

Divorce Information

Please read and initial next to each paragraph, then sign on the last page and return to our office.

Court and Judge Selection

1. _____ My case will be assigned randomly to either the 74th, 170th, or 414th District Court.
2. _____ If I am assigned to the 74th District Court, my case will be handled at the Juvenile Detention Center, located at 2601 Gholson Road.
3. _____ If my case is assigned to the 74th or 414th District Court, I understand that setting hearings can be more difficult than in the 170th.
4. _____ I understand that the judge in my case may not follow the law, and that my only remedy would be to appeal after the case is over, and appeals rarely succeed and are expensive.
5. _____ I understand that I cannot change which court my case is assigned to absent there being a conflict of interest, such as the judge previously being my or my spouses attorney.

Standing Order

6. _____ I understand there is a standing order in effect immediately when my divorce is filed and that both I and my spouse must follow the order or we can be sanctioned by the court.

Affidavit of Indigency

7. _____ If I file an affidavit of indigency to waive the court costs, I understand the judge may decide that I am not indigent and order me to pay court costs.

Parenting Class

8. _____ If my spouse and I have children together who are under 18 or still in school, I understand I *must* take a parenting class *before* the court will allow me to schedule a final hearing. I further understand I must bring the certificate from taking the class to my attorney so it can be filed with the court.
9. _____ I can take an online Parenting Class or I might be able to find a classroom setting.

Temporary Orders

10. _____ I understand that temporary orders can be issued in cases where one (or both) parties request them. Temporary orders set up who “temporarily” holds property, has custody & visitation of children, how much temporary child & spousal support will be paid, and who will pay certain bills while the divorce is pending. Temporary orders can be agreed upon or issued after a contested hearing with the judge.

11. _____ I understand if we have a hearing on temporary orders, we may be put “on the clock” and allowed only a limited time to put on testimony and evidence.
12. _____ I understand the judge can order things at a temporary orders hearing that the judge cannot order in a final decree of divorce, such as awarding temporary possession of my separate property to my spouse or awarding temporary spousal support even if spousal support is not allowed at final hearing.
13. _____ I understand that what is ordered in temporary orders is frequently ordered at a final hearing, as far as child custody, support, visitation, and property division, so it is very important to put on a winning case at temporary orders.

Mediation and Arbitration (alternative dispute resolution)

14. _____ Mediation can be a formal or informal settlement process where both parties go to separate rooms, and a neutral third party acts as the mediator, going back and forth between the parties to try to reach a settlement. I understand I can voluntarily mediate a case or the judge can force me to go to mediation prior to trial. A mediated settlement “shall” be enforced by the judge.
15. _____ Mediations are usually scheduled as “whole day” (for cases with children or property) or “half day” (for cases with no children and few assets).
16. _____ I understand that my attorney has no control over the time a mediation takes and that I am responsible to pay attorney fees and mediation fees for the entire time a mediation takes.
17. _____ Arbitration is a quasi-trial held in front of an arbitrator instead of a judge. Certain arbitrators will put rules on both sides in an effort to make the process faster. Arbitration can be binding or non-binding, meaning the judge either has to follow the arbitrator’s decision or not.
18. _____ I understand that if I signed a pre-nuptial agreement, it may require me to participate in mediation and/or arbitration.

Discovery

19. _____ Discovery is the legal process where one party can force the other party to produce copies of documents (such as bank statements & pay stubs), answer questions under oath, admit or deny certain facts, or even appear at a deposition (where questions are asked under oath and recorded by a court reporter).
20. _____ I understand that discovery is not always necessary in every case, but I may request discovery from my spouse and my spouse may request discovery from me. 2021 rule changes require some discovery to be provided even without asking.

21. _____ I understand that if my spouse has hired “certain lawyers” they will send voluminous discovery requests no matter what, and that I must answer them, and that answering them will cost additional attorney fees in helping me prepare my answers.
22. _____ I understand that if my spouse sends discovery requests, I must timely answer them and will present the answers to my attorney as quickly as possible, but in any event no later than 20 days after my spouse sends the discovery requests.
23. _____ A judge can also order one or both parties to prepare a sworn “inventory and appraisal” of all marital property. I must be truthful and sign the answers under oath.
24. _____ I understand that any evidence I wish to use in trial (photos, videos, texts, emails, etc.) must be presented to my attorney immediately and need to be in a court admissible format. I further understand that if I wait until the month before trial to produce these items, my attorney cannot use them in my trial.
25. _____ I understand that any documents I get from governmental agencies (police reports, deeds, court documents, etc.) must be *certified* copies to be admissible in court. I further understand that the government agency will charge me extra for certified copies.

Transfer of Property Documents

26. _____ I understand I must inform my attorney if I will need documents to transfer property, such as a power of attorney to transfer motor vehicle title or a special warranty deed for real estate.
27. _____ If retirement is being divided, I understand that a separate order called a QDRO or DRO must be prepared, that this will require extra attorney fees, and that the retirement may not actually be paid due to the way they determine who gets paid (for example, some require both spouses to still be alive and retired).
28. _____ I understand my attorney has no control over how long it will take to have the QDRO/DRO approved nor does my attorney have any control over how retirement proceeds are paid (lump sum, monthly, delayed, none due to death of my spouse, etc.).

Witness Statements

29. _____ I understand that if I am wanting a contested hearing on any matter, I must prepare witness statements for all witnesses I expect to testify in the trial (including my spouse and any witnesses he/she intends to have testify). In those statements, I must include a list of both good *and* bad facts, plus questions I want asked of the witness. I should also include questions I expect my spouse will ask me or my witnesses so we can be better prepared. I understand that I must get these witness statements to my attorney no later than 7 days before court so we can be adequately prepared.

30. _____ I understand that if testimony differs from what is on the witness statements, it can have adverse affect on my case. I need to be truthful with my attorney so we can be prepared and put on the best possible case we can.
31. _____ I understand my attorney will ask me to fill out a separate “prepare for war” packet which asks very personal and potentially embarrassing questions and that I will need to fill it out honestly and accurately to aid the attorney in preparing for trial.

Social Media, Emails, Texts

32. _____ I understand that I must inform my lawyer about all social media accounts that I use (Facebook, Twitter, etc.), emails, and texts and that ANYTHING I post on my accounts, email to others, and/or text to others can and will be used *against* me in court. Therefore it is advisable to not post anything on social media and to deactivate any accounts I do have. It is further important not to text or email anything that I do not want the judge to read.
33. _____ I further understand that hidden, old, and deleted posts, emails, and texts can still be used against me because they exist in cyberspace and can be obtained. I also understand it is a crime to delete old posts.

Bench Trial

34. _____ I understand that a “bench trial” means the judge will determine all issues (no jury).
35. _____ I understand that some judges will allow an opening statement and closing argument, others just want to hear the witnesses.
36. _____ The general courtroom procedure is as follows: parties announce ready, the petitioner calls witnesses and presents evidence, the respondent cross examines any witness called by the petitioner, then the respondent calls their witnesses, who are cross-examined by the petitioner.
37. _____ Direct examination means open ended questions, such as “tell us what happened.”
38. _____ Cross examination is often done with “leading questions” which are questions that are generally only answered yes or no, without any allowance for explanation.
39. _____ If I am asked a cross exam question and I want to explain my answer, I understand that my attorney will be allowed to ask me “re-direct” where I can explain.
40. _____ I should always listen carefully to any question I am asked and pause before answering. The pause gives my attorney time to object if necessary.
41. _____ I understand that only one person at a time should talk in court because the court reporter cannot take down notes when more than one is talking.
42. _____ It may take somewhere between 6 months and 2 years to get a contested final hearing.

Jury Trial

43. _____ I understand that this law firm will not offer me a jury trial on my divorce without a specific special retainer agreement. In other words, my choices will be to settle the case or have a trial before the judge, not to have a jury trial unless we enter into a separate agreement (with higher retainer).
44. _____ I understand that if I opt for a jury trial, not only will the cost be substantially more, but being able to schedule a jury trial can be difficult and severely delayed.
45. _____ I understand that juries can only decide on the: grounds for divorce (fault/no fault), character of property (community/separate), value of property, determining who would be a managing conservator or possessory conservator, who the child(ren) would live with, and whether there would be a geographic restriction on where the child(ren) live.
46. _____ I understand that a jury can only give an advisory opinion as to: property division, premarital agreements, attorney fees, and costs.
47. _____ I understand that a jury cannot decide at all: issues related to determining parentage, child support, specific terms of possession, nor the rights of a conservator.

Agreed Divorce in lieu of trial

48. _____ I understand that if my spouse and I agree to terms, we do not have to have a trial, but we still have to “prove up” the divorce decree with the judge before the case is final. Either myself, or my spouse (or both) can attend a prove-up hearing.

Notice and Timelines

49. _____ I understand there is a minimum of 60 day wait from the date my divorce is filed until the date the judge can grant me a divorce. This can only be shortened in cases involving family violence, but are still subject to the rules below.
50. _____ I understand that the 60 day waiting period does NOT mean I will be divorced in 60 days. It just means that I cannot get divorced for *at least* 60 days (but it usually takes longer). We are at the mercy of the court schedule, opposing attorney pleadings, etc.
51. _____ I understand there is a requirement we give my spouse at least 45 days notice prior to setting a final hearing if we are having a contested divorce.
52. _____ I understand there is a requirement that we give my spouse at least 3 days notice prior to setting a contested hearing on temporary orders.
53. _____ I understand the judge *must* reset the final hearing date to allow more time to conduct discovery if more time is requested by the opposing party.
54. _____ I understand the judge can reset any of our court dates for any reason without notice.

55. _____ I understand I cannot marry someone else for at least 30 days after my divorce, unless the judge rules otherwise.

56. _____ I understand that child support often takes 90 days from the final decree until received.

Documents

57. _____ I understand my attorney will shred any documents brought to the office. If I want them returned, I must come pick them up no later than 30 days after completion of my case.

Drugs and Alcohol

58. _____ I understand I may be drug tested and that I must refrain from using illegal drugs (including prescription medication for which I do not have a prescription). Furthermore I must provide proof of valid prescription for certain medications that I am taking. I further understand that if I fail a drug test it is highly likely that I will lose the child custody portion of my case. I further understand that a drug test could be by urine, hair, nail, saliva, blood, or other testing procedure.

59. _____ I understand that I should not consume alcohol nor any drug/medication that would impair my ability to drive whenever I am in possession of my child(ren).

60. _____ I understand that the judge may not permit me to smoke cigarettes, consume alcohol, or take certain drugs/medications while I am in possession of my child(ren).

Miscellaneous

61. _____ I understand it is usually frowned upon by the judges to begin a new dating relationship while I am involved in a divorce with child custody case and doing so could make me lose the child custody portion of my case. I further understand that this includes bringing the children around the new romantic interest even in public places such as restaurants.

62. _____ I should assume that at all times I am being video and audio recorded and that everything I do or say will be scrutinized by the judge/jury and that everything I do or say will likely be twisted and taken out of context by the other side's lawyer to make me look bad.

63. _____ My case becomes "contested" for purposes of my retainer agreement if any action is required that takes it away from an agreed case, including but not limited to either party serving discovery, either party setting a hearing other than a final prove up, either party filing a motion, either party requesting alternative dispute resolution.

Date: _____

Sign

Print