

Proposed Probate and Family Court Standing Order [Xc]-2016

SETTLEMENT CONFERENCES IN FAMILY LAW CASES IN THE PROBATE AND FAMILY COURT

(A) Requirement in certain domestic relations matters. Unless otherwise ordered by the Court, all initial and modification complaints for divorce filed in the Probate and Family Court where the parties are not in agreement as to the terms of any parenting plan, order for placement of or parenting schedule with a child, the determination of child support as part of a parenting plan or order for placement of or parenting schedule with a child, the division of property, division of debts and liabilities, or a claim by any party for post decree maintenance or spousal support, shall, prior to being assigned a trial date, be scheduled for a settlement conference. Prior to scheduling the case for a settlement conference, all interested parties shall have filed answers or responses and all discovery shall be complete. Upon filing a notice for a settlement conference, the Court shall assign the soonest available date but no later than 60 days from the filing of the notice.

Requirement in Early Case Settlement Process. All cases in which the parties have agreed to the Early Case Settlement Process (See Standing Order [Xa]-16) will participate in a settlement conference in compliance with this Standing Order.

Other Settlement Conferences. In any other actions in which discovery is complete, at the request of both parties, the court shall, except for good cause shown, direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to participate either in person or, with leave of Court, by telephone, in a conference or conferences before trial for the purpose of facilitating settlement. If one party requests, the court may schedule a settlement conference. The Court may also schedule a settlement conference upon its own motion.

(B) Scheduling

(1) Unless scheduled by the Court on its own motion, to obtain a date for a settlement conference, either party may file a *"request for a settlement conference"* form including certification that all interested parties have filed responses to the complaint, that alternative dispute resolution (ADR) screening as required has been attended or waived by the court, and that the parent education class as required by the court has been attended or waived.

(2) For all scheduled settlement conferences, the Court shall enter an order that sets the date for the settlement conference, the requirement for furnishing a completed settlement conference form no later than five days prior to the conference, and other matters appropriate in the circumstances of the case. A settlement conference date shall not be changed except by leave of Court upon a showing of good cause.

(C) Attendance and Preparation Required. All parties and their counsel shall personally attend the settlement conference unless other arrangements have been made with the court in advance of the settlement conference date. At the settlement conference, all parties shall make a good faith effort to fully discuss all unresolved issues in dispute and negotiate settlement in good faith.

(D) Settlement Conference Form. At least five (5) days prior to the settlement conference, each party shall furnish the Court and provide the other party or their attorney with a separate memorandum including:

- an outline of agreed upon issues;
- a general description of the issues, and the positions of each party with respect to each issue;
- a general description of the evidence that will be presented by each side with respect to each issue;
- whether any progress of resolution was made with the assistance of ADR;
- an assessment by each party of the length of trial; and
- Any other information each party believes will be helpful to the settlement process.

No part of any settlement conference memorandum shall be admissible at trial.

(E) Sanctions for noncompliance. Failure of any party to comply with the settlement conference Standing Orders described above may result in the imposition of sanctions in the sum of not more than \$500.00 upon the non-complying party.

(F) Other issues and Documents. If child support is an issue of a dispute pertaining to a parenting plan, order of placement or parenting schedule for a child, each party shall provide proposed child support worksheets in the form required, together with any required forms for determination of a deviation from the scheduled amount of child support, including but not limited to financial statements.

(G) Negotiations Prior to Settlement Conference. After settlement conference statements are served, the parties are encouraged to negotiate and exchange necessary documents. Any party may file and serve supplemental settlement conference statements prior to the scheduled settlement conference if the party's analysis or proposal to resolve the issues has changed after reviewing another party's settlement conference statement. If the parties resolve all issues prior to the settlement conference, they should appear at the settlement conference prepared to place the settlement on the record and/or enter final orders completing the action. If the parties resolve some of the issues in dispute, they should be prepared to discuss the remaining contested issues at the settlement conference.

(H) Completion. At the conclusion of the settlement conference, if the parties reach a full settlement, and have executed the necessary forms, the court shall hear the case for finalization. If the parties desire to continue discussing the issues, the court may schedule a continuance of the settlement conference if warranted and time is available.

(I) Proceedings after Settlement Conference. If the parties do not reach a complete settlement of all issues in dispute, the matter shall proceed to pre-trial conference and then trial as to the issues remaining in dispute. Up to the date of trial, the parties are encouraged to continue to resolve disputes.