

FAMILY COURT RULES OF PRACTICE

I. GENERAL RULES

1.1. Adoption of Rules. — The provisions contained in these Rules of Practice shall take effect on September 10, 1982. They may be cited as Family Court R.P. These rules were last amended on November 5, 2014.

1.2. Powers of Administrative Judge. — Notwithstanding anything in these Rules of Practice to the contrary, the chief judge of the Family Court as the administrative judge, by virtue of Title 8, Chapter 10 as amended, shall continue to have and exercise the powers therein given to him or her.

1.3. Court Hours. — Except in vacation and on holidays, the court shall ordinarily sit from 9:00 a.m. to 12:30 p.m. and from 2:00 p.m. to 4:30 p.m., Mondays through Fridays, unless the chief judge shall order otherwise.

1.4. Agreements. — All agreements of parties or attorneys touching the business of the court shall be in writing, unless orally made or assented to by them in the presence of the court when disposing of such business, or the agreements will be considered of no validity. Matters read into the record shall be reduced to writing and presented to the court for entry within ten (10) days or earlier if the case is continued for hearing prior thereto.

1.5. Appearances, Withdrawal, and Excuse of Attorneys. — (a) **Appearances.** The attorney for a defendant or a self-represented litigant in any case shall forthwith file an entry of appearance (which shall not be deemed to be an answer) with the clerk of the Family Court for the county wherein the action is pending and shall send a copy of the entry of appearance to the opposing attorney or self-represented litigant.

An entry of appearance shall contain the name, address, email address, bar number, and telephone number of the attorney or, if a self-represented litigant, contain the name, address, email address (if electing to utilize the electronic filing system), and telephone number of the self-represented litigant except where prohibited by federal or state law. The most current version of an entry of appearance is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(b) **Designation of Trial Counsel.** Upon entry of appearance, law firms must designate the name of trial counsel.

(c) **Withdrawal of Attorney.** No attorney appearing in any case will be allowed to withdraw without the consent of the court. Except where another attorney enters an appearance at the time of such withdrawal, all withdrawals shall be upon motion with reasonable notice to the party represented. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the clerk the last known address of the attorney's client, or the client files his or her address, and in either situation the address which is filed shall be the official address to which notices may be sent.

A motion for withdrawal shall be accompanied by an affidavit setting forth facts showing the military status of the client or by a written statement of the client consenting to such withdrawal. No motion to withdraw an appearance will be granted if it appears that the client is in the military service of the United States, as defined in the Servicemembers Civil Relief Act (50 U.S.C.A. App. Section 501, et seq.), unless the client consents thereto in writing or another attorney appears of record at the time of such withdrawal.

In a case where a responsive pleading has been filed and the court allows an attorney to withdraw and no successor attorney has entered an appearance, the case shall proceed as an answered case and the parties no longer represented by an attorney shall be deemed self-represented.

(d) **Excuse From Court Attendance.**

(1) Except in an emergency, all motions by an attorney seeking to be excused from court attendance shall be filed with the chief judge within three (3) weeks of the first date for which the moving party is seeking to be excused. The motion shall include the following:

(A) The specific dates during which the moving attorney is seeking to be excused;

(B) A statement by the moving attorney that, at the time of the filing of the motion, there are no matters for which the moving attorney is the attorney of record that have been assigned for trial or hearing during the requested excusal period; and

(C) A certification by the moving attorney that a copy of the Motion to be Excused from Court Attendance was served in accordance with R.Dom.Rel.P. 5 on the opposing counsel or a self-represented litigant in each active matter for which the moving attorney is attorney of record in the Family Court.

(2) No matter for which the moving attorney is the attorney of record may be assigned for hearing or trial during the requested excusal period.

(3) The most current version of a Motion to be Excused from Court Attendance is located on the Judiciary's website at *www.courts.ri.gov* under the heading of Public Resources, Forms.

(4) If no objection is filed with the chief judge by any opposing counsel or a self-represented litigant within five (5) days of the certification, then the moving party is not required to forward copies of a signed order to any party.

(e) **Illness or Absence of Attorney.** In case of sudden illness of an attorney, or the attorney's absence from court from some other imperative and unforeseen cause, the court shall take such action, without notice, as shall appear reasonable in the circumstances.

1.6. Briefs and Memoranda. — Every brief and memorandum filed with the court shall be printed or typewritten, shall be distinctly legible, shall be signed by the attorney or a self-represented litigant presenting it, in accordance with Art. X, Rule 7 of the Rhode Island Supreme Court Rules Governing Electronic Filing, and shall contain:

- (1) A brief and concise statement of the case;
- (2) The specific questions raised duly numbered; and
- (3) The point made, together with the authorities relied on in support thereof.

In cases where it may be necessary for the court to go into an examination of record evidence, each party shall briefly specify in his or her brief the leading facts which the party deems established by the evidence, with a reference to the pages where the evidence of such facts may be found.

For specific requirements, see the Family Court's Electronic Filing System Guidelines.

1.7. Filing of Documents Ancillary to a Complaint in Divorce Actions. — For specific requirements, see the Family Court's Electronic Filing System Guidelines.

1.8. Decision Pending Entry of Final Judgment and Final Judgment. — (a) **Separation of Parties as Ground for Divorce.** Under the provisions of G.L. 1956 § 15-5-3, the prevailing party upon decision being granted in his or her favor, shall file the form entitled Decision Pending Entry of Final Judgment with the clerk within thirty (30) days of the date of decision unless the court extends the time for the filing of the form. The twenty (20) day waiting period as contained in G.L. 1956 § 15-5-3 shall commence to run the day following the entry of the Decision Pending Entry of Final Judgment. A Final Judgment may be entered by the prevailing party at the

expiration of the waiting period and at any time within one hundred eighty (180) days next after the expiration of twenty (20) days from the date of Decision Pending Entry of Final Judgment. If the Final Judgment is not entered within two hundred (200) days from the date of Decision Pending Entry of Final Judgment, the Final Judgment may be entered by written consent of the attorneys or parties. If the parties do not consent to a stipulation, a motion to enter the Final Judgment out of time shall be required.

(b) **For all Other Divorces.** Under the provisions of G.L. 1956 § 15-5-23, no decree for a divorce shall become final and operative until a waiting period of three (3) months after the trial and decision. The form entitled Decision Pending Entry of Final Judgment shall be filed within thirty (30) days of the date of decision unless the court extends the time for the filing of the form. Final judgment from the bond of marriage may be entered by the prevailing party at the expiration of the waiting period and at any time within one hundred eighty (180) days next after the expiration of three months from the date of Decision Pending Entry of Final Judgment. If the Final Judgment is not entered within two hundred seventy (270) days from the date of Decision Pending Entry of Final Judgment, Final Judgment may be entered by written consent of the attorneys or parties. If the parties do not consent to a stipulation, a motion to enter the Final Judgment out of time shall be required.

(c) **Mandatory Statement on Decision Pending Entry of Final Judgment.** A Decision Pending Entry of Final Judgment shall contain the following statement, prominently placed near the top of the first page: “This is NOT a final judgment of divorce. The parties remain legally married until entry by this court of a final judgment.”

1.9. [Reserved.]

1.10. Printing or Typing Names as Well as Signatures on Pleadings. — Signatures on pleadings shall be in accordance with Art. X of the Rhode Island Supreme Court Rules Governing Electronic Filing.

1.11. for Support.— All orders for support shall be in written form based upon findings of fact.

1.12. [Reserved.]

1.13. [Reserved.]

1.14. Contents of Court Judgments, Decrees, and Orders. — All findings of fact made by a judicial officer must be incorporated into all court judgments and orders, before said documents are presented to the court to be entered.

1.15. [Reserved.]

1.16. Attorneys and Self-represented Litigants Presenting Documents—Signature Required. — All documents brought to a judicial officer of the court for signature must be signed by the attorney or a self-represented litigant presenting the document.

1.17. [Reserved.]

1.18. Taking of Blood Tests. — Under the authority of G.L. 1956 § 15-8-11, any party to a paternity action may file a motion requesting that blood tests be taken provided that the party so moving must file the motion within ten (10) days after the filing of his or her answer, except the time may be extended for good cause.

1.19. [Reserved.]

1.20. Statement of Assets, Etc. — Failure to File.— In any Domestic Relations action where the plaintiff has complied with the requirements of either Rule 64(b) or Rule 64A(b) of the Rules of Domestic Relations Procedure and the defendant has not filed an affidavit containing a statement of the defendant's current assets, liabilities, income, and expenses, the plaintiff may proceed with the hearing on his or her motion or complaint; however, for good cause shown, the court may extend the time in which to file the said statement.

1.21. [Reserved.]

II. CALENDARS AND SESSIONS OF THE COURT

2.1. No Assignment of Cases on Certain Days. — Cases will not be assigned for hearing upon any legal holiday, Good Friday, or upon any day within the period from December 19 to New Year's Day, each day inclusive. Matters deemed by the court to be urgent may be heard on such days.

2.2. Family Court Sessions. — Specific assignment dates for the hearing of all matters in Providence/Bristol, Kent, Newport, and Washington Counties shall be available to all interested parties at the clerks' offices of the various counties and on the Rhode Island Judiciary's website at *www.courts.ri.gov*.

2.3. Automatic Continuance Where Session Cancelled. — If for any reason sessions of the Family Court in any County are cancelled, unless otherwise ordered by the court or the parties otherwise stipulate with the court's approval, all matters shall automatically be continued for four (4) weeks and all outstanding orders which would by their own terms have expired on the day such session was cancelled shall automatically be continued in full force and effect for the same period. The clerk shall note in the docket of each case the fact of the cancellation of such session.

If the court decides to reschedule such matters in a manner different from the procedure established in the previous paragraph, the court will promulgate an administrative order to that effect and post the order on the Rhode Island Judiciary's website at *www.courts.ri.gov*.

III. RECORDS

3.1. Docketing. — All cases shall be docketed and numbered consecutively in the classes to which they respectively belong.

3.2. [Reserved.]

3.3. Matters Not for Publication. — Matters of record which are sealed by the court pursuant to statute or court order shall not be furnished by the court for publication or given out for inspection to anyone except as provided by statute, by these Rules of Practice as specified herein, or by order of the court.

3.4. Transcripts. — Policies and procedures regarding the ordering, payment, and delivery of transcripts are promulgated by the Supreme Court Finance and Budget Office of the Administrative Office of State Courts. The most current version of the transcript policy and procedure is located on the Judiciary's website at *www.courts.ri.gov* under the heading of Quick Links on the home page.

3.5. Removal of Inactive Cases from Files. — The clerk is hereby authorized from time to time in his or her discretion to remove from the active files in all

counties and to transfer to inactive files to be maintained elsewhere, at the judicial record center, or at any place that may be authorized by the court, the papers in all cases which have been pending upon any docket for five (5) years or longer and which appear to have become inactive. The papers in any case so transferred may be at any time upon motion of either party or in the clerk's discretion be returned to the active files. Upon the implementation of electronic filing, court records shall be maintained in accordance with the Rhode Island Judiciary Records Retention Schedule.

3.6. [Reserved.]

3.7. [Reserved.]