

RULE 68 DOMESTIC AND FAMILY LAW PROCEEDINGS

68.1 SCOPE

1. The provisions of this Rule 68 shall apply to the following proceedings:
 - A. Dissolution of Marriage (including annulment actions)
 - B. Paternity actions (including Petitions for Child Custody and Support with or without a specific paternity count)
 - C. Legal Separation actions
 - D. Actions for Third-Party Custody or Grandparent Visitation
 - E. Post-judgment proceedings, including Family Access Motions and Contempt actions
 - F. Motions to Modify Judgment related to the above case types

68.2 INITIAL FILINGS

1. Initial filings shall include all the necessary pleadings and information required by Missouri law. The following additional provisions and requirements are specific to the 23rd Judicial Circuit, and do not represent an exhaustive list of pleading requirements.
2. Dissolution of Marriage:
 - A. If there are minor children of the marriage, must plead whether any other case involving custody of such children has been filed. If so, include the style and number of the other case, and whether the matter is pending or resolved.
 - B. At the time of filing the petition, the attorney for the petitioners shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form to be provided by the clerk, as required by RSMo 193.205.
 - C. Dissolutions and paternity actions shall be filed separately, as required by Missouri Court Operating Rule 4.05. A separate case number shall be assigned for each dissolution and each paternity action filed and shall be related in the automated case management system for scheduling and other processing.
 1. The separate dissolution and paternity actions may be joined later as provided by Section 210.829, RSMo.
3. Paternity actions:
 - A. Must plead whether any other case involving custody of such children has been filed. If so, include the style and number of the other case, and whether the matter is pending or resolved.
4. Motions to Modify a Judgment:
 - A. Shall include, as an exhibit, a copy of the judgment or judgments for which a modification is being sought.
 1. If a request to modify custody is included, shall also include, as an exhibit, a copy of the Parenting Plan for which a modification is being sought.
 2. In situations where the prior judgments and parenting plans are not reasonably accessible on Case.net, this requirement to file exhibits may be complied with within 14 days.

- A. Attorneys may need to enter an appearance on prior subcases in order to access such documents on Case.net.
- B. Unrepresented parties may obtain a copy of such documents from the Clerk's office.
- B. Upon the filing of a Motion to Modify, the Clerk's office shall create a new subcase number.
 - 1. Unless otherwise specifically ordered by the Court, all subsequent filings should include the most recent subcase number, and should be filed in the new subcase.
 - A. All pleadings and filings should include the most recent subcase number. (For example, once a “-02” subcase is created, no further documents should be put in the “-01” subcase.)
 - B. Family Access Motions filed pursuant to Section 452.400, RSMo, shall not be given a new subcase number.
 - a. The costs of filing the motion set forth in Section 452.400.3 shall be applied to the most recent subcase number.
 - b. If the Clerk's office case file accounting system is unable to apply the applicable costs to the most recent subcase number, the costs shall be waived.
 - C. This provision shall apply even when proceedings in the preceding subcase were ongoing (such as a contempt action or Family Access Motion) when the Motion to Modify was filed.

68.3 CUSTODY INFORMATION PROGRAM

1. As required by Section 452.605, RSMo, in an action for dissolution of marriage or legal separation involving minor children, or in a post-judgment proceeding wherein custody of minor children is to be determined by the court, the court shall, except for good cause, order the parties to attend educational sessions concerning the effects of custody and the dissolution of marriage on children.

68.4 MANDATORY FINANCIAL STATEMENTS

1. **Purpose:** The purpose of this rule is to ensure that all parties have equal access to information relevant to the case at the earliest opportunity so as to encourage the settlement of disputes. It is not intended to preclude a party from serving formal discovery requests upon the other party pursuant to the Missouri Rules of Civil Procedure.
2. **Form Availability:** All of the documents required by this Rule shall be made using the forms obtained from the Circuit Clerk, and shall be filed with the Clerk electronically in PDF format if filing with the Court is required.
3. **Orders of Protection:** This Rule does not supersede any temporary or final order of protection which may prohibit communication between the parties. If an order of protection would preclude the communication required by this Rule, the parties shall file the documents with the Court, but shall include a request that the filings be set at a higher security level.

4. **Non-responsive Statements:** The amounts included in the financial statements shall not state “varies”, “TBD”, or other similar non-responses without explanation.
 - A. For purposes of this Rule, an evasive or incomplete answer, including failure to update answers, shall be treated as a failure to answer.
 - B. Explanations for non-responsive answers shall be set forth on an attachment to the filing, and shall set forth with specificity why the information is not available to the filing party.
5. **Continuing Obligation to Update:** All parties shall have a continuing duty to update the statements required by this rule, so that such statements remain accurate and up to date.
 - A. Copies of current financial statements or any updates shall be filed no less than THREE (3) BUSINESS DAYS IN ADVANCE of the following types of settings:
 1. A hearing date for any motion involving property or financial matters, including child support;
 2. Pre-trial Conferences;
 3. Trial or other final disposition hearing.
 - B. If no information has changed, the party may instead file an affirmation that the previously filed financial statements are still true and accurate to the best of the parties' knowledge.
6. **Non-Compliance and Sanctions**
 - A. **Notice of Non-Compliance:** If a document that is required to be provided pursuant to this local rule is not produced for exchange, the parties shall follow the provisions set forth in Local Court Rule 32.6 regarding “Golden Rule” letters, and Local Court Rule 33.5 regarding Motions to Compel.
 - B. **Sanctions for Non-Compliance:** Upon a finding that any party materially failed to comply with the provisions of this rule, a rebuttable presumption shall exist that a \$500 sanction is appropriate. The Court may exercise discretion to increase, decrease, or waive this monetary sanction. Monetary sanctions may be imposed in addition to any other sanctions within the Court's authority to impose.
7. **Notice of requirements to litigants:** Upon the filing of petition or motion, the Office of the Circuit Clerk shall provide to the filing party a copy of this Rule and a compliance form. A copy of the rule and compliance form shall be attached to the summons and petition and served on the opposing party along with the petition and summons.
8. **Court Notification of Compliance**
 - A. The mandatory document exchange compliance form is available on the court website.
 - B. Upon completion of the exchange of documents, each party shall file with the court a compliance form approved by the court, certifying that the documents were exchanged or the reasons why certain documents were not exchanged.

- C. Copies of the documents exchanged need not be filed in the court file unless otherwise provided by rule.
- 9. **Waiver:** The parties may submit for approval a consent motion to waive the mandatory document exchange (other than Statement of Property and Statement of Income and Expenses).
 - A. Absent a showing of good cause, such waivers shall only be granted upon notification that the matter is a “Non-Contested Proceeding” under Local Court Rule 68.5(3).
 - B. Approval of such motion does not prohibit the entry of an exchange order at a later date.
- 10. **Documents subject to mandatory filing or exchange requirements:**
 - A. **Documents which must be filed with the Court**
 - 1. **Statement of Property, including assets and debts**
 - A. Statements of property shall be made using the form available from the Clerk’s office or the Missouri Courts website, or be in a format substantially similar to the form.
 - B. Statements of property shall be required in dissolution of marriage proceedings and legal separation actions. Filing in other types of cases shall not be required except by court order.
 - C. Petitioner (if a parent) shall file a statement of property within thirty (30) days of initially filing the case.
 - D. Respondent (if a parent) shall file a statement of property within thirty (30) days of the service date.
 - E. The requirements of this subsection are not subject to waiver without approval of the Court.
 - 2. **Statement of Income and Expenses**
 - A. Statements of income and expenses shall be made using the form available from the Clerk’s office or the Missouri Courts website, or be in a format substantially similar to the form.
 - B. Statements of income and expenses shall be required in dissolution of marriage proceedings, legal separation actions, paternity actions, and motions to modify. Filing in other types of cases shall not be required except by court order.
 - C. Petitioner/Movant shall file a statement of income and expenses within thirty (30) days of initially filing the case.
 - D. Respondent/Non-Movant shall file a statement of income and expenses within thirty (30) days of the service date.
 - E. The requirements of this subsection are not subject to waiver without approval of the Court.
 - B. **Documents which must be exchanged**
 - 1. The documents outlined in this subsection must be exchanged, but need not be filed with the Court.
 - 2. Petitioner/Movant (if a parent) shall exchange within ninety (90) days of initially filing the case.

3. Respondent/Non-Movant (if a parent) shall exchange within ninety (90) days of the service date.
4. Federal and state income tax returns including all schedules, W-2, K-1, and 1099 forms for the preceding three years.
5. Wage stubs (or other evidence of wages, tips or salaries if wage stubs are not issued) for the three months preceding the filing of the case.
6. Any statements or other documents evidencing expenses incurred in the last 12 months preceding the filing of the case pertaining to work-related child care costs, premium payments for insurance for the children of the parties, and medical, dental/orthodontic, and vision costs attributable to the children of the parties.
7. In addition, the following documents must be exchanged in dissolution of marriage and legal separation cases:
 - A. The three most recent statements for all bank accounts and all other accounts held jointly or individually by the parties in any brokerage firm or other financial institution;
 - B. The most recent benefit statement for any retirement plan, whether vested or not vested, in which a party has an interest;
 - C. Any appraisals of any marital or separate property conducted in the 12-month period preceding the filing of the case;
 - D. Credit card statements and store charges for purchases occurring during the three months preceding the filing of the case;
 - E. The most recent mortgage statement for any real property owned jointly or separately by the parties and copy of the deed for any such property;
 - F. The most recent balance statement for any existing debt owed jointly or separately by the parties.

68.5 CONFERENCES AND PRE-TRIAL SETTINGS

1. Case Management Conferences (CMC)
 - A. Upon the filing of return of service, or upon filing of an entry of appearance by counsel on Respondent's behalf, the Clerk's office shall set a CMC date.
 - B. At all CMC dates during the proceeding, counsel for the parties shall appear in person.
 1. The attorney who will be trying the case, not a partner or associate, shall attend the CMC in person.
 2. Represented parties need not appear unless ordered to do so, but should be available by telephone or other virtual appearance if necessary.
 3. Unrepresented parties shall appear in person.
 - C. The Court may, at its discretion, hold CMC settings remotely by teleconference. If the setting is to be remote, the docket entry shall so indicate and should include any necessary login information.
2. Pre-Trial Conferences (PTC)
 - A. Upon the setting of a trial date the Court shall also set a PTC date.
 - B. The Court may, at its discretion, set a date for PTC even if no trial date is set.

- C. All parties shall appear for the PTC in person. PTC settings shall not be held remotely except by order of the Court for good cause.
 - 1. The attorney who will be trying the case, not a partner or associate, shall attend the PTC in person.
- D. If a scheduling conflict exists, the attorney or party with the conflict shall reach out to the other party not less than seven (7) days before the PTC to determine whether a continuance or other waiver of appearance is agreeable.
- E. The date of the PTC shall be the discovery cut-off date, unless otherwise provided by Court order. Discovery requests should be sent early enough for compliance to occur by the PTC.
- F. All financial statements shall have been updated prior to the PTC.
- G. All parties shall have completed mandatory Mediation (LCR 68.11) and Supportive Parent classes (LCR 68.3) prior to the PTC, unless waived or extended by the Court for good cause shown.

- 3. Non-Contested Proceedings
 - A. Upon notification that a case will be resolved without the necessity of a trial, the Court may set the case for a Case Management Conference or a "Final Settlement Due" docket (Clerk Docket code FSET).
 - 1. Unless otherwise ordered by the Court, Final Settlement Due dockets shall be in person, and all attorneys and parties must appear unless the signed documentation has been filed with the Court.
- 4. Sanctions
 - A. Failure of an attorney or party to be prepared for, appear at, or cooperate in the CMC, PTC, or Final Settlement Due docket may subject the attorney or party to sanctions, including an award of attorney's fees and expenses to any attorney or party prejudiced or inconvenienced by such conduct.
 - B. Upon a finding that any party materially failed to comply with the provisions of this rule, a rebuttable presumption shall exist that a \$500 sanction is appropriate. The Court may exercise discretion to increase, decrease, or waive this monetary sanction. Monetary sanctions may be imposed in addition to any other sanctions within the Court's authority to impose.

68.6 DISCOVERY

- 1. The following provisions shall apply to the types of cases set out above in Rule 68.1.
- 2. Subject to the provisions of this Rule, the provisions of Missouri Supreme Court Rules 57 and 58 shall still apply, as well as Local Court Rules 32.6 and 33.5.
- 3. Interrogatories
 - A. Form. Each interrogatory by either party to the other shall be in the following form:
 - 1. the question shall first be stated,
 - 2. followed by the verified answer to the question by the person asking the question if the same question were asked of them, and

3. a space provided for the verified answer of the person of whom the question is being asked.
- B. All questions shall be prepared in such a form as to make them gender neutral and party neutral.
- C. Interrogatories shall be provided electronically in Microsoft Word format unless otherwise agreed by the parties.
- D. Extensions of Time
 1. Requests for extension of time to answer interrogatories shall be first made to the other party or their attorney.
 2. If there is no objection to the request for additional time, a copy of the extension need not be filed in the Court file unless an order is requested under MOSC Rule 61.01(b) with respect to any objection to or subsequent failure to answer an interrogatory.
- E. Objections. Subject to local rule, objection to interrogatories shall be filed and noticed for hearing within thirty (30) days of the filing of the interrogatory or certificate of service; otherwise, any objection shall be deemed waived.

4. Production of Documents
 - A. Any party who shall serve on any other party a request to produce a designated document shall attach to the request for production a copy of any such document that they would be required to produce had the request been made to them.
 1. If the proponent does not have such documents they shall attach a verified statement that such documents are not in their possession or control.
 - B. All requests shall be prepared in such a form as to make them gender neutral and party neutral.
 - C. Extension of Time
 1. Requests for extension of time to produce documents shall be first made to the other party or their attorney.
 2. If there is no objection to the request for additional time, a copy of the extension need not be filed in the Court file unless an order is requested under MOSC Rule 61.01 (b) with respect to any objection to or subsequent failure to produce the requested documents.
 - D. Objections. Subject to local rule, objections to production of documents requests shall be filed and noticed for hearing within thirty (30) days of the filing of the request or certificate of service; otherwise, any objections shall be deemed waived.
5. Depositions
 - A. No depositions shall be requested or scheduled later than fourteen (14) days prior to the Pre-trial Conference date, unless by mutual consent of all parties.
 1. This provision shall not apply to records depositions.

68.7 JUDGMENTS

1. Judgments shall include all items required by Missouri law. The following additional provisions and requirements are specific to the 23rd Judicial Circuit, and do not represent an exhaustive list of judgment requirements.
2. Judgments upon affidavit
 - A. Final orders may be entered upon the affidavits of both parties when the parties have entered into a written agreement determining any and all issues related to property division, legal custody, physical custody, and child support.
 - B. The Court shall not be bound to enter judgment upon the affidavits of either or both parties. The Court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.
3. Child Support Form 14
 - A. In all cases involving minor children, one (or more) completed Form 14s shall be included with the judgment, even if the Form 14 calculations will not be followed.
 - B. Separate Form 14 calculations are required for every possible number of subject children. For example, if there are 3 minor children, three completed Form 14 documents are required; for 3 children, 2 children, and 1 child.
4. Real Estate Legal Description
 - A. If not contained in any separation agreement being incorporated into the judgment, the judgment must include the complete legal description of any real estate, title to which may be affected by the judgment.

68.8 TEMPORARY ORDERS AND PROCEEDINGS

1. Domestic Case Automatic Temporary Order
 - A. Upon the filing of any action set forth in Rule 68.1, the Office of the Circuit Clerk shall provide the filing party with a copy of an order setting forth practices and procedures consistent with the terms set forth below. A copy of the Order shall also be attached to the summons and served on the other party along with the petition and summons.
 - B. Provisions of the Automatic Temporary Order:
 1. Neither party shall harass, abuse, threaten to abuse, stalk, molest or disturb the peace of the other party or any of the parties' minor children, wherever they may be found.
 2. Neither party shall conceal or damage any property, real or personal, owned solely by the other party or jointly with the other party.
 3. Neither party shall cease payment for, or cause to be terminated, any coverage for the other party or any of the parties' minor children under any policy of medical, dental, vision, hospitalization, automobile or disability insurance in force on the date of filing of the case unless ordered by the Court or unless consented to in writing by both parties.
 4. Neither party shall relocate the residence of any of the parties' minor children outside of the State of Missouri, nor shall any party conceal a

child from the other or deprive or hinder a party with whom a child has resided for the sixty days immediately preceding the filing of the case from reasonable or previously ordered visitation or custody unless ordered by the Court or unless consented to in writing by both parties.

5. In any dissolution or legal separation action, neither party shall shut off, cease payment for, or cause to be terminated the usual and necessary utilities being provided to the residence of either party unless ordered by the Court or unless consented to in writing by both parties.
6. In any dissolution or legal separation action neither party shall close or borrow against any bank or investment account, certificate of deposit or IRA or retirement account, nor shall either party dissipate, sell, remove, assign, transfer, dispose of, lend, mortgage, or encumber any property of a party, real or personal, except in the ordinary course of business or for the necessary expenses of the parties' family under the circumstances unless ordered by the Court or unless consented to in writing by both parties.
7. In any dissolution, legal separation or annulment action, neither party shall incur extraordinary credit card or other debt except in the ordinary course of business or for the necessary expenses of the parties' family under the circumstances unless ordered by the Court or unless consented to in writing by both parties.

C. Duration. The terms of the Order shall continue in effect until further order of the Court. Either party may request a hearing to modify the Order by motion to the Court in the division to which the case has been assigned.

D. Enforcement. Either party may request a hearing to enforce the Order by motion to the Court. Violation of the Order may constitute contempt of court and subject to the violation or fines or other sanctions as allowed by the Court, including reimbursement of expenses or attorney's fees and costs incurred due to the violation.

E. Effect. The terms of the Order are intended simply to preserve the current situation of the parties and are not intended to impact the ultimate decision of the Court as to custody or support of the parties' minor children, maintenance or property and debt division. Nothing in this Rule prohibits the Court for entering other appropriate orders pending the final adjudication of the case.

F. Other Orders. The terms of the Order shall not serve to modify, amend or supersede any prior judgments involving the parties, including ex parte or final orders of protection which may prohibit communication between the parties.

2. Requests for temporary relief pending disposition may be requested under Missouri Supreme Court Rule 92.02.

68.9 RETROACTIVE PAYMENT OF CHILD SUPPORT

1. In all proceedings for dissolution of marriage or legal separation, the establishment of child support may be ordered retroactively by the Court to the

date of service of the Petition upon the Respondent or the date of filing of the Petition, depending upon which party is ordered to pay child support.

2. In all paternity actions, the establishment of a child support obligation may be ordered retroactively to the date of filing of the Petition or to the date of birth of the child or five years prior to the filing of the Petition, whichever is later, pursuant to Missouri statute.
3. In all proceedings to modify any provision for support of a minor child or children in a dissolution or paternity action there shall exist a presumption that any modification (increase or decrease) of the obligation for payment of support for a minor child or children shall be retroactive to the date of filing of movant's statement of Income & Expenses or the date of service of movant's motion to modify, whichever shall occur later.
4. Any proven amounts paid by a party in excess of the existing support obligation after the date of filing of movant's pleadings shall be credited against the amount of any retroactive award. When the Court reduces the child support retroactively, any amount paid by a party in excess of the support obligation as modified shall be credited toward any arrearage. The excess balance, if any, shall apply to future support.

68.10 REDACTION AND CONFIDENTIAL RECORDS

1. Any records to be used in evidence in any case which are filed with the Court pursuant to 490.692 RSMo, and which are otherwise confidential in nature, shall be electronically filed and raised to a security level 3, or other higher level as directed by the Court.

68.11 MEDIATION

1. **MANDATORY MEDIATION**
 - A. In every case involving contested issues of custody and/or visitation, the parties shall participate in a minimum of two (2) hours of mediation pursuant to S.Ct. Rule 88.02 through 88.08 and the local rule, unless waived by the court as hereinafter set forth. Any mediation beyond the initial two hours shall proceed by mutual agreement of the parties and the mediator.
 - B. Petitioner shall file Circuit Court Form 15 in all domestic relations matters in which there are minor children along with the Petition. Form 15 shall be filed by Respondent along with any entry of appearance or any Motion or Responsive pleading. The Court may dismiss the case if Form 15 is not filed in a timely manner, unless good cause is shown.
 - C. If Form 15 is not filed in a timely manner, or the parties have not selected a mutually agreeable mediator from the Court-approved list within sixty (60) days, the Court shall appoint a mediator from the Court-approved list to conduct mediation pursuant to this rule. In all cases where the parties have agreed upon a mediator from the Court- approved list, the Court will appoint said mediator for the purposes of this rule. Fees for mediation may be adjusted by the Court upon consideration of the Statement of Income and Expenses and if resources are available to the Court.

- D. The mediator shall inform the Court of his/her acceptance of appointment. The mediator shall file with the Court a Notice of Mandatory Mediation Compliance form within 10 days upon completion of the process in every case.
- E. Some cases may be inappropriate for mediation, which may include those with a history of domestic violence. The Court appointed mediator shall complete a thorough screening for domestic violence. If the case is deemed inappropriate for mediation due to domestic violence, or for any other reason determined by the mediator, the mediator shall immediately file the Notice of Mandatory Mediation Compliance Form with the Court.
- F. Upon appointment of a mediator, compliance with S.Ct. Rule 17 time standards and all discovery procedures shall be stayed for a period not to exceed 60 days unless extended by the Court for good cause shown. Any stay pursuant to this rule shall expire when the Notice of Mandatory Mediation Compliance is filed with the Court.
- G. Jefferson County Circuit Clerk shall maintain a list of persons qualified under this Local Rule and the Missouri Supreme Court Rule to act as mediators. This list shall constitute the Court-Approved List of mediators referred to herein and shall be updated as deemed appropriate by the Court En Banc. The Court En Banc shall accept applications for inclusion on the list and make recommendations to the Presiding Judge as to which applicants shall be Court approved. This list shall include the mediator's hourly fee, and may include a summary of the mediator's qualifications and experience. This list shall be made available to all parties.
- H. Any party may petition the Court to disqualify an assigned mediator for good cause. A mediator who has been appointed shall advise the Court of any fact bearing on their qualifications, including any fact which would be reason for their disqualification. If the Court disqualifies a mediator an order shall be entered naming a qualified replacement. Nothing shall limit the mediator's ability to refuse assignment of any mediation under this rule.
- I. No case shall be heard on temporary motions, pretrial conferences or trial until the Notice of Mandatory Mediation Compliance form is filed with the Court, unless waived by the Court upon a showing of good cause.

2. **JUDICIAL MEDIATION**

- A. Unless the Court waives the submission to mandatory mediation, or after the parties have completed a minimum of two (2) hours of mediation pursuant to S.Ct. Rule 88.02 through 88.08 and the local rule, any remaining contested issues of custody and/or visitation, may be subject to judicial mediation.
- B. Judicial mediation shall be scheduled for two (2) hours, and may be extended by agreement of the parties and judicial mediator.
- C. Any party or the Guardian ad Litem may petition the trial court to disqualify the assigned judicial mediator within ten (10) days of the appointment by the trial court. Thereafter, an order shall be entered naming a qualified replacement judicial mediator. Nothing shall limit the judicial mediator's ability to refuse assignment of any mediation under this rule.

- D. All parties and their counsel as well as the Guardian ad Litem shall participate in judicial mediation.
- E. After Mediation pursuant to both this Rule as well as MOSC Rules 88.02 through 88.08, but before completion of Judicial mediation, temporary motions, pendente lite motions, and pretrial conferences may be set by the Court upon a showing of good cause.
- F. Upon a finding that the agreements (or partial agreements) reached during judicial mediation are in the best interest of the subject minor child (ren) and are not unconscionable as to other issues, a Provisional Order shall be entered by the Judicial Mediator. Such order shall not be effective until co-entry by the trial court at the first pretrial conference or Case Management Conference scheduled after completion of the judicial mediation. Said agreements (or partial agreements) shall be irrevocable by the parties pending action by the trial judge unless vacated by the Judicial Mediator upon appropriate motion by a mediating party prior to presentment to the court.
- G. At the post-mediation pretrial conference or Case Management Conference, mediation agreements or results shall be presented to the trial judge. The court shall examine any agreement(s), determine whether its provisions are contrary to the best interest of the child (ren) or is otherwise unconscionable, and unless rejected, enter an appropriate judgment or order approving the agreement, including entry of a Provisional Order.
- H. In cases where no agreement has been reached, the trial judge shall conclude the conference and set the matter for further proceedings in accordance with the rules.