

**FOURTH JUDICIAL DISTRICT COURT  
PARISHES OF MOREHOUSE AND OUACHITA**

**TITLE IV  
RULES FOR FAMILY AND DOMESTIC RELATIONS PROCEEDINGS  
EFFECTIVE JAN. 1, 2010**

**CHAPTER 22 JURISDICTION OF THE COURT**

**Rule 22.0 Jurisdiction of the Court**

**A. Jurisdiction**

While recognizing that each judge of this District has original civil jurisdiction for family and domestic proceedings for the parishes comprising this District; and without creating any sort of specialized Family Court or Family Division; This Court nevertheless recognizes that the increasing volume of family and domestic litigation carries a high burden in terms of time, money and emotional strain for the parties, their children, and the family law bar; And in order to provide much-needed relief the court has adopted the special rules set forth in this Title for all **Family and Domestic Proceedings** (hereinafter sometimes referred to as **Family Docket Cases**). Nothing herein shall be construed or interpreted to limit the jurisdiction or authority of any District Judge. Where the **Family and Domestic Proceeding** rules in this Title are silent, the **Rules for Louisiana District Courts, Title I and II and Appendices for the Fourth JDC** shall apply.

**B. Family Docket Cases Defined**

Family Docket Cases shall consist of (a) all divorces and all issues which are ancillary to a divorce proceeding; (b) all non-marital cases involving child-related issues (paternity, custody, visitation and support); (c) all family or domestic protective order issues; (d) all issues relating to community property and matrimonial regimes; and (e) enforcement of orders in any of these matters, including contempt of court (except that contempt of court alleging violation of a protective order shall be heard by the assigned judge).

**CHAPTER 24 SCHEDULING HEARINGS AND TRIALS; ORDER OF BUSINESS**

See Rule 35.0, section B. Scheduling of Hearing Officer Conference.

**CHAPTER 27 PRE-TRIAL STATUS CONFERENCES**

See Rule 35.0, section B. Scheduling of Hearing Officer Conference

**Chapter 32 DOMESTIC VIOLENCE PROTECTIVE ORDERS**

**Rule 32.0 Forms, Notices and Orders Required**

**I. Requesting Protective Orders**

Protective Orders pursuant to Title 46 or LSA R.S. 9:371 or 9:361 may be requested either by:

- A. filing a petition using a Louisiana Protective Order Registry form, which may be obtained from the Family Justice Center located at 620 Riverside Drive, Monroe, Louisiana, from the Office of the Ouachita Parish District Attorney, or from the Louisiana Protective Order Registry Home page located at [http://www.lasc.org/court\\_managed\\_prog/lpor.asp](http://www.lasc.org/court_managed_prog/lpor.asp); or

- B. incorporating a request for a Protective Order into a petition seeking other relief ancillary to a divorce proceeding. A temporary restraining order form, which can be found at the same website, must be completed and submitted with the petition seeking such relief.

## **II. Domestic Violence Protective Orders; Hearing Officers Authorized to Hear**

- A. Pursuant to LSA R.S. 46:2135 and R.S. 46:236.5, Title 9 of the Louisiana Children's Code and the Louisiana Code of Civil Procedure, the Court hereby authorizes the Hearing Officer(s) to hear and dispose of all matters pertaining to Protective Orders (except contempt of court) in Ouachita Parish and Morehouse Parishes as authorized by said statutes.
- B. The Hearing Officer(s) shall hear all Protective Order rules in Morehouse and in Ouachita in such courtroom and on such date as may be specified in the order.
- C. Any party desiring to appeal the Hearing Officer's recommendations shall immediately notify the deputy clerk of court present in the courtroom. Both parties shall remain in the courtroom until notified of the date and place of the rehearing before the district judge. The rehearing shall be held before the judge to whom the case is assigned on the earliest convenient date, but in any event, within thirty days of the objection. Where an objection is made, the temporary restraining order shall be extended until the date of the rehearing.
- D. It is intended that the Hearing Officer(s) shall fully exercise all powers and authority granted by law in connection with protective orders, and nothing herein shall be construed to limit those statutory powers.
- E. An attorney shall not give counsel or countenance to a domestic client to file for a *pro se* protective order under Titles 9 or 46 of the Louisiana Revised Statutes, nor the Louisiana Children's Code, nor the Louisiana Code of Civil Procedure article 3601 *et seq*, in an attempt to circumvent normal docketing time lines or the random allotment of cases. If the conduct prohibited in the first sentence of this paragraph occurs, the court shall either dismiss the *pro se* proceeding or shall consolidate the *pro se* proceeding with the Article 102 or 103 divorce proceeding.

### **Chapter 33 CONFIRMATION OF DEFAULTS AND UNCONTESTED MATTERS UNDER CIVIL CODE ARTICLE 103 ACCORDING TO LA. CODE CIVIL PROC. ARTS. 969 AND 1702E**

#### **Rule 33.1 Confirmation of Defaults**

- A. All confirmations of default in family and domestic matters, whether in OUACHITA PARISH or MOREHOUSE PARISH, and whether assigned to the presiding Division or not, may be taken up and disposed of during Civil Motion Hour.
- B. Requests for confirmations without court hearing pursuant to C.C.P. Articles 1702 and 1702.1 shall be presented to the Clerk of each parish and must be done in strict

compliance with all provisions of those articles. The Clerk shall attach the required certificate before presenting any such matter to the judge. In OUACHITA PARISH, the Clerk shall present such pending requests to the judge presiding at each Wednesday Motion Hour. In MOREHOUSE PARISH, the Clerk shall present them to the duty judge.

- C. Confirmations of default requiring testimony
1. Matters in which a defendant purports to accept service and waive citation will be considered only if defendant's action occurs after suit is filed and docket number assigned and if that act is either witnessed by a deputy sheriff or executed under oath by a notary public or other appropriate officer.
  2. Except in regard to stipulations of fact, orders or judgments, no matters will be considered in which an attorney has prepared a pleading or document for an unrepresented party opposing his client.
  3. All alleged out-of-court agreements between parties must comply with Louisiana Civil Code article 3071.

## **Chapter 34 DIVORCES PURSUANT TO CIVIL CODE ART. 102**

### **Rule 34.2 Attorney Certifications**

In BOTH PARISHES, mover's attorney shall file the required uncontested divorce checklist form, which can be found at <http://www.4jdc.com/forms.htm>, in the suit record no later than the Friday before the rule is fixed for hearing. The filing of said checklist has the effect of a pleading and must be executed in good faith following an examination of the record. If respondent does not appear to contest the rule for divorce, the Court may grant the divorce if the requirements of law are satisfied. If the respondent appears to contest the divorce based upon reconciliation, the matter shall be deferred only if the party or party's counsel alleges reconciliation by verified pleading. If no verified pleading is filed alleging reconciliation, then the alleged reconciliation shall not be a defense to the divorce, and the 102 divorce shall be granted provided all other legal requirements are met. Any incidental matters that have not previously been resolved shall be fixed for trial pursuant to Local Rules.

## **CHAPTER 35 ALIMONY AND CHILD SUPPORT MATTERS ANCILLARY TO CIVIL DIVORCE PROCEEDINGS**

### **Rule 35.0 Use of Hearing Officers**

#### **A. Appointment of Hearing Officers**

1. Pursuant to LSA-R.S. 46:236.5 and applicable articles of the Louisiana Civil Code and Louisiana Children's Code, and in furtherance of Rules 22 through 34, supra, this Court hereby implements an expedited process for the establishment, modification and enforcement of support obligations and all other family and domestic proceedings as defined by LSA R.S. 46:236.5, by authorizing and directing one or more Hearing Officers, appointed by majority vote of the entire Court, to hear said family and domestic proceedings and to hire and employ any and all such other

personnel deemed necessary to implement this procedure; all of whom shall serve at the pleasure of the Court.

2. Such Hearing Officer(s) shall have authority to perform and shall perform any and all duties assigned to him, or her, or them by a judge designated by the Court which are consistent with LSA-R.S. 46:236.5 as they presently exist, or as they may be, from time to time, supplemented or amended in the future. Said Hearing Officer(s) shall be prohibited from engaging in the practice of law within the 4<sup>th</sup> Judicial District. Said Hearing Officer(s) shall avoid any appearance of impropriety.
3. There shall be such number of Hearing Officers for Family Docket cases as authorized by a majority of the District Judges. The Hearing Officers shall be known as "Hearing Officer A," Hearing Officer B," and so on.
4. The District Judges, by majority vote shall fix the salary, or salaries, of the Hearing Officer(s) and any such other personnel hired or employed to implement the procedure.

#### **B. Scheduling of Hearing Officer Conference**

1. All initial pleadings on the Family Docket, if requesting a rule/hearing date, shall be accompanied by a Return Date/Hearing Cover Sheet (Pink Slip), which may be found at <http://www.4jdc.com/familycourt.htm>
2. After filing initial pleadings on the Family Docket, all parties will be required to attend a Hearing Officer Conference with a Hearing Officer unless waived by the assigned judge and to provide documentation to the Hearing Officer and the other party in accordance with any order(s) issued by the court. The assigned civil section judge shall issue or cause to be issued an original *Hearing Officer Conference Order*, which substantially complies with **4<sup>th</sup> JDC Family Docket Form 1.0 or 1.1** and provide same to the appropriate individual in the office of the Clerk of Court to prepare certified copies for service on the parties.
3. The initial Hearing Officer Conference will, to the extent feasible, be scheduled within twenty-eight (28) days following the rendition of the order scheduling a court hearing on the issues which should be considered in a Hearing Officer Conference. All parties shall be required to submit to the Hearing Officer, and other party/parties a completed *Hearing Officer Conference Affidavit*, which can be obtained at <http://www.4jdc.com/familycourt.htm>, together with all documentation ordered by the *Hearing Officer Conference Order*, not less than five (5) days, exclusive of weekends and legal holidays prior to the Hearing Officer Conference. The Hearing Officer may permit a party to submit the *Hearing Officer Conference Affidavit* and its attachments later than five (5) days prior to the Hearing Officer Conference upon a showing of unusual and exceptional circumstances. If the Hearing Officer does not find that unusual and exceptional circumstances exist to excuse a late or substantively deficient filing, the Hearing Officer shall have discretion to (1) render a Hearing Officer Conference Report based on the information provided by the other party, or (2) issue such other relief as is appropriate under the circumstances, including issuing

interim orders and/or refixing the Conference and scheduled court date, and contemporaneously taxing the deficient-filing party with court costs and attorney fees.

4. If there are complicated or extraordinary issues which will require a Hearing Officer Conference which is longer than 90 minutes (or a half-day for community property conferences), the parties shall notify the Hearing Officer of this fact at the time the initial pleading is filed. Thereafter, the Hearing Officer may schedule a longer Hearing Officer Conference to accommodate the issues of the case.
5. If there exists a situation of immediate danger, the Hearing Officer Conference may be scheduled at an earlier date at the request of any party, or may, in the discretion of the Court, bypass the Hearing Officer Conference to accommodate the issues of the case.
6. If counsel has an unavoidable scheduling conflict that would prevent counsel from attending the Hearing Officer Conference as scheduled, counsel shall immediately contact opposing counsel and the Hearing Officer by telephone conference call regarding rescheduling within fifteen (15) days. If counsel are unable to agree on a continuance, the Hearing Officer will decide whether a continuance is warranted. The court expects counsel to be mindful of the Louisiana Code of Professionalism which states that counsel will consult with each other whenever scheduling procedures are required and will be cooperative in scheduling discovery, hearings, the testimony of witnesses and in the handling of the entire course of any legal matter.

### **C. Purpose of Hearing Officer Conference**

At the Hearing Officer Conference, counsel and the parties in attendance shall make a good faith effort to narrow the issues, reach joint stipulations to dispose of uncontested matters, discuss and attempt to resolve any matters concerning the authenticity or admissibility of exhibits produced in response to discovery, and attempt a settlement of the matter.

### **D. Hearing Officer Conference Order and Affidavit - Failure to Comply**

If one party does not provide the necessary information required by the Hearing Officer Conference Order or Affidavit for the Hearing Officer to make a determination as to the issues before the Court, then the Hearing Officer will have the discretion to (1) render a Hearing Officer Conference Report based on the information provided by the other party, or (2) such other relief as is appropriate under the circumstances, including issuing interim orders and/or refixing the Conference and scheduled Court date, and contemporaneously taxing the deficient-filing party with court costs and attorney fees.

### **E. Hearing Officer Conference Report**

At the Hearing Officer Conference, the Hearing Officer will also prepare a written Hearing Officer Conference Report in compliance with 4<sup>th</sup> JDC Family Docket Form 3.0 or a substantially similar form, which includes a summary of the disputed and undisputed facts and circumstances underlying the issues before the Court, and provides specific recommendations to the Court, including, within the discretion of the Hearing Officer, a recommendation that an issue should be deferred to the presiding judge. The Hearing Officer Conference Report shall indicate the parties and legal counsel in attendance, and shall further note the failure to appear or to remain for the duration of the Hearing Officer Conference by any party or legal counsel.

### **F. Agreements and Stipulations at Hearing Officer Conference**

If both parties agree on some or all of the issues before the Court during the Hearing Officer Conference, the Hearing Officer shall prepare a written agreement for the review and execution of the parties and their legal counsel (if represented), together with an appropriate judgment or order incorporating and implementing the agreement of the parties. Any such agreement shall contain an acknowledgment that no objection or appeal may be filed to same. In the event the agreement is only a partial agreement, the Hearing Officer shall prepare a Hearing Officer Conference Report containing a summary of disputed and undisputed facts and a list of recommendations on those issues on which there is no agreement.

### **G. Objections to Hearing Officer Conference Report**

1. After the Hearing Officer issues the written Hearing Officer Conference Report, the parties will have three (3) days, exclusive of weekends and legal holidays, from the date of the rendition of said Report, to file a written objection with the office of the Clerk of Court for the parish in which the case is pending. A party's objection shall be directed to specific recommendations and shall provide legal and/or factual basis for the objection.
2. A party filing an objection shall be obligated to provide the Hearing Officer and all parties with a copy of the objection. The objecting party shall provide a copy of the objection to all parties at the same time and in the same manner in which said objection was delivered to the Clerk of Court, or in a manner which is the functional equivalent thereof. Thus, if an objection is hand delivered to the Clerk of Court, all parties are entitled to receive a copy of same at the same time or earlier by hand delivery or its functional equivalent, such as by facsimile transmission.
3. If one party files an objection on the last day on which an objection may be filed, and the other party has not yet filed an objection, the party which did not file an objection within the time limit allowed shall have three (3) additional days, exclusive of weekends and legal holidays, within which to file a written objection. This shall not be construed to allow a party which has already filed an objection to amend or supplement the objection which has been filed.

4. *Any objection not timely filed in accordance with the above provisions shall be subject to ex parte dismissal by the court, on the court's own motion.*
5. If a party files a written objection, said party must also provide to opposing counsel the name, address, and telephone number of each witness who may be called at the hearing held in regard to the objection, and must provide to opposing counsel a copy of each exhibit that might be introduced at said hearing, all within five (5) days after filing the written objection, exclusive of weekends and legal holidays. The opposing party must provide that same information within five (5) days, exclusive of weekends and legal holidays, of the receipt of the witness and exhibit lists from the objecting party. No witness may testify at the hearing and no written document may be introduced at the hearing unless there has been compliance with these disclosure requirements, unless the court finds good cause for the noncompliance with the disclosure requirements and the presentation of such evidence is required to prevent manifest injustice.
6. A party who, after having been duly cited and served with process, fails to appear or remain for the duration of a Hearing Officer Conference waives the right to file an objection to the recommendations contained in the Hearing Officer Conference Report, unless the Hearing Officer has excused the failure to appear or to remain for the duration of the Hearing Officer Conference.

#### **H. Abandonment of Hearing Officer Conference Objections**

1. Upon the filing of any objections, if no trial or hearing date is pending, or the case is thereafter continued without date, it shall be the responsibility of the objecting party or parties to file an appropriate pleading requesting a trial or hearing date with the assigned judge no later than 90 days after filing of the objections or the continuance of the case without date, or the objections will be deemed abandoned and will be dismissed without prejudice (Cf. L.C.C.P. Art. 561) and the report and recommendations of the hearing officer will be adopted as the judgment of the court.
2. If the trial or hearing is thereafter continued, it must be continued to a date certain, and may not be continued without date except for good cause shown as determined by the assigned judge.

#### **I. Adoption of Hearing Officer Recommendations without Objection**

1. If all or part of the recommendations contained in the Hearing Officer Conference Report are not objected to in writing with the Clerk of Court within the delays provided in these rules, then those recommendations contained in the Hearing Officer Conference Report which are not objected to may be adopted by the Court.
2. The Hearing Officer shall be responsible for submitting an appropriate judgment or order which accurately incorporates the recommendations into the form of a judgment or order, and shall attach a copy of the Hearing Officer Conference Report to the proposed judgment or order.

#### **J. Adoption of Hearing Officer Recommendations as Interim Order after Objection**

If any recommendation of the Hearing Officer in the Hearing Officer Conference Report is objected to as provided by these rules, then the recommendation may become an interim order, upon approval and execution of the presiding Judge, pending the final disposition of the claims by the Court. This interim order shall be without prejudice and shall not affect the retroactivity of the claims of either side. It shall be the responsibility of the Hearing Officer to prepare the appropriate judgment or order for presentation to the presiding Judge for approval and execution, using **4<sup>th</sup> JDC Family Docket Form 10.0** or a substantially equivalent form.

#### **K. Adoption of Hearing Officer Recommendations upon Failure to Appear at Trial**

If there are no appearances by the objecting parties on the day on which the matter is scheduled for trial, then the assigned civil section judge may, in his discretion, adopt some or all of the recommendations of the Hearing Officer, using **4<sup>th</sup> JDC Family Docket Form 11.0** or a substantially equivalent form.

#### **L. Specific Procedures for Custody and Visitation at Hearing Officer Conference**

At the time of the Hearing Officer Conference, the parties or their respective counsel shall have an opportunity to provide a verbal statement of their positions to the Hearing Officer with regard to the custody and/or visitation issues before the Court. If the parties do agree to custody and visitation, the Hearing Officer will prepare a written stipulation and consent judgment for signature by the parties. If the parties do not agree to custody and/or visitation, the Hearing Officer will render a Hearing Officer Conference Report summarizing the disputed and undisputed facts presented at the Conference, and making appropriate recommendations for a resolution of the issues, including, but not limited to, mediation, custody evaluation(s) by a mental health professional, and alcohol or drug testing.

#### **M. Mediation of Custody and Visitation**

In the event the Hearing Officer believes the matter is appropriate for mediation, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the time within which to comply with any order implementing the recommendation and the manner in which the costs of said mediation should be paid by the parties. The Hearing Officer may, but is not required to, include a recommendation of a specific mediator to perform the mediation. The Hearing Officer shall prepare an *Order of Mediation* at the time of the Hearing Officer Conference, in substantial compliance with **4<sup>th</sup> JDC Family Docket Form 6.0** for the review and consideration of the assigned civil judge.

#### **N. Custody Evaluation by a Mental Health Professional**

In the event the Hearing Officer believes the matter is appropriate for an evaluation by a mental health professional, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the

time within which to comply with any order implementing the recommendation and the manner in which the costs of said evaluation should be advanced by the parties. The parties shall either agree to a particular professional, or the Hearing Officer shall select one from a rotating list of competent mental health professionals. The Hearing Officer shall also prepare an *Order for Custody Evaluation* at the time of the Hearing Officer Conference, in substantial compliance with **4<sup>th</sup> JDC Family Docket Form 7.0** for the review and consideration of the assigned civil Judge. The Hearing Officer shall also instruct that a certified copy of the order be sent to the mental health professional by the Clerk of Court.

#### **O. Alcohol and Drug Testing**

In the event that the parties agree to drug or alcohol testing, the Hearing Officer shall immediately prepare an appropriate order using **4<sup>th</sup> JDC Family Docket Form 8.0** or a substantially equivalent form. If one party requests testing but the other party does not consent, the Hearing Officer shall schedule a Rule to Show Cause Why Drug/Alcohol Testing should not be ordered. The Rule shall be heard by the Hearing Officer on the next available date that the Hearing Officer will be on the bench. At the conclusion of the evidence, the Hearing Officer shall issue Written Findings of Fact and Recommendations regarding alcohol and drug testing.

#### **P. Specific Procedures for Partition of Community Property**

1. At or about twenty-eight (28) days prior to any partition trial on the merits, counsel and the parties shall attend a Hearing Officer Conference (unless waived by the judge) to discuss the nature and basis of their claims and defenses. The assigned civil section judge shall schedule the Hearing Officer Conference as part of the pretrial order, and shall issue or cause to be issued any orders necessary to procure the attendance of the parties and the production of information and documentation necessary to address the issues.
2. In the event the parties are unable to resolve all of the issues regarding the partition of the community, the Hearing Officer shall prepare a Hearing Officer Conference Report using **4<sup>th</sup> JDC Family Docket Form 3.1** or a substantially equivalent form, summarizing the disputed and undisputed facts and making recommendations regarding the manner in which the assets and obligations of the parties should be partitioned between them, and making recommendations regarding the characterizations of property and/or obligations as separate or community if those issues are presented.
3. In the event the parties are able to reach an agreement on the manner in which the community obligations and assets are to be partitioned between them, the Hearing Officer shall prepare a written agreement for the review and execution of the parties and their legal counsel (if represented), together with an appropriate judgment or order incorporating and implementing the agreement of the parties, using **4<sup>th</sup> JDC Family Docket Form 4.1** or a substantially equivalent form.

4. In the event the agreement is only a partial agreement, the Hearing Officer shall prepare a Hearing Officer Conference Report containing a summary of disputed and undisputed facts and list of recommendations on those issues on which there is no agreement.
5. Any party objecting to any portion of the Hearing Officer Conference Report shall file a written objection with the clerk of court as provided elsewhere in these rules.

### **Rule 35.1 Notice and Exchange of Information**

In all spousal and child support cases, counsel and/or the parties shall submit all documentation ordered by the *Hearing Officer Conference Order* and shall file the *Hearing Officer Conference Affidavit* using **4<sup>th</sup> JDC Family Docket Form 02.0**, which can be found at <http://www.4jdc.com/familycourt.htm>, as required by Rule 35.0(B)(2).

## **Chapter 36 CHILD SUPPORT PURSUANT TO HEARING OFFICER PROCEEDING**

### **RULE 36.1 Fixing Child Support**

- A. Pursuant to LSA R.S. 46:236.5 and applicable articles of the Louisiana Children's Code, this Court hereby implements an expedited process for the establishment, modification and enforcement of support obligations by the State of Louisiana, by authorizing and directing one or more Hearing Officers, appointed by majority vote of the entire Court, to hear support and support-related matters, and to hire and employ any and all such other personnel deemed necessary to implement this procedure; all of whom shall serve at the pleasure of the Court.
- B. Such Hearing Officer(s) shall have authority to perform and shall perform any and all duties assigned to him, or her, or them by a judge designated by the Court which are consistent with LSA-R.S. 46:236.5 as they presently exist, or as they may be, from time to time, supplemented or amended in the future. Said Hearing Officer(s) shall be prohibited from engaging in the practice of law within the 4<sup>th</sup> Judicial District. Said Hearing Officer(s) shall avoid the appearance of impropriety.
- C. The court shall hold a hearing on a matter that has been the subject of a Hearing Officer's hearing upon the filing of a motion by either party. Such motion shall be filed within three (3) days from the date of the hearing. If no request for a hearing before a judge is filed, an order shall be signed by the Judge which shall be a final judgment and be appealable to the appropriate court of appeal.
- D. In all Title IV-D, (Federal Social Security Act) TANF and non-TANF cases presently pending and arising in the future, each support payment, including existing arrears and future arrears as well as on-going support payments, is hereby increased by five percent (5%) beginning November 1, 1990. On or after April 1, 2000, all such obligors or payors shall make any and all such payments for support, including the additional five percent (5%) amount, payable to the DSS. Such payments shall be made by money order and shall be mailed directly to DSS, P. O. Box 260222, Baton

Rouge, LA 70826-0222. DSS shall collect and remit the five percent (5%) fee by contract with the court.

- E. In any Title IV-D, non-AFDC, (Social Security Act) case that has been proven to the satisfaction of the Judges of the Fourth Judicial District Court by affidavit to have never been delinquent, the Court has the authority and discretion to waive the five percent (5%) administrative fee. If the defendant becomes delinquent any time thereafter, the Court will automatically assess the five percent (5%) fee.

### **Chapter 37 PARTITION OF COMMUNITY PROPERTY**

See Rule 35.0, section P. Specific Procedures for Partition of Community Property

### **Chapter 38 CUSTODY AND VISITATION ORDERS**

#### **Rule 38.1 Ex Parte Custody Orders**

- A. All pleadings seeking an *ex parte* order for temporary custody of children must strictly comply with the requirements of L.C.C.P. Art. 3945; and must be accompanied by a separate affidavit of the party seeking custody, setting forth all the facts surrounding when, where, how and under what circumstances physical custody of the child was obtained, and why an *ex parte* order for temporary custody is being sought. Said pleadings shall also refer to any prior or ongoing actions by the State of Louisiana Child Protective Services, if known, involving the same parties, even if with different children.
- B. In all cases in which there has been no prior award of custody, the pleadings must first be presented to the Clerk of Court for filing and allotment to a Section, if no allotment has been made previously. Once the case has been allotted to a section, then the order must be presented to that judge for signing.
- C. If custody has been awarded, an *ex parte* order to change custody must be presented to the judge who signed the original custody order, unless the custody order was obtained through a proceeding in motion hour and was not signed by the judge to whom the case was allotted. No *ex parte* order modifying a previous custody award shall be considered unless said order is necessary to protect the children from a clear and present danger of abuse and/or neglect, or unless immediate and irreparable injury is likely to result to the children if an order is not granted.
- D. When presenting an order to a judge containing a request for an *ex parte* custody award in an existing record, the attorney shall make arrangements with the Clerk of Court to obtain the record for the judge's review.

## **Rule 38.5 Alternative Procedures (Mediation, Parenting Classes)**

### **A. Parenting and Divorce Education Class**

Pursuant to the inherent powers of this Court and Article 706 of the Louisiana Code of Evidence, and in order to provide for the speedy, efficient, and inexpensive resolution of disputes, the Court may require parties in cases involving the custody of minor children to participate in programs designed to acquaint the parents or parties with methods of assisting minor children in coping with the stress of divorce and custody proceedings. Divorce education may be ordered for any divorce proceeding where minor children reside with either of the divorcing parents whether or not custody or visitation is contested issues.

**B.** See also Rule 35.0, section L. Specific Procedures for Custody and Visitation at Hearing Officer Conference; section M. Mediation of Custody and Visitation; section N.. Custody Evaluation by a Mental Health Professional, and; section O. Alcohol and Drug Testing.

### **C. Failure to Comply**

Should any party fail to successfully complete any program or interview or fail to comply with any orders of the Court pursuant to this Rule, the Court may take appropriate action including, but not limited to, actions for contempt. For good cause, the Court may waive any requirement of completion in individual cases.