FAMILY LAW RULE 68

Family Law for the purposes of Rule 68, will apply to Dissolution of Marriage, Legal Separation,

Family Access, Motions for Modification, and Paternity cases.

**Rules 68.1 through 68.11 shall** be applicable to all Family Law cases currently pending or

hereafter filed in or transferred to **Benton, Hickory and Polk** Counties. To the extent a

provision of any other local court rule conflicts with any provision of Rules 68.1 through 68.11,

the latter shall govern.

For the purposes of this Rule 68, "date of service" is defined as the date upon which service of

process of the initial pleading is obtained upon a responding party, or the filing date of any entry

of appearance by a responding party waiving service of process of the initial pleading.

In dissolution of marriage, motion to modify, and paternity actions, where neither party is

represented by an attorney, all pleadings, information forms, parenting plans, child support

calculations and judgment forms must be submitted to the court on forms approved by the

Missouri Supreme Court unless waived in writing by the court. Prior to filing any such action, a

petitioner not represented by counsel shall complete the on-line course at Case.Net (Representing

Yourself) and present proof of completion to the clerk at time of filing. Only forms approved by

the Missouri Supreme Court will be accepted from prose litigants.

**68.1 Filing Requirements**

At the time of filing a petition for dissolution of marriage, the petitioner or the attorney for the

petitioner shall file a **Certificate of Dissolution of Marriage** - (Vital Statistics Report) on a

form to be provided by the clerk, as required by Section 193.360, RSMo.

**68.2 Family Law Interim Order**

(1) Immediately upon the filing of a petition for Dissolution of Marriage, Paternity, or Motion

to Modify, the Court shall, unless good cause is otherwise shown, enter a Family Law Interim

Order (Form 68-1). The clerk shall attach a copy of the Family Law Interim Order to the

summons, and send a copy to the filing party, the filing party's attorney, or party who waives

service of process.

(2) Violation of the Family Law Interim Order may constitute contempt of court and subject the

violator to fine, imprisonment, or other sanction as allowed by law, plus payment of attorney's

fees and costs to the other party.

(3) If either party is aggrieved by the Family Law Interim Order, a court hearing may be

requested, however, the court urges the parties to attempt to resolve their dispute through

mediation before requesting a hearing.

(4) The Family Law Interim Order does not supercede any temporary or final Order of

Protection that may already be in effect. The Order of Protection remains in full effect.

**68.3 Contested Cases**

Every family law action shall be considered a contested case unless:

(1) All responding parties are in default, or

(2) All parties file a stipulation in writing that the case is uncontested and setting forth the

agreement of the parties for the resolution of all issues raised in the pleadings filed by any of the

parties.

**68.4 Filing of Financial Statements**

(1) In any contested case in which the award of property, maintenance, child support, attorney

fees, or the division of debt is an issue, a "Statement of Income and Expenses," on the form

substantially in accordance with Form OSCA CV-100, shall be completed by each party,

executed under oath or affirmation, and served on the opposing party within forty-five (45) days

after the date service. Each party shall file with the Circuit Clerk a Certificate of Service

indicating compliance with this rule within such time period.

(2) In any contested case in which the award of property, maintenance, child support, attorney

fees, or the division of debt is an issue, a Statement of Assets and Debts on Form OSCA CV-

105, shall be completed by each party, executed under oath or affirmation, and served on the

opposing party within sixty (60) days after the date of service. Each party shall file with the

Circuit Clerk a Certificate of Service indicating compliance with this rule within such time

period.

(3) The parties by written agreement filed with the court may agree to use an alternate format

for the exchange of income, expense asset and debt information other than by use of OSCA

forms CV-100 and CV-105. Such written agreement shall certify to the Court that such alternate

format provides for the exchange of no less identifying information than that as required on

OSCA forms CV-100 and CV-105.

(4) In any contested case in which the award of child support is an issue, a Missouri Supreme

Court Civil Procedure Form No. 14 shall be completed by each party and served upon the

opposing party, within sixty (60) days after the date of service. Each party shall file with the

Circuit Clerk a Certificate of Service indicating compliance with this rule within such time

period.

**68.4.1 Required Document Production in Family Law Cases**

(1) In any contested case in which the award of property, maintenance, child support,

attorney fees, or division of debt is an issue, each party shall deliver to the other party,

within sixty (60) days after the date of service, a complete and legible copy of each of the

following documents in their possession or under their control:

1. Any federal and state income tax returns (including all schedules, W-2, K-

**1,** and 1099 forms) for the proceeding 3 calendar years;

(b) The last 6 pay periods "pay check" stubs or other evidence of wages,

salaries or tips if no "paycheck" stub is issued;

(c) Any financial statements provided to a lender or prospective lender within

the proceeding 3 calendar years;

The following documents, in addition to the preceding documents, shall be produced

within such time period, only if the award of property or division of debt is an issue:

(d) Any benefit statements wherein a party has an interest in any form of

pension plan whether vested or non-vested;

(e) The plan(s) relating to any pension benefits whether vested or non-vested;

(f) Any deeds to real estate, notes, deeds of trust, leases, titles to motor

vehicles, stock or bond certificates and any other evidence of ownership of

an asset or interest in an asset claimed as marital or separate property;

(g) The latest statement of account on all accounts held in any financial

institution or brokerage firms;

(h) All declaration sheets or certificates of coverage for life insurance policies

insuring the life of either party or a minor child involved in the

proceedings;

(i) The most recent statement of value for any life insurance policy of either

party or child, which has a cash value;

(j) Any appraisals relating to any marital or separate property done within the

last thirty-six (36) months;

(k) Any trusts where a party is either the grantor or current income beneficiary

of the trust;

(1) Any partnership agreements, operating agreements in any limited liability

company and/or stock certificates in any corporation in which a party

holds an interest; and,

(m) Promissory notes, deeds of trust, security agreements and the latest

statement of account on any debts owed by either party.

(n) All balance sheets and/or income and expense statements received within

the immediately preceding three (3) years with respect to any and all

proprietorships, joint ventures, partnerships, realty trusts, corporations,

limited liability companies (LLC), limited liability partnerships (LLP) or

other legal entities in which is held a legal or equitable interest,

individually or otherwise.

(2) **Additional Information to be provided.** For each document described in the preceding

paragraph that is not produced by a party to the other, such party shall advise the other of

the fact that such document may not now exist or has never existed, or that if such

document exists, but is not in the possession or under the control of the delivering party,

the name and current address of the person who has possession or control of the

document.

(3) **Certificate of Compliance Required**. Within the time period provided herein for the

production of these documents each party shall file with the court a Certificate of

Compliance with this rule.

( 4) **Information shall be updated prior to trial.** All interrogatories and document

productions shall be updated and supplemented no less than ten (10) days prior to trial if

any changes occur prior to the trial date, except significant changes such as employment,

income, or expert witnesses which shall be updated immediately upon the happening of

the event.

**68.5 Case Management Conference**

(1) An initial Case Management Conference (CMC) in all family law cases shall be set on the

court's first available family law docket following sixty (60) days after the date of service.

(2) Upon application or the court's own motion, the court may set subsequent CMC's from time

to time as are deemed necessary and appropriate to bring the case to an expeditious conclusion.

(3) The clerk shall send notice of the date and time of any CMC to all parties not in default and

any attorneys who have entered an appearance in the case.

(4) At any CMC, the court will make inquiry as to the status of the case and may enter

appropriate orders which may include, but are not limited to, ordering mediation, making

discovery orders, setting the matter for trial, hearing evidence on and disposing of uncontested

cases, or hearing any motion properly noticed for hearing by a party. A CMC does not obviate

the need for counsel to notice for hearing any motion deemed necessary. Unless any such

motion is properly noticed for hearing, the court will not consider the same at any CMC without

consent of the opposing party and the court.

(5) Upon application showing good cause, or the court's own motion, any CMC may be

continued to another date certain.

(6) All non-defaulting parties and all attorneys of record are required to attend and participate in

each scheduled Case Management Conference unless otherwise excused by the court in advance

for good cause shown.

**68.6 Required Education Programs**

(1) Parent Education Program- In any family law case where there is at least one child of the

parties under the age of eighteen, both parents of such child shall attend a court-approved

(pursuant to Rule 68.21) educational session to educate parents as to the possible detrimental

effects of court actions on children and how to avoid these negative effects. No party shall be

required to attend such a court-approved program more than once. The petitioner shall file a

Certificate of Completion with the clerk of the court certifying petitioner's attendance of said

program within forty-five (45) days after filing the petition or motion. The respondent shall file

a Certificate of Completion with the clerk of the court certifying respondent's attendance of said

program within forty-five ( 45) days after the date of service of process or of receipt of the

petition or motion if service is waived. This requirement may be waived by the judge assigned

to the case upon written application by any party and for good cause shown.

(2) Alternative Dispute Resolution Education Program - In any contested dissolution of

marriage, legal separation, motion to modify or paternity case, the petitioner and respondent will,

within sixty (60) days after the date of service, attend an educational program on Alternative

Dispute Resolution (ADR) as directed by the court. Each party shall file with the court a

certificate of completion of this program with the court within sixty (60) days after the date of

service.

**68.7 Parenting Plan**

A proposed parenting plan shall be filed with the court as required by and within the time periods

provided in Section 452.310 RSMo. The petition of any petitioner who fails to submit a proposed

parenting plan as provided by law shall be dismissed without prejudice. The pleadings of any

respondent who fails to submit a proposed parenting plan as provided by law shall be stricken.

**68.8 Family Access Motions**

( 1) At the time of filing for a Family Access Motion, the petitioner may request the form OSCA

CV -137 from the circuit clerk. Clerks, under the supervision of the circuit clerk, shall explain to

aggrieved parties the procedures for filing the form.

(2) The Clerk shall provide information to both parties regarding Alternative Dispute Resolution

services available at the time of filing and service of respondent.

(3) Upon the return date on any contested motion, the court shall, unless good cause is otherwise

shown, enter an order referring the case to mediation.

**68.9 Alternative Dispute Resolution Program**

(1) Pursuant to Supreme Court Rule 17 and 88.02 through 88.08, the court adopts the following

Alternative Dispute Resolution program. In every contested case involving Family Law

Disputes including; Dissolution of Marriage, Family Access, Modification, and Paternity cases,

participation in a minimum of two (2) hours of mediation pursuant to this local court rule is

required, unless waived by the court for good cause shown.

(2) In all contested actions to which this rule applies, except motions for family access, both

parties to the dissolution or motion shall attend a court-approved educational session to educate

parties on the availability and advantages of Alternative Dispute Resolution. Each party shall

attend said program within forty-five (45) days of the date of service of process, or of receipt of

the petition, or motion if service is waived. Counsel for the parties should discuss alternative

dispute resolution with their clients.

(3) At the initial CMC the court will make inquiry as to the status of the case and will enter an

order for mediation if appropriate. If the parties cannot agree on a mediator from the courtapproved

list of mediators, the case will be assigned by the court to a mediator from the courtapproved

list to conduct mediation.

( 4) The minimum qualifications of mediators are as set forth in Supreme Court Rule 17.04 and

88.05.

**68.9.1 Designation, Assignment and Disqualification of**

**Mediators**

(1) The court will maintain a list of court-approved family law mediators that will be

available to attorneys, parties, and the public through the office of the Circuit

Clerk.

(2) At the time the case is referred for mediation, the Court will assign a mediator, as

agreed by the parties or if the parties are unable to agree upon a mediator as

determined by the court, from the court-approved list of mediators.

(3) Any party may disqualify one (1) assigned mediator without cause within five (5)

days of assignment of such mediator, but no later than the commencement of the

initial mediation session, whichever occurs first. A party must file a written

disqualification with the clerk of the court and with a service copy to all interested

parties. The clerk shall immediately bring such disqualification to the court's

attention for reassignment of a mediator.

**68.9.2 Mediator Responsibilities**

( 1) To be included on the court -approved list of mediators, the interested mediator

must provide the court with the following minimum information: business

address, telephone number, fax number, e-mail address, if any; a copy of degrees

and the institutions where obtained; type and number of hours of mediation

training with a copy of certification of completion of the program; current

profession and hourly rate of mediation.

(2) The mediator, with the assistance of the Petitioner or the Petitioner's counsel, if

any, shall schedule the initial mediation session within thirty (30) days after the

completion date of any uncompleted items identified in the Order of Mediation.

(3) If agreement is reached during mediation, a Memorandum of Agreement will be

drafted by the Mediator and presented to the parties for submission to their

attorneys, if any. Any understanding reached by the parties as a result of

mediation shall not be binding upon the parties until it is reduced to writing,

signed by the parties and their attorneys, if any, and approved by the court.

(4) The Mediator will submit Form 68.2 to the clerk of the court within three (3) days

following each mediation session.

(5) The Mediator shall disclose the nature and extent of any relationship with the

parties and any personal, financial, or other interests that could result in a bias or a

conflict of interest.

**68.9.3 Termination of Mediation**

(1) At any time after two hours of mediation, either party may terminate mediation

ordered under this rule.

(2) The mediator shall terminate mediation whenever the mediator believes:

a. Continuation of the process would harm or prejudice one or more of the

parties or any child of the parties; or

b. The ability or willingness of any party to participate meaningfully in

mediation is so lacking that a reasonable agreement is unlikely.

(3) The Mediator shall report the termination of mediation on Form 68-2, to the clerk

of the court within seven (7) days of termination of mediation. The clerk shall

notify the court as soon as possible.

**68.9.4 ADR Program Costs**

( 1) The parties shall be responsible for the payment of the full cost of the mediator for

the required initial two-hour mediation session on an equal basis unless otherwise

specifically allocated by an order of the Court for good cause shown entered

before or at the time the case is referred to mediation by the court.

(2) The amount to be paid by a party to a mediator under this rule for services

rendered for the initial mediation session is due and payable in full to the mediator

at least seven (7) days before the scheduled date for the commencement of such

mediation session. Failure to pay the mediator as required herein is a basis for the

imposition of sanctions by the court.

**68.10 Entry of Judgment By Affidavit**

(1) **Final Judgment** in a proceeding for dissolution of marriage or legal separation, motions to

modify, and actions for declaration of paternity may be entered upon the affidavit of either, or

both parties when:

(a) There are no minor children of the mother and father and the mother is not pregnant,

or both parties have entered into a written agreement determining custody and child

support; and the adverse party has been served in a manner provided by the Missouri

Rules of civil Procedure or has formally filed a verified entry of appearance or

responsive pleading; and

(b) There is no genuine issue as to any material fact; and

(c) There is no marital property or marital debts to be divided or the parties have entered

into a written agreement for the division of their marital property and marital debts.

(2) **Affidavit Filing.** If one party desires to submit the matter for entry of final judgment upon

an affidavit, the submitting party shall file an affidavit setting forth sworn testimony showing the

Court's jurisdiction and factual averments sufficient to support the relief requested in the

proceeding, together with a copy of the proposed judgment, a copy of any written agreement(s)

proposed for adoption by the Court, a completed Form 14, and any other supporting evidence. If

all parties are in default, the court may proceed with entering judgment upon the affidavit. If any

other party is not in default, the court may proceed with entering judgment upon the affidavit

only with the written consent of all non-defaulting parties. The filing of such affidavit shall not

be deemed to shorten any statutory waiting period required for entry of a Judgment of

Dissolution or Judgment of Legal Separation.

(3) The Court shall not be bound to enter a judgment upon the affidavits of either or both parties,

but the Court may, upon its own motion, require that a formal hearing be held to determine any

or all issues presented by the pleadings.

**68.11 Failure to Comply With Rule**

If a party fails to comply with any provision of Rules 68.1 through 68.11, the court may, upon its

own motion or the motion of a party, after reasonable notice to all parties, make such orders in

regard to failure as are just and among others the following:

(1) An order requiring the party who fails to timely attend a scheduled mediation

session to pay to the mediator an amount as determined by the court up to the total

cost for the mediation session.

(2) An order requiring the party who fails to timely attend a scheduled mediation

session to pay to the other party or parties required to attend the mediation session

an amount as determined by the court for their lost wages and expenses in

attending such session.

(3) An order refusing to allow the disobedient party to support or oppose designated

claims or defenses or prohibit the disobedient party from introducing designated

matters in evidence.

(4) An order treating as a contempt of court the failure to obey.

(5) An order requiring the disobedient party or the attorney advising the disobedient

party or both to pay the reasonable expenses, including attorney's fees, caused by

the failure, unless the court finds that the failure was substantially justified or that

other circumstances make an award of expenses unjust.

(6) An order striking pleadings or parts thereof or staying further proceedings until

the order is obeyed or dismissing the action or proceeding or any part thereof or,

rendering a judgment by default against the disobedient party.

(7) Upon a showing of reasonable excuse, the court may grant the disobedient party

additional time to comply and, if appropriate, impose any further sanctions as set

forth herein should the disobedient party not comply within such additional time

period.

(8) Likewise, the Court, on its own motion, on any case pending in such counties, may suspend, by written order, the compliance by the parties with any part or

parts of Rules 68.01 through 68.11.