

## **Rule 16. Pretrial Procedure in Domestic II Cases**

(a) **APPLICABILITY.** Unless otherwise ordered by the judge or magistrate judge to whom the case is assigned, the provisions of this rule apply to all cases assigned to the Domestic II 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 or magistrate 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 or magistrate judge may require that the parties exchange information pursuant to Rule 26(a)(1)(A).

(3) *Motions.* The judge or magistrate judge must determine any outstanding motions or set a date for hearing the motions.

(4) *Certification.* The judge or magistrate judge must also consider whether the complexity of the case, the need for court supervision of discovery, or other relevant factors warrant certification to the Domestic I Calendar.

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

(A) *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.

(B) *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.

(6) *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) **APPEARANCE.** Unless excused by the court, each party and an attorney of record for each party must appear at each hearing.

(d) **TELEPHONIC CONFERENCES.** In the court's discretion, any pretrial communications may be conducted by telephone or other reliable electronic means.

(e) **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 a party's attorney:

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

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

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

(2) *Imposing Fees and Costs.* Instead of or in addition to any other sanction, the court must order the party, the party's 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 more closely conform to Civil Rule 16 while maintaining practices and procedures distinct to domestic relations actions. Section (c) is new. It makes explicit that a party and at least one attorney of record for a represented party must appear at all hearings, unless excused by the court. Section (d) was amended to clarify that the court may permit a party or attorney to participate by telephone in a pretrial proceeding even if other parties do not consent.

## COMMENT

This Rule provides a flexible pretrial procedure for cases set on the Domestic II Calendar. In cases whose complexity warrants a more structured pretrial procedure; SCR-Dom. Rel. 16-I should be applied.