

## **Rule 16-I. Pretrial Procedure in Domestic I Cases**

(a) Applicability. Unless otherwise ordered by the judicial officer to whom the case is assigned, the provisions of this Rule shall apply to all cases assigned to the Domestic I Calendar.

(b) Initial status conference. In every case assigned or assignable to a domestic relations calendar, an initial status conference shall be held as soon as practicable after the case is at issue. At that conference the judicial officer shall 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. The judicial officer may require that the parties exchange information pursuant to SCR-Dom Rel 26(a)(1). After consulting with the attorneys for the parties and with any unrepresented parties, the judicial officer will set dates for future events in the case, which may include:

(1) Deadline for discovery requests and close of discovery. If a deadline for discovery requests is set, no interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served after that date. Only party depositions *ad testificandum* and nonparty depositions *duces tecum* or *ad testificandum* may be noticed after that date. If a deadline for close of discovery is set, no deposition or other discovery may be had after that date. Deadlines established pursuant to this subparagraph may only be extended by leave of Court or agreement of the parties.

(2) Exchange 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.

(3) Exchange lists of expert witnesses. By this date a statement comporting with the requirements of SCR-Dom Rel 26(b)(4) 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 even if the names and information were not requested in a party's discovery.

(4) Deadline for 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.

(5) Other matters. Consideration should also be given to setting dates for the filing of legal memoranda, trial briefs, and pretrial statements, the need 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.

The schedule set at the initial status conference may be modified by agreement of the parties, except that dates for court proceedings may not be modified without leave of Court.

(c) Pretrial discussion. Unless otherwise ordered, not less than 14 days prior to the trial date, or 14 days prior to the pretrial conference, if one is scheduled, trial counsel for each represented party and any unrepresented parties shall confer.

They shall endeavor to reach agreement on the following matters:

(1) the formulation and simplification of the issues, including the elimination of insupportable claims or defenses;

(2) the necessity or desirability of amendments to the pleadings;

(3) admissions of facts or stipulations which will avoid unnecessary proof, and the authenticity of documents;

- (4) the identification of witnesses and documents;
- (5) the advisability of referring matters to a commissioner or master;
- (6) settlement of the case or the use of extrajudicial procedures to resolve the dispute;
- (7) the resolution of pending motions;
- (8) the need for 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) such other matters as may aid in the disposition of the action.

(d) Service of exhibits one week prior to trial. One week before the trial date each party shall serve on all other parties copies of all known documentary exhibits which that party may offer at trial, unless otherwise ordered. Where a party proposes to offer more than 15 exhibits at trial, that party shall 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, shall be fastened or placed in a notebook. By this date, each party shall also make nondocumentary 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. In cases in which the assigned judicial officer has set pretrial and/or settlement conferences, all parties and trial counsel for each represented party shall attend the pretrial and/or settlement conference, unless excused by the judicial officer for good cause shown. The parties must bring to the conference their trial exhibits and be prepared to make any objections to the exhibits of the other party if the pretrial conference is scheduled after the date for exchange of exhibits.

(f) Pretrial order. If there is a pretrial conference, an order shall be entered 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 presentation of the party's case.

(g) Authority of counsel. Counsel for each party participating in any conference before trial, or in the discussion described in paragraph (c) of this Rule, 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 discretion of the Court and with the consent of the parties, any pretrial communications may be conducted by telephone.

(i) Sanctions. If a party or a party's attorney fails to obey a scheduling or pretrial order, or fails to appear at a scheduling or pretrial conference, or is substantially unprepared to participate in the conference, or fails to participate in good faith or has otherwise not complied with the requirements of this Rule, the Court, upon motion or its own initiative, may make such orders with regard thereto as are just, including any of the orders provided in SCR-Dom Rel 37(b)(2)(B), (C), and (D). The Court may require the party or the

attorney representing the party, or both, to pay the reasonable expenses, including attorneys' fees, incurred because of any noncompliance with this Rule unless the Court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

#### 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.