

Rule 16-I. Pretrial Procedure in Domestic I Cases

(a) **APPLICABILITY.** Unless otherwise ordered by the judge to whom the case is assigned, the provisions of this rule apply to all cases assigned to the Domestic I Calendar.

(b) **INITIAL STATUS CONFERENCE.**

(1) *In General.* In every case assigned or assignable to a domestic relations calendar, the court must hold an initial status conference as soon as practicable after the case is filed. At the conference the judge will ascertain the status of the case; explore the possibilities for early resolution through settlement or alternative dispute resolution, or for expediting the case by use of stipulations; explore issues of service, notice and identity of necessary parties; and determine a reasonable time frame for bringing the case to conclusion.

(2) *Disclosure of Information.* The judge may require that the parties exchange information pursuant to Rule 26(a)(1)(A).

(3) *Scheduling.* After consulting with the attorneys for the parties and with any self-represented parties, the judge may set dates for the following events:

(A) *Discovery Requests; Depositions.*

(i) No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served after the deadline for discovery requests.

(ii) Party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum must be noticed not less than 5 days before the date scheduled for the deposition and no deposition may be noticed to take place after the date set for the conclusion of discovery.

(B) *Exchanging Lists of Fact Witnesses.* By this date, each party must file and serve a listing, by name and address, of all fact witnesses to be called by that party.

(C) *Proponent's Rule 26(a)(2)(B) Report.* By this date, a report required by Rule 26(a)(2)(B) must be filed and served by any proponent of an issue (a party asserting a claim or an affirmative defense) who will offer an expert opinion on such an issue.

(D) *Opponent's Rule 26(a)(2)(B) Report.* By this date, a report required by Rule 26(a)(2)(B) must be filed and served by any opponent who will offer an expert opinion on such an issue.

(E) *Close of Discovery.* After this date, no deposition or other discovery may be had, nor motion relating to discovery filed, except by leave of court on a showing of good cause.

(F) *Filing Motions.* By this date, all motions must be filed, except motions in limine, motions to bifurcate, or motions for which leave to file has been obtained.

(G) *Other Dates.* The judge may also set dates for filing legal memoranda, trial briefs, and pretrial statements; dates for appraisals; and, if custody is or may be an issue, dates for requests for Social Services investigations, appointment of guardians ad litem, and forensic evaluations.

(4) *Modification.* The schedule set at the initial status conference may be modified by the parties' agreement, but dates for court proceedings may not be modified without the court's leave.

(c) **PRETRIAL DISCUSSION.** Unless the court orders otherwise, trial counsel for each represented party and any unrepresented parties must confer not less than 14 days

prior to the trial date, or 14 days prior to the pretrial conference, if one is scheduled. They must make a good faith effort to reach agreement on the following matters:

(1) formulating and simplifying the issues, and eliminating insupportable claims or defenses;

(2) amending the pleadings if necessary or desirable;

(3) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(4) identifying witnesses and documents;

(5) referring matters to a magistrate or a master;

(6) settling the case or using alternative dispute resolution procedures to resolve the dispute;

(7) disposing of pending motions;

(8) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems; and

(9) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(d) **SERVING EXHIBITS ONE WEEK PRIOR TO TRIAL.** One week prior to the trial date, each party must serve on all other parties copies of all documentary exhibits which that party may offer at trial, unless the court orders otherwise. If a party proposes to offer more than 15 exhibits at trial, that party must place a numbered exhibit sticker on each exhibit and identify the exhibits by exhibit number on an exhibit summary form (copies of which are available in the clerk's office) served with the exhibits. The exhibit summary form, and the original exhibits, separated by tabbed divider pages, must be fastened or placed in a notebook. By this date, each party also must make all non-documentary exhibits available for inspection by other parties. Except for rebuttal or impeachment purposes, no party may offer at trial any exhibit not served as required by this rule, without leave of court or agreement of the parties.

(e) **PRETRIAL AND SETTLEMENT CONFERENCE.** If the judge sets pretrial and/or settlement conferences, all parties and trial counsel for each represented party must attend the pretrial and/or settlement conference, unless excused by the judge for good cause. The parties must bring their trial exhibits to the conference. If a pretrial conference is scheduled after the date for exchange of exhibits, the parties also must be prepared to make objections to the other parties' exhibits.

(f) **PRETRIAL ORDER.** If there is a pretrial conference, the court must issue an order reciting the action taken. Insofar as possible, the court will resolve all pending disputes in the pretrial order. With respect to some matters, it may be necessary to reserve ruling until the time of trial or to require additional briefing by the parties prior to trial. The pretrial order may set limits with respect to the time for opening statement, examination of witnesses, and closing argument and may also limit the number of lay and expert witnesses who can be called by each party, or the total amount of time each party may have for presenting the party's case.

(g) **AUTHORITY OF COUNSEL.** Counsel for each party participating in any conference before trial, or in the discussion described in Rule 16-1(c), must have authority to enter into stipulations, to make admissions regarding all matters that the participants may reasonably anticipate may be discussed, and to participate fully in all settlement

discussions.

(h) TELEPHONIC CONFERENCES. In the court's discretion and with the parties' consent, any pretrial communications may be conducted by telephone or other form of electronic communication.

(i) SANCTIONS.

(1) *In General*. On motion or on its own, the court may issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a party or its attorney:

(A) fails to appear at a scheduling or pretrial conference;

(B) is substantially unprepared to participate—or does not participate in good faith—in the conference; or

(C) fails to obey a scheduling or pretrial order.

(2) *Imposing Fees and Costs*. Instead of or in addition to any other sanction, the Court may require the party, its attorney, or both, to pay the reasonable expenses--including attorney's fees--incurred because of any noncompliance with this rule unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

COMMENT TO 2018 AMENDMENTS

This rule has been amended to conform more closely to Civil Rule 16 while maintaining practices and procedures distinct to domestic relations actions.

COMMENT

This rule provides a more structured pretrial procedure than SCR-Dom. Rel. 16 for those domestic relations cases whose complexity or need for Court supervision warrants such treatment. The rule provides more flexible scheduling periods than the corresponding civil rule to accommodate the more fluid nature of Domestic Relations cases. It is in the Court's discretion, of course, to allow even more flexibility when appropriate in a particular case.

While subparagraph (b)(2) requires a party to file a listing of all fact witnesses the party intends to call, the party should not be precluded from calling at trial other witnesses for purposes of rebuttal or impeachment.