

Family Law Scheduling Conference

Understanding and Preparing for the Family Law Scheduling Conference

Once you arrive at the Courthouse, please check the docket display monitors to determine the location of your Scheduling Conference.

WHAT IS THE SCHEDULING CONFERENCE?

The Scheduling Conference may be the first of a number of court dates which you will have before the trial date on your domestic case. It is the court's way to begin tracking your case, and to schedule the steps in your case's development. The Judge or Master In Chancery conducting your Scheduling Conference will discuss the services available which he or she may order for your case.

The purpose of the Scheduling Conference is, in part, to determine how the case will proceed. In addition, it allows the court to apply its resources to assist you and your family, and to facilitate settlement. At the Scheduling Conference, the Judge or Master may order you to participate in one or more programs offered by or through the Circuit Court.

Each step in the development of your case has been designed to offer information, counseling and support to make your own decisions. The purpose is to give you as much assistance and as many opportunities as possible to settle your own case without having a fully contested trial.

WHAT SHOULD YOU DO TO PREPARE FOR THE SCHEDULING CONFERENCE?

Each party or his/her attorney should already have completed a "Domestic Case Information Report" (DCIR) and a financial statement, if either party has requested child support or alimony. If you have not yet completed these forms, you will be asked to fill them out before the Scheduling Conference can proceed. The forms are available at the Office of the Clerk of Court, Room 147.

WHAT IS THE BENEFIT OF SETTLING BEFORE TRIAL?

The court recognizes that a fully contested trial is not a perfect way to solve a family's problems. Your case can be concluded in one of two ways: 1) You and the opposing party may resolve all issues by reaching a settlement agreement which is then incorporated into an enforceable court Order; or 2) You may appear before a Judge for a trial. After hearing testimony and receiving evidence from both sides, the Judge will make a decision and issue

an enforceable court Order.

Our experience is that both parties are usually more satisfied with the outcome when they play a role in developing a settlement agreement. Those outcomes are generally more stable and long-lasting. No Judge or Master will ever know your situation, your children and your family as well as you do yourselves. We urge you to begin discussing possible settlement options as soon as possible.

If you fail to reach an agreement and must go to trial, you may lose many days from work, and may expend thousands of dollars in attorney's fees and court costs to litigate the case. You then run the risk that the Judge or Master may not agree with your point of view and you may find that you are not happy with the end result.

Compliance with all court orders is **MANDATORY**. (See "*What Happens If You Don't Show Up for Court-Ordered Programs*" below for details.)

OTHER SERVICES THE JUDGE/MASTER MIGHT ORDER

In contested family law matters, the Judge or Master may order any or all of the following:

Pendente Lite Hearing. A hearing to resolve certain issues in the case temporarily, until a final hearing on all issues can be held. These may include questions of custody, child support, alimony, use and possession of a family home and/or family personal property.

Parenting Seminar. A seminar to help you and the other party learn how to "co-parent" your children during this time of great change. The course will also help you prepare for custody/visitation mediation. This 6-hour course consists of two 3-hour sessions and is offered through the Worcester County Health Department. If ordered, attendance is mandatory.

Children's Program. A program to help children whose families are experiencing change due to divorce, separation and custody issues. This 3-hour program is offered the 4th Wednesday of every other month at the Worcester County Health Department in Snow Hill. Parties with children ages 6-12 may be ordered to bring their children to this free program. If ordered, attendance is mandatory.

Custody/Visitation Mediation. Mediation with a private mediator to resolve custody and/or visitation issues only. You will be ordered to attend two sessions of 2-hours each. The cost for mediation is \$100 per person, per mediation session, payable directly to the private mediator. Attorneys do not attend this type of mediation with you, although you will have an opportunity

to consult with your attorney before finalizing any agreement.

Property A.D.R. (Alternative Dispute Resolution). Private mediation of marital property issues. The Judge or Master will inform you of the fee for Property A.D.R. and will tell you how many hours in which you will be required to participate. Your attorney *may* attend property mediation with you. Payment will be made directly to the property mediator. The cost for mediation is \$100.00 per person, per mediation session.

Custody Evaluations. Investigations are conducted by the Custody Evaluation Unit of the court's Family Division to assist the court in determining in whose care minor children should be placed. The custody evaluator will meet with both parties jointly, and then may interview neighbors, family members, employers, mental health providers and review appropriate records. The custody evaluator will prepare a written report which usually includes a custody recommendation, and he/she will be available to testify in court at the time of trial.

Psychological Evaluation. Such an evaluation may be ordered at the discretion of the court if the mental health of either party or a minor child is called into question. The court will determine which party must pay the costs of the evaluation. Usually the psychologist will prepare a written report and be available to testify at trial.

Substance Abuse Screening. This may be ordered at the discretion of the court if there are allegations that one or more parties has or has had a history of drug or alcohol abuse. Usually, the court's substance abuse assessor will prepare a written report and be available to testify at trial.

Paternity Testing. If the paternity of a child is called into question, the court may order the parties to cooperate with a paternity test. The cost of testing is paid by the parties - the court will determine how that cost is shared.

Attorney for Minor Children. If appropriate, the court may order that an attorney be appointed to represent the minor children to: 1) represent the children on all issues and present their point of view; 2) represent the children and tell the court what he or she thinks is best for them (guardian *ad litem*); or 3) represent the children for the purposes of consenting to testimony by their therapist/psychologist (Nagel v. Hooks attorney). The attorney is usually paid by the parties and the court will determine how that cost is shared.

Settlement Conferences. A meeting held before a Judge or Master to resolve any remaining issues and/or prepare for trial. Both parties and counsel are required to attend. This is a final opportunity to settle any unresolved issues. If you fail to reach agreement at the Settlement

Conference, your case will be scheduled for a trial on the merits.

Trial Dates. The Master will assign your Trial Date at the Scheduling Conference.

CAN FEES BE WAIVED?

Court costs that are paid directly to the Clerk's Office must be paid up front - at the time of filing. You can ask that the court waive the requirement that you pay those fees up front by filing a Motion for Waiver of Prepayment of Filing Fees (available from the Office of the Clerk of Court).

Fees for testing, evaluations, and services cannot usually be waived as those are payable to other agencies and persons. However, subject to the availability of Family Services Funds, you can, request that the fee for the court ordered evaluations be waived, or that the fees for private mediation be waived. Those requests should be made by written motion and you must provide proof of income.

WHAT HAPPENS IF YOU DON'T SHOW UP FOR COURT- ORDERED PROGRAMS?

If you are referred to the programs and do not attend, or appear but refuse to pay without a waiver, you may be found in Contempt of Court. This could result in additional penalties – including the possibility of detention at the local detention center. It is also within the court's power to decide the case against you, simply because you refuse to cooperate with court orders when you have the ability.