule</b> in the record?   | Yes  |

C. AFFIDAVIT OF MOVER CCP ART. 3956 (5)

- |  |     |
|--|-----|
| 17. Does the record contain the Affidavit of the mover executed <b>after</b> the <b>Rule</b> was filed and specifically states that: |     |
| (a) the parties have lived separate and apart continuously for at least 180 days prior to filing of the <b>Rule</b> ?                | Yes |
| (b) the parties are living apart at the time of execution of the Affidavit?  | Yes |
| (c) the mover desires to be divorced?  | Yes |
| 18. Was the Affidavit executed after the <b>Rule</b> was filed?  | Yes |

I hereby certify that I have examined the record in the above captioned case and the information is accurate. This certification is made to the court for use in the determination of eligibility for divorce in accordance with the provisions of Article 102 of the Louisiana Civil Code, the Louisiana Code of Civil Procedure Articles 3951 et seq., and revised statutes.

\_\_\_\_\_  
Date of Record Examination                      Signed By (Attorney for Mover)                      Bar Number

\_\_\_\_\_  
Date of Certification                      Address                      Telephone Number

Date of Form: January 1, 2001

24<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

DOMESTIC RELATIONS DOCKET

NO. \_\_\_\_\_

DIVISION “ \_\_\_\_ ”

\_\_\_\_\_  
VERSUS  
\_\_\_\_\_

\_\_\_\_\_  
**INCOME ASSIGNMENT ORDER**  
\_\_\_\_\_

In accordance with R.S. 46:236.3, this ORDER for an income assignment shall be effective immediately.

Considering the support obligation of the OBLIGOR, \_\_\_\_\_, pursuant to the JUDGMENT rendered by this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

1. IT IS ORDERED that the PAYOR, \_\_\_\_\_, shall withhold from the income of the OBLIGOR (including but not limited to wages, salary, commission, compensation as an independent contractor, disability, unemployment compensation, annuity and retirement benefits, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by public act excluding worker's compensation benefits, Black Lung benefits, VA Disability Benefits, and Title XVI Supplemental Security Income) the amount ordered for support, which amount is \$ \_\_\_\_\_, per \_\_\_\_\_, as it becomes due; that the PAYOR must implement withholding no later than the first pay period that occurs following receipt of this income assignment, and shall continue the withholding each pay period until further order of the Court as provided in R.S. 46:236.3(G).
2. IT IS FURTHER ORDERED that the income seized shall not exceed the percentage of disposable earnings subject to seizure as defined in R.S. 13:3881 for the payment of a support obligation; or, the income exempt from seizure is fifty percent (50%) of the OBLIGOR's disposable earnings, but in no case shall this exemption be less than an amount in disposable earnings which is equal to thirty times the federal minimum hourly wage.
3. IT IS FURTHER ORDERED that the TOTAL AMOUNT WITHHELD SHALL BE FORWARDED WITHIN TEN (10) DAYS to the OBLIGEE, at the following address:

4. IT IS FURTHER ORDERED that this assignment shall be binding upon any existing or future employer of the OBLIGOR upon whom a copy of the Order is served.
5. IT IS FURTHER ORDERED that the PAYOR may deduct a five (\$5.00) dollar processing fee from the income of the OBLIGOR per each pay period during which the income assignment order is in effect.
6. IT IS FURTHER ORDERED that when two or more orders to withhold income for support are received, the orders shall be prorated; if there are insufficient funds available to satisfy all orders, the orders for current support shall be given priority on a pro-rata basis.
7. IT IS FURTHER ORDERED that the OBLIGOR shall advise the court and the obligee of any change in his employment during the effective period of assignment and shall advise the court and the obligee of the name and address of any new employer. The PAYOR shall inform the OBLIGEE in writing within ten (10) days when the OBLIGOR terminates employment, and shall provide the OBLIGOR's last known address and the name and address of the OBLIGOR's new employer, if known.
8. IT IS FURTHER ORDERED that a support order shall be given preference to any other garnishment proceeding.
9. IT IS FURTHER ORDERED that no PAYOR shall discharge, discipline, or otherwise penalize any OBLIGOR because of the duty to withhold income.

Gretna, Louisiana this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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J U D G E