

LARIMER COUNTY DISTRICT COURT

DOMESTIC RELATIONS PROCEDURES

(Effective 01-01-16)

Magistrate John Jostad is in Courtroom 2B. All new domestic relations cases are assigned to him. He oversees and manages all pre-decree cases and reviews all pleadings and conducts any hearings not specifically designated to another magistrate or district judge. Magistrate Kenneth Spangler is in Courtroom 2A. Magistrate Linda Connors is in Courtroom 1B. Magistrate Zehe is in Courtroom 1A. Magistrates Connors, Spangler and Zehe hear specific proceedings in domestic relations cases as outlined below, in addition to some juvenile matters not described in these procedures. On occasion there are exceptions to the assignments listed below, such as one magistrate covering responsibilities of another while they are out of the office or when recusal is necessary.

DOMESTIC RELATIONS ASSIGNMENTS

All newly filed or pre-decree domestic relations cases are the direct responsibility of Magistrate Jostad. Every newly-filed or pre-decree case should therefore always list Courtroom 2B as the assigned court in the caption of any documents filed. This remains true even if a specific proceeding is heard in another court. This assures that the file will be reviewed by Magistrate Jostad at all appropriate times. He will see to it that the file gets to any other judicial officer who may need to sign an order or otherwise review a pleading. However, all POST-DECREE or motions filed after permanent orders have been entered are assigned to Magistrate Connors and these filings should list Courtroom 1B as the assigned court in the caption of any documents. Certain additional proceedings as set forth below are currently assigned to Magistrates Connors, Spangler, or Zehe. Any case assigned to a district judge is before that judge for a limited purpose and when that purpose is completed the case will then be re-assigned to the appropriate magistrate.

The only domestic relations matters currently assigned to a district judge are contested permanent orders hearings, post-decree proceedings requiring more than a three-hour hearing and petitions for review of a magistrate's orders.

Magistrate Spangler is currently hearing contempt hearings and interstate child support matters.

Magistrate Connors is currently hearing protection orders and, parenting time disputes under C.R.S. 14-10-129.5, other post-decree hearings for emergency or forthwith relief, and she is the primary judicial officer responsible for post-decree modification hearings, such as motions to modify maintenance, child support, and parenting time. Post-decree motions should bear the caption of Courtroom

1B. Certain motions to restrict parenting time are heard by Magistrate Zehe in Courtroom 1A.

With the exception of the matters listed above for Magistrates Connors, Spangler, or Zehe and the district judges, all other pre-decree matters are reviewed and heard by Magistrate Jostad.

FAMILY COURT FACILITATOR

This District employs two Family Court Facilitators. Andrea Shahmardian for pre-decree and Anna Shuler for post-decree matters. Their office is located on the 5th floor of the Justice Center. Andrea Shahmardian's number is (970) 494-3843 for conferences and (970) 494-3481 for questions. Anna Shuler's number is (970) 494-3844.

The pre-decree Family Court Facilitator works closely with Magistrate Jostad and the post-decree Family Court Facilitator works closely with Magistrate Connors to ensure that domestic relation cases proceed through the court process at an appropriate pace. This includes tracking cases, conducting case management conferences, reviewing files for compliance with court orders, scheduling status conferences and general monitoring of the progress of cases. The Court expects all attorneys and parties to fully cooperate with the Family Court Facilitator. In addition, the Family Court Facilitator assists parties and counsel in understanding the pertinent court processes and policies.

SPECIFIC REQUIREMENTS FOR COURTROOM 2B

Magistrate John Jostad

Courtroom 2B is located on the second floor of the Larimer County Justice Center. The Division Clerk for Courtroom 2B is Karen Mills. Her telephone number is (970) 494-3570. The Assistant Division Clerk for Courtroom 2B is Debra Koontz. Her telephone number is (970) 494-3561. Any general inquiry about a case or question about the status of an order should be directed to the Combined Courts Clerk's office at (970) 494-3500, not to the division clerks.

Case Management

All new cases are actively managed pursuant to C.R.C.P. 16.2 through permanent orders. This management is under the direct supervision of Magistrate Jostad, assisted by the Family Court Facilitator and other court staff. At the commencement of every case an Initial Case Management Order Pursuant to C.R.C.P. 16.2 is entered. This order is very detailed and contains specific information as to procedures in this court. Also at the commencement of the case, a Notice of Initial Status Conference is issued. It is also very detailed

and parallels Rule 16.2. Read both the Initial Case Management Order and Notice of Initial Status Conference carefully. The case will be reviewed periodically and further specific court orders may be issued governing management. The Court requires compliance with these procedural orders.

Contested Permanent Orders:

Permanent orders hearings or trials are only set after the parties/attorneys have participated in case management conferences with the Family Court Facilitator and Magistrate Jostad. The case will only be set for trial at such time as Magistrate Jostad determines it is appropriate to do so, and the setting occurs only at a status conference or a subsequently scheduled setting by Magistrate Jostad. No trials are set by filing of a Notice to Set by a party or counsel unless specifically ordered. The hearing is set for a specific day and time on a domestic relations trial week. The trials are usually heard by a district judge. An Order Setting Trial is entered with an attachment of additional requirements. A specific judicial officer is not assigned to the case until after the pre-trial conference.

Default and Uncontested Hearings:

Hearing dates are either done via the attorney e-filing a notice to set or it is set at the status conference. The court expects counsel to e-file a proposed decree or final order for any default or non-contested hearing.

Temporary Orders:

Temporary Orders are scheduled for 90 minutes. A Temporary Orders Position Statement must be filed prior to the hearing as set forth in the setting order. [Copies of the form may be obtained from the Self Help Center or from the clerk's office.] The court expects counsel and *pro se* parties to comply with the requirement of C.R.C.P. 16.2(b) to confer prior to the hearing and it is recommended they appear at least 15 minutes early to avoid using their hearing time for settlement discussions.

Conduct of Hearings:

Before the case is called on the docket the parties/counsel must have completed all deadlines set forth in the setting order including:

1. Exchange all documents they will ask the court to consider, such as financial affidavits, worksheets, and exhibits.
2. Discuss settlement by going through each party's Temporary Orders Position Statement and, if applicable, the child support worksheet(s).
3. Offers of proof for direct testimony will be allowed if agreed by both parties.

Settings for Temporary Orders or other Pre-Decree Hearings:

When the court enters an order for a Notice to Set to be filed the following procedures apply:

- 1) The Notice to Set shall be for any Tuesday or Fridays, at 1:30 p.m. in Courtroom 2B, with proper notice to the opposing parties /counsel. Court form JDF 1123 may be used for the Notice to Set.
- 2) The setting will be conducted by Magistrate Jostad, and conducted in the courtroom.
- 3) The setting may first serve as a brief status conference, where matters such as disclosures, discovery, conference/mediation efforts and other preliminary matters are reviewed. If the matter is ready for setting, a hearing will be set at that time.
- 4) *Pro se* parties and counsel may appear personally, if they so desire. The Court will initiate a telephone call to any *pro se* party or attorney who does not appear personally. If a party has counsel of record, the call will be made to said counsel. If a party is *pro se*, he or she will be called at the telephone number most recently provided to the court in writing. The settings will occur over a period of up to an hour or more depending upon the number of cases to be set.
- 5) Magistrate Jostad requires the attorney of record to be available at any settings since the Court must seek the input of counsel to make certain that the matter is ready for hearing and the appropriate procedural orders are put in place. If a moving party does not appear and cannot be reached by telephone during the setting time, the setting will be vacated. If a responding party does not appear and cannot be reached by telephone, the setting will proceed without their involvement. The setting may be vacated if counsel are not available. If the parties have not discussed their positions, the setting may be continued to another date before a hearing will be set.

Orders:

It would be appreciated by court staff if counsel drafting orders subject to objection as to form under C.R.C.P. 121:1-16 wait to file the proposed order with the court until the end of the 5 day objection period. This will prevent the court having to calendar the matter.

SPECIFIC REQUIREMENTS FOR COURTROOM 2A

Magistrate Kent Spangler

Courtroom 2A is located on the second floor of the Larimer County Justice Center. The Division Clerk for Courtroom 2A is Anita Solomon. The Division Clerk's telephone number is (970) 494-3560. Settings, continuances or other communications concerning hearings in Courtroom 2A shall be made through the Division Clerk for Courtroom 2A. Any general inquiry about a case or question about the status of an order should be directed to the Combined Courts Clerk's office at (970) 494-3500, not to the Division Clerk.

Settings are held Wednesdays and Fridays at 1:15 p.m. The clerk initiates the call. Counsel or assistant with setting authority may appear in person or by telephone. If party is not available the matter may be set in their absence. Due to the possibility of numerous settings on one day, clerk may be calling later than 1:15 p.m.

Contempt advisements are held every Monday at 10:30 a.m. Contempt hearings will be set at that time on the record.

SPECIFIC REQUIREMENTS FOR COURTROOM 1B

Magistrate Linda Connors

Courtroom 1B is located on the first floor of the Larimer County Justice Center. The Division Clerk for Courtroom 1B is Teresa Hoiseth. Her telephone number is (970) 494-3540. The assistant clerk is Ronald Cramer. His telephone number is (970) 494-3541. Settings, continuances or other communications concerning hearings in Courtroom 1B shall be made through the Division Clerk for Courtroom 1B. Any general inquiries about a case or question about the status of an order should be directed to the Combined Courts Clerk's office at (970) 494-3500, not to the Division Clerk.

Counsel are required to comply with C.R.C.P. 121, 1-15, which provides that moving counsel shall confer with opposing counsel before filing a motion. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel about the motion. If no conference has occurred, the reason why shall be stated.

Modification of Parental Responsibility (Decision-Making or Majority Residential Parent):

Pursuant to C.R.S. §14-10-132 these motions will either be denied, referred to mediation, or set for hearing, as appropriate, by court order following review of

pleadings and affidavits. Do not file a Notice to Set unless one has been ordered or authorized. If a hearing is justified, a status conference will be set first to review matters such as partial stipulations, evaluations, discovery, and length of hearing.

All Other Post-Decree Motions (with the exception of contempt, parenting time disputes, and emergency matters):

Pursuant to C.R.C.P. 16.2 all of the above post-decree and modification motions are reviewed within 45 days of filing. Such motions are then either ruled on upon the pleadings or a very specific order will be entered as to further case management or setting. In any event, the court will issue an order. No such motion will be set for a hearing without a specific order from the court to do so. Any other Notice to Set will be stricken.

When the court enters an order for a Notice to Set to be filed the following procedures apply:

- 1) The Notice to Set shall be for any Wednesday at 10:00 a.m. or Friday at 10:30 a.m. in Courtroom 1B, with proper notice to the opposing parties/counsel.
- 2) The setting will be conducted by Magistrate Connors, and conducted in the courtroom.
- 3) The setting may first serve as a brief status conference, where matters such as disclosures, discovery, length of hearing and preliminary matters are reviewed. If the matter is ready for setting, a hearing will be set at that time.
- 4) *Pro se* parties and counsel may appear personally, if they so desire. The Court will initiate a telephone call to any *pro se* party or attorney who does not appear personally. If a party has counsel of record, the call will be made to said counsel. If a party is *pro se*, he or she will be called at the telephone number most recently provided to the court in writing. The settings will occur over a period of up to an hour or more from the commencement of same depending upon the number of cases to be set.
- 5) Magistrate Connors requires the attorney of record to be available at any settings since the Court must seek the input of counsel to make certain that the matter is ready for hearing and the appropriate procedural orders are put in place. If a moving party does not appear and cannot be reached by telephone during the setting time, the setting will be vacated. If a responding party does not appear and cannot be reached by telephone, the setting will proceed without their involvement.

REMINDER: Most of C.R.C.P. 16.2 applies to post-decree matters as well.

Suspension/Restriction of Parenting Time: Magistrate Matt Zehe Courtroom 1A

All motions to suspend or restrict parenting time on an emergency basis, pursuant to C.R.S. 14-10-129(4), are to be filed at the Combined Court Clerk's office. The motion will be docketed in Division 1A at 8:15 a.m., 11:30 a.m., or 4:00 p.m. on the same day of filing or the next business day of filing, depending on the time of day that the motion is filed. The motion will be reviewed by the Magistrate prior to the docketed appearance scheduled for the motion. If the Magistrate finds that the allegations are insufficient on the face of the motion, the Magistrate will inform the moving party of this on the record at the time and date that the motion is docketed to return. If the Magistrate finds the allegations in the motion sufficient on the face of the motion either on the face of the motion or after further proceedings, then an emergency order restricting parenting time will issue, dated for the same day as the filing of the motion, and a hearing will be set in Division 1A within 14 days of the filing of the motion. The Division will prepare a service packet for the moving party containing copies of the order, the motion, a minute order if further proceedings are held prior to the Court issuing the order, and an advisement about the procedure for the next hearing. Once the moving party has received the service packet, he or she will have to serve a copy of the order on the opposing party at least 48 hours in advance of the hearing.

Emergency Civil Protection Orders – Magistrate Matt Zehe Courtroom 1A

All complaints for a civil protection orders, pursuant to C.R.S. 13-14-104.5, are to be filed at the Combined Court Clerk's Office. The complaint will be docketed in Division 1A at 8:15 a.m., 11:30 a.m., or 4:00 p.m. on the same day of filing or the next business day of filing, depending on the time of day that the complaint is filed. The complaint will be reviewed by the Magistrate prior to the docketed appearance scheduled for the complaint. If the Magistrate finds that the allegations are insufficient on the face of the complaint, the Magistrate will inform the complaining party of this on the record at the time and date that the complaint is docketed to return. If the Magistrate finds the allegations in the complaint sufficient either on the face of the complaint or after further proceedings, then a temporary civil protection order with no-contact provisions will issue. A hearing will be set within 14 days of the date of the order. If the parties to the order have children in common, the hearing will be set in Division 1B. If the parties to the order do not have children in common, the hearing will be set in Division 1A. The Division will prepare a service packet for the moving party containing copies of the order, the complaint, a minute order if further proceedings are held prior to the Court issuing the order, and an advisement about the procedure for the next hearing. Once the complaining party has received the service packet, he or she will have to serve a copy of the order on the opposing party at least 48 hours in advance of the hearing.

Pursuant to C.R.S. 13-14-109, fees for filing and service will not be assessed when the harm alleged in the complaint is stalking, sexual abuse, domestic violence, or domestic abuse. Pursuant to C.R.S. 13-14-105.5, the restrained party to a civil protection order issued in response to allegations of domestic violence may not own or possess firearms or ammunition, and must relinquish all firearms and ammunition in his or her possession.

Motions for Emergency Order or Forthwith Hearing:

Any motions requesting some emergency relief or a request for a forthwith hearing are to be filed at the Combined Courts Clerk's Office. All emergency motions will be reviewed by the Magistrate within 48 hours excluding Saturdays, Sundays and holidays. Cases will be screened and those of a more emergent nature will be reviewed first. After reviewing the motion the Magistrate may set the matter for an emergency hearing. If an emergency hearing is not going to be set then the Court will issue a written order. The court emphasizes that emergency relief is generally limited to consideration of suspension/restriction of parenting time, and not provided when a party asserts an issue related to regular parenting time, a financial dispute or other matters that are normally addressed at a hearing for temporary orders.

Parenting Time Disputes:

Section 14-10-129.5, C.R.S. governs any disputes concerning compliance with existing orders for parenting time. The contents of the motion must strictly comply with the statute and the motion must be properly served. The adverse party shall have 15 days to respond to the motion. The Court will then deny rule on the pleadings, set it for a hearing, or order mediation. If the matter is to be set for hearing, the Court's Division Clerk will initiate the setting process.

Settlements/Stipulations:

If the matter is resolved by agreement, the parties must file a written stipulation, properly endorsed, prior to the date of the hearing. If no written stipulation is filed before the date of the hearing, counsel must appear at the scheduled hearing.

Conduct of Hearings:

Prior to the hearing in compliance with the setting order, the parties/counsel must exchange all documents that they will ask the court to consider, such as financial affidavits, worksheets, and other exhibits. Sufficient copies of all documents, properly marked, shall be available at hearing and also e-filed. The parties/counsel should further be prepared to proceed with direct testimony by offer of proof; however, any testifying witness must be made available for cross-

examination. The court requests that duplicative or repetitious testimony be avoided.

Offers of proof for direct testimony will be allowed if agreed by both parties.

Setting Procedures

1. All settings required shall occur in Courtroom 1B. Settings are conducted on Wednesdays from 10 a.m. to noon and Fridays from 10:30 a.m. to noon. Court form JDF 1123 may be used for the Notice To Set.
2. A *pro se*¹ party or attorney may appear in person for the setting but this is not required. Settings are usually handled by phone. The Magistrate will initiate the call for the setting. Since there are many cases on the setting docket the parties should be available for the call anytime after 10 or 10:30 am on the setting day.
3. The court will place the call to the phone number listed for a *pro se* party/attorney on their most recent motion/response/pleading. If you are unsure whether the court has your current phone number or you want the court to contact you at a different phone number then you must, at least 1 day before the specified date, inform the Court of the phone number where you may be contacted. The Division Clerk of Courtroom 1B should be informed of your phone number. When contact information has changed, a change of contact information form should be filed with the court to change any addresses or phone numbers.
4. If the *pro se* party/attorney who is seeking relief from the court cannot be reached by phone for the setting his/her motion may be deemed abandoned without further notice.

¹ *Pro se* means a party representing him/herself without an attorney.
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