

The *UpToParents* Model Rule for Family Cases

The following model rule aspires to give the architecture for a system of cooperative family law.

No rule can by itself transform an adversarial system into a cooperative one, and this rule is best considered along with collateral resources such as the following:

1. regular meetings of family law professionals about cooperative practice,
2. a pledge of cooperation for family attorneys, and
3. the bench and bar's development of effective solution-focused resources judges and attorneys regularly use instead of relying on laws, litigation, and court orders.

Important ideas on these collateral resources can be found in the article, “A Brief Introduction to the UpToParents Cooperative System of Family Law,” available on the Professionals Corner link of UpToParents.org.

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***UpToParents* Model Rule for Cooperation in Family Cases**

(A) Liberal Construction and Application.

(1) The Circuit and Superior Courts of _____ are committed to a cooperative model for the handling of family cases by parents, attorneys, and judges. This Rule will be liberally construed and applied to serve the ends of (a) ensuring safety, (b) reducing conflict, (c) building cooperation, and (d) protecting the children and healthy relationships within families.

(2) “Family cases” are defined as all marital dissolution or separation, paternity, guardianship, termination of parental rights, delinquency, and child in need of services (CHINS) cases.

(3) Parties and counsel should visit www.FamilyCourtWebsite.org for information on the procedures in use in _____ County in support of the cooperative handling of family cases.

(B) Case Captioning.

(1) Parties in marital dissolution and separation and paternity cases shall not be captioned or designated as “petitioner,” “respondent,” “plaintiff,” or “defendant.” “Versus” shall not be used in the captions of any such cases.

(2) In marital dissolution and separation cases where the parties have one or more children under the age of 20 on the date of the initial filing, all pleadings shall be captioned, “In Re the Marriage of _____, father [or mother], and _____, mother [or father].” The party filing the initial petition shall be named first.

(3) In marital dissolution and separation cases without children under the age of 20, all pleadings shall be captioned, “In Re the Marriage of _____, wife [or husband], and _____, husband [or wife].” Following dissolution, parties without children may be captioned and designated “former husband” and “former wife.”

(4) Parties in paternity cases shall be captioned and designated as “mother,” “putative father,” and “father.”

(C) Duties of Attorneys and Parties in Family Cases.

(1) Attorneys and parties in family cases shall be responsible to act with the Courts as co-problem-solvers, not mere problem-reporters. Unless safety requires otherwise, counsel should:

- (a) speak with all clients, as soon as possible and as often as necessary, about the advantages and judicial expectations of safe cooperation in family cases;

- (b) refer clients to all co-parenting classes, counseling, mediation, and other problem-solving processes that appear to counsel to be promising resources for good family functioning;
- (c) work with other counsel to ensure safety in families where domestic violence has been, or reasonably could be, an issue;
- (d) work with other counsel in all cases to reduce conflict, build cooperation, and protect children;
- (e) avoid unnecessary motions and hearings; and
- (f) use the least divisive processes in pursuing safety, fairness, cooperation, and the best interests of children (for example, consulting with other counsel as early and often as necessary to find cooperative resolutions, using mail or acknowledgement of service instead of sheriff service of process, encouraging restraint and safe cooperation between family members, and exhausting all viable cooperative measures before requesting either custody evaluations or trial settings).

(2) The Courts will expect all parties and attorneys to consistently observe:

- (a) *personal responsibility* by acting on one's own opportunities to solve problems and improve circumstances rather than merely reporting on the alleged fault in others,
- (b) *cooperation* by sensibly defining and pursuing the best interests of all family members,
- (c) *courtesy* by constant observance of respectful language and behavior,
- (d) *focused attention on children's needs* including an awareness that parent conflict is gravely dangerous to children.

(3) Attorneys appearing in family cases shall (a) furnish their family clients with a copy of this Rule and (b) assist them in fully understanding and observing its provisions.

(D) Attorneys as Problem-Solvers Presuit

- (1) The Courts of _____ County make the following specific findings:
 - (a) Actions taken in the earliest stages of parents' separation and other family crises often define much of the future of the family case and the family.
 - (b) While courts are largely powerless to affect cases before they are filed, attorneys can at such early stages set a tone of either beneficial cooperation or destructive conflict in the cases and families they touch.

- (c) Therefore, attorneys' language and conduct in the earliest stages of family cases, including before they are filed, should be governed by a responsibility to reduce conflict, build cooperation, and protect children.
- (2) The Courts of _____ County, therefore, strongly request and will continuously encourage attorneys to conduct themselves at all times, including before cases are filed, in ways that ensure safety, reduce conflict, build cooperation, and protect the children and healthy relationships within families. Before a case is filed, this attorney commitment to those ends should include the following:
- (a) Assessment of Case and Safety Considerations. Counsel meeting with a person contemplating a family case should promptly assess whether the case can safely be handled cooperatively and without adversarial motions or hearings. Unless safety or other exceptional circumstances make cooperation unreasonable, counsel should handle the case in ways that avoid court and maximize the prospective parties' and other family members' development of cooperative problem-solving.
 - (b) Cooperation between Counsel before Initial Filings. Counsel representing persons anticipating a family case should make reasonable efforts to determine if the other possible parties have, or may be seeking, representation. Unless doing so would be dangerous or otherwise unreasonable, counsel should:
 - (i) consult and cooperate with each other before filing;
 - (ii) attempt in good faith to find cooperative resolutions to provisional matters, including peaceful separation, so that unnecessary provisional filings and hearings can be avoided;
 - (iii) refer parents to resources such as co-parenting education, counseling, and mediation that can help them, their children, and the healthy relationships in the family.
 - (c) Cooperation with Self-Represented Parties before Initial Filings. Unless doing so would be dangerous or otherwise unreasonable, counsel should employ these same efforts at consultation and cooperation with self-represented persons prior to the filing of any family case. When safe to do so, counsel should (i) communicate directly with such persons (including a self-represented spouse, parent, putative parent, or guardian) and (b) take all reasonable measures to avoid provisional filings and hearings on matters that could be resolved by cooperative measures such as discussion, counseling, and mediation.

(E) Parenting Plans

(1) The preparation of a Parenting Plan is recommended for all parties in dissolution, separation, and paternity cases, though mandatory only if one or more motions are filed or a hearing is scheduled. All parents and guardians with one or more children together under the age of 20 should as soon as possible (and in time for any hearing in the case) fill out and sign a Parenting Plan on the form provided in Appendix A. Parents signing an agreed Parenting Plan will be governed by that Plan unless it is modified by written agreement or court order.

(2) If parents have an issue that results in a motion being filed or a hearing being set, then prior to any hearing, they shall make all reasonable efforts to prepare, sign, and file an agreed Parenting Plan on the form provided in Appendix A and shall bring that agreed Parenting Plan to all hearings. If the parents cannot agree on a Parenting Plan, then each shall complete the form from Appendix A, serve it on each other, and bring copies to all hearings.

(F) Mandatory Website Work and Co-Parenting Class¹

(1) Divorcing parents without children under the age of 20 on the date of the initial petition shall file a confirmation, either separately or together, stating in substance, “The parties confirm they have no children together under the age of 20.”

(2) In all separation, dissolution, and paternity cases where the parties have one or more children together under the age of 20 on the date of the initial petition, the parents must show timely completion of important website and classroom work as provided below.

(3) In marital dissolution and separation cases, parents with one or more children together under the age of 20 shall make arrangements to attend a co-parenting class by contacting [] within 10 days of the filing of the initial petition in their case. Parents must complete the class within 60 days of the initial petition in their case and show proof thereof by filing a copy of their certificate of completion. Parents shall complete the work on www.UpToParents.org and take their completed work to their co-parenting class. Parents open to the possibility of reconciliation may substitute the work from www.WhileWeHeal.org.

(4) In paternity cases, parents shall attend the co-parenting class ordered by the Probate Court. Parents shall complete the work on www.ProudToParent.org and take their completed website work to their co-parenting class.

¹ Note to courts considering this rule: There are huge variances between jurisdictions in their processes to send parents to co-parenting classes and show proof of attendance. This model rule suggests one approach, and doubtless it will have to be adapted to each jurisdiction’s needs.

It is recommended that any formulation stress parents’ *early* completion of this work so that it can impact the “meaning-making” stage of separations. This model rule puts the burden on parties to timely file either (a) a confirmation that they have no children together under the age of 20 or (b) proof of completing the required co-parenting class.

(5) If a hearing is scheduled in dissolution, separation, or paternity case, the parents shall merge their chosen Commitments from their website work into a set of Agreed Commitments, review those Agreed Commitments, and take copies of them to all hearings. If more than a year has passed since the parents' completion of the website work, they shall redo the work, merge their Commitments into a set of Agreed Commitments, and bring those Agreed Commitments to all hearings.

(G) Mandatory Protocols for Motions, Hearings, Custody Evaluations, and Trial Settings

(1) Attorneys and parties (a) shall work as co-problem-solvers with the court, not mere problem-reporters, (b) shall make every reasonable effort to resolve problems by reaching agreements that serve the best interests of all family members, and (c) should appear in court on contested matters only in rare circumstances. The courts' intervention, however, will be liberally available in cases of domestic violence.

(2) Except in instances where it would be dangerous or otherwise unreasonable, counsel (or self-represented parties) shall use good-faith personal or telephone consultation to resolve any issue before seeking relief from a court. Correspondence by mail or electronic communication will not suffice. Counsel and self-represented parties contacted for a consultation under this rule shall make themselves reasonably available for the consultation. In the consultation, counsel (and self-represented parties) shall:

- (a) attempt to resolve the matter at issue;
- (b) discuss, and make a list of, the resources they believe the parents could use to resolve all current and future issues and to build cooperation, including any resources listed in paragraph (I)(2) (separate lists shall be made if a joint list is not agreed on);
- (c) confirm that the parents (i) have completed the website work referred to in paragraph (D), (ii) have merged their chosen Commitments into a set of Agreed Commitments, and (iii) will review and bring their Agreed Commitments and all other website work to any upcoming hearing;
- (d) confirm the date each parent completed the required co-parenting class,
- (e) confirm that the parents have completed and will be bringing to any upcoming hearings a completed Parenting Plan Worksheet (PPW) on the form provided in Appendix A.

(3) All motions and pleadings (including any requests for provisional relief) shall include a Cooperation Update (a) confirming compliance with, and the details of, each of the requirements in paragraph (G)(2)(a)-(e) and (b) listing the dates and subject matter of all prior hearings in the case. Motions and pleadings filed without a complete Cooperation Update shall be inadequate to raise any issue for court review unless they recite the specific reasons for the lack of a personal or telephonic consultation or the lack

of a complete Cooperation Update. Sample conforming motions are attached as Appendix B.²

(4) The duty of consultation shall be continuing. Following the filing of any motion, counsel (and parties without representation) shall continue to hold all consultations that may help resolve the matter at issue and build cooperation between the parties.

(5) Custody evaluations and trials will be reserved for cases where one or both parents lack the capacity to safely resolve the issues they face. No custody evaluation or trial may be requested, ordered, or conducted unless and until all cooperative measures (including, at least, co-parenting education, counseling, and mediation) have been exhausted or shown to be dangerous, lacking a reasonable possibility of success, or otherwise unreasonable. All requests for custody evaluations, trials, or both shall be in writing and shall state:

- (a) what specific issues are resolved and what specific issues remain unresolved;
- (b) what problem-solving resources have been used to date (including any co-parenting education, counseling, mediation);
- (c) exactly why no further cooperative measures can be expected to assist the parents or the resolution of issues.

(6) Parents shall review and bring to every hearing a copy of their Agreed Commitments and current Parenting Plan Worksheet.

(7) The Domestic Relations Counseling Bureau [address and telephone number] is available to assist attorneys and parents in holding the consultation required by paragraph (G)(2) and in completing the required website work and Parenting Plan Worksheet.

(H) Cooperation Conferences

(1) A cooperation conference will ordinarily be scheduled by the Court for approximately 60 days after the filing of the initial petition for dissolution (or, in paternity cases, approximately 60 days after the finding of paternity). Additional cooperation conferences should be requested whenever parents or counsel believe they would be helpful in reducing conflict, building cooperation, preserving relationships, or protecting children.

(2) The chief purposes of cooperation conferences will be (i) for attorneys and self-represented persons to report on progress in reducing conflict, building cooperation,

² Experience has taught that any good family law rule must include sample motions. The role of attorneys as problem-solvers and the nature of reporting on compliance with a rule for cooperation are such entirely novel concepts that concrete guidance must be given. In one jurisdiction adopting many of the features of a cooperative system recommended in this rule but dispensing with model conforming rules, “Cooperation Updates” actually descended into further adversarial attacks between parents (and sometimes between attorneys).

preserving family relationships, and responding to the needs of the children and (ii) for families, where required, to be referred for any necessary help.

(3) Counsel and self-represented persons shall consult in advance of cooperation conferences to exchange and discuss suggestions for the future course of the case that would serve the best interests of all family members.

(I) Additional Assistance to Families

(1) At any time parents need resources to ensure safety, reduce conflict, build cooperation, or protect the children and healthy relationships in families, they and their attorneys, if any, should identify and use the resources that could be of help to those ends.

(2) The Domestic Relations Counseling Bureau [address and phone number] will be available to give free assistance to parents and attorneys in identifying helpful resources, including:

- (a) Redoing the website work from, WhileWeHeal.org, or ProudToParent.org.
- (b) Additional co-parenting classes, including re-attending the basic class or attending high-conflict classes.
- (c) Completing a new Parenting Plan Worksheet (PPW).
- (d) Mediation.
- (e) A confidential therapeutic assessment of the parents by DRCB to develop a set of recommendations for their improved interaction.
- (f) Individual, joint, family, or child counseling.
- (g) Appointment of a parenting coordinator.
- (h) Any other measure that might protect children, reduce conflict, or build cooperation.

(3) If parents nevertheless continue to have conflict and appear in court without an agreement about the resources they will use, the Court may select the resources the parents will be ordered to use.

(J) Standard Discovery Order on Financial and Property Matters [Rule should provide what specific financial and property information will be part of a standard order available automatically on the request of either party.]

(K) Courts' Notice to Parents in Dissolution Cases. The Clerk shall distribute to all parties in dissolution cases the Judges' Notice attached in Appendix C to this Rule.

Commentary

Family cases of all sorts (see paragraph (A)(2)) must be handled in ways that ensure safety, reduce conflict, build cooperation between parents, and protect the children and healthy relationships in families. The Courts of _____ County will expect parents and attorneys to give consistent attention to those ends and will liberally construe and apply this Rule to serve those ends.

The Rule provides nine measures to promote the cooperation necessary to serve the best interests of all family members involved in family cases.

- (1) Cases will be captioned and parties will be designated in ways that better convey everyone's duty of cooperation. Parents will be designated as "mother" and "father" (or in some paternity cases as "putative father"), never as "petitioner" or "respondent." "Versus" is never used. See paragraph (B).*
- (2) Attorneys and parents will be expected to consistently observe personal responsibility, cooperation, courtesy, and focused attention on children's needs. Attorneys will have many problem-solving responsibilities both before and after the filing of a family case. See paragraphs (C) and (D).*
- (3) Parents will be encouraged to prepare Parenting Plans and will be required to file one (or their separate proposed parenting plans) if any motion is filed or hearing is set. See paragraph (E).*
- (4) Parents in dissolution, separation, and paternity cases will be referred for mandatory website work and a co-parenting class. See paragraph (F).*
- (5) Before filing motions or pleadings, counsel are required to have a personal consultation on five matters: (a) an attempt to resolve by agreement the matter at issue; (b) a discussion of the resources parents could use to resolve current and future issues; (c) confirmation that the parents have completed, and will bring to any upcoming hearing, their Agreed Commitments from their website work; (d) confirmation of the parents' attendance at their required co-parenting class; and (e) confirmation that the parents have completed, and will be bringing to any upcoming hearing, a Parenting Plan Worksheet. See paragraph (G)(1) and (2).*
- (6) Counsel shall include in their pleadings a Cooperation Update on those five matters and on the history of hearings in the case. See paragraph (G)(3).*
- (7) Custody evaluations and trials will be reserved for cases where one or both parents lack the capacity to safely resolve the issues they face. Neither custody evaluations nor trials will be ordered, allowed, or conducted unless and until all cooperative measures have been exhausted or shown to be dangerous, lacking a reasonable possibility of success, or otherwise unreasonable. See paragraph (G)(5).*
- (8) Parents must bring their Agreed Commitments and Parenting Plan Worksheet to all hearings. See paragraph (G)(6).*
- (9) The Courts will hold routine cooperation conferences to hear counsel's suggestions for helping families cooperate and function better. See paragraph (H).*
- (10) While not every case will require such discovery, the Rule will provide the terms of a standard discovery order on financial and property matters. See paragraph (J).*

Appendix A: Parenting Plan Worksheet

STATE OF _____) _____ COURT
) SS:
COUNTY OF _____) CAUSE NUMBER:
IN RE THE MARRIAGE OF)
))
AND , Mother,)
))
, Father.)

PARENTING PLAN WORKSHEET (PPW)

*Conflict between parents is
the best predictor of a child's later maladjustment.
–Dr. Anthony L. Berardi*

- 1. If you're in conflict, your children are in danger.**
- 2. Only you, their parents, can protect them from that danger.**
- 3. When you focus on your children and their need for cooperation to replace conflict, even you will be better off.**

You are faced with a heroic task: protecting your children as you work through one of the most difficult periods in your own life. Be assured that focusing on your children's needs will likely be your best help as well.

When you replace conflict with cooperation in order to save your children, you cannot help but do what is best for yourself.

*If parents will agree on one thing, they'll agree on everything,
if that one thing is, "What do we want our children to look like at 25?"
–Patrick Brown
Attorney/Counselor/Mediator*

The Courts recommend that parents in marital dissolution (divorce), separation, and paternity cases fill out and sign an agreed Parenting Plan Worksheet (PPW) as soon as possible. An Agreed PPW can be filed, in which case it will govern the parents' interaction and responsibilities unless modified.

See Rule (E) regarding the requirement of a Parenting Plan for parents who use court proceedings.

Directions for Completing This Parenting Plan Worksheet

As the parents (and thus as the two people who can truly protect your children at this critical time), you should, if reasonably safe and possible, prepare a single version of this Parenting Plan Worksheet. If you cannot prepare a single version of the worksheet, you may prepare separate ones.

You will be helped in completing this Worksheet by first doing the work on the UpToParents.org website. (If you are open to the possibility of reconciliation, you can substitute the work on WhileWeHeal.org. Never-married parents can use ProudToParent.org.)

For help in completing, reviewing, and filing this PPW, you can receive free assistance by contacting the Domestic Relations Counseling Bureau (DRCB) at (574) 235-9662.

1. We have reached the following agreements:
 - A. How will you as parents be making the important decisions in your children’s lives? Please state whether you will be using cooperative joint decision-making (sometimes called “joint legal custody”) or whether one of you will be making the final decisions on such major matters as the children’s residence, school selection, medical care, and religious upbringing. _____

 - B. The children’s declared legal residence for school and legal purposes will be: _____

 - C. Our parenting time schedule for the children to be with each of us will be: _____

 - D. Child support: _____

E. Responsibility for the children's medical insurance will be as follows:

F. Other: _____

2. This is how we will be relating as parents in order to protect our children from having to see, hear, or take any responsibility for our conflict.

Example A: We are getting along well enough that we can use courteous face-to-face discussions about the children's issues and needs. The children saw us get through the difficulty of our physical separation in a cooperative fashion. All of us worked together to move some of Dad's stuff to his new apartment. With the counseling we are receiving, we think we can continue to relate well.

Example B: Our recent interaction has been quite strained. We have decided to limit our conversations to the telephone and to our counseling appointments until our interaction improves. Together we have told the children that they are not responsible for our fighting, and we have promised not to do so in front of them again. To carry that out, we have agreed that temporarily we will be dropping the children off at their grandparents' home, and we will not be having a lot of face-to-face meetings. We have agreed that when we are all together, we will limit our conversations to a few courteous sentences.

3. These are the resources we will be using to achieve and keep a child focus, courtesy, and cooperation between us. For example:
- A. Redoing the UpToParents.org, WhileWeHeal.org, or ProudToParent.org website work.
 - B. Additional co-parenting classes, including re-attending the basic class or attending high-conflict classes.
 - C. Mediation.
 - D. Confidential therapeutic assessment of the parents by DRCB to develop a set of recommendations for their improved interaction. (The Court's order may specify that the recommendations either be shared immediately with the Court or be shared with the Court only if problems continue.)
 - E. Individual, joint, family, or child counseling.
 - F. Appointment of a psychologist or parent coordinator to work with parents.
 - G. Appointment of a child legal representative (CLR) or guardian ad litem (GAL) for the children involved.
 - H. Completing a new Parenting Plan Worksheet (PPW).

Example: We will continue to read regularly from our Agreed Commitments from the UpToParents.org bwebsite. We have also agreed to use at least four sessions of closure counseling over the next two months to help our children and ourselves adjust to our separation. We have agreed that we will use mediation or counseling should we have any differences. Our pastor has also agreed to be available to us.

4. We will be using these additional measures to protect our children at this critical time for them. (Circle all that apply and add any additional ones.)
- A. Remembering that our children will experience any attack between us as an attack on them.
 - B. Appreciating that for our children we will always be family.
 - C. Using every contact we have as an opportunity to create goodwill.
 - D. Bringing kindness to every occasion when we are all together.
 - E. Recalling that our children's only job is to be children, not our messengers, spies, counselors, confidants, or carriers of our hurt.
 - F. Being sure to remember that our love for our children is greater than any issue we could ever have with each other.
 - G. Regularly sharing compliments and positive memories about each other with our children.
 - H. Celebrating positive things they do with the other parent.
 - I. Regularly encouraging them to call the other parent for a friendly talk.
 - J. Respecting each other's parenting time while also being flexible, so the children's lives can be as normal as possible.
 - K. Educating our extended families and close friends that they need to make peace as well.
 - L. Paying special attention to keep our appointments and schedules with each other—and calling promptly if any problems come up.
 - M. Others.

 Father's name (typed or printed)

 Mother's name (typed or printed)

 Father's signature

 Mother's signature

 Date

 Date

 Signature of father's attorney

 Signature of mother's attorney

*Children have no defense against their parents' anger.
 –Dr. Ross Campbell*

Appendix B: Sample Motions on Unresolved Matter

STATE OF _____)
)
) SS: _____ COURT
COUNTY OF _____)
) CAUSE NUMBER:
)
IN RE THE MARRIAGE OF)
)
)
AND , mother,)
)
)
 , father.)

Motion of Father for Determination of College Expense Sharing

Father moves the Court for an order determining the parents’ respective responsibilities for their two children’s college expenses, showing the Court as follows:

1. The parents have two children enrolled (one as a freshman and one as a sophomore) at the University of Notre Dame. Not counting expenses covered by scholarships, the combined annual expense for tuition, books, fees, room, and board exceeds \$50,000, and the parents have not been able to reach an agreement on sharing those expenses.

2. **Cooperation Update:**

- a) **Required discussion:** Counsel for father certifies that on November 19, 2005, he spoke with mother’s counsel on this matter, but no resolution was reached.
- b) **Suggestions for helpful resources:** Counsel agreed the following resources could be useful for the parents in resolving this and any future issue, reducing any conflict between them, and building cooperation: (a) mediation and (b) brief joint counseling, perhaps followed by family counseling if recommended by the counselor. Dad’s counsel also believes a new Parenting Plan, perhaps arrived at with the help of a counselor, would be a benefit.
- c) **Website work:** Both parents have reviewed and will bring to any upcoming hearing their copies of their Agreed Commitments from UpToParents.org.
- d) **Co-parenting class:** Both parents completed the TransParenting class in May 2006.
- e) **Parenting Plan:** The parents have a current Parenting Plan, which they have reviewed and will bring to any hearing.
- f) **History of hearings:** The parents have had the following hearings:
 - (i) January 15, 2004: Hearing on provisional matters including occupancy of home, child custody, child support, and medical insurance.
 - (ii) March 4, 2005: Hearing on Settlement Agreement for Dissolution.

Respectfully submitted,

Attorney for Father

STATE OF _____)
)
COUNTY OF _____) SS: _____ COURT
 CAUSE NUMBER: _____

IN RE THE MARRIAGE OF)
)
)
AND , mother,)
)
)
)
 , father.)

Motion of Mother for Supervised Exchanges and Referral to *Parenting as Partners* Class

Mother moves the Court for supervised exchanges and an order referring both parents to the eight-week *Parenting as Partners* class, stating as follows:

1. The parents have three minor children, ages 8, 7, and 2.
2. The parents' interaction has been difficult to the point that unsupervised exchanges of the children is dangerous. It's believed that the multi-session classes at *Parenting as Partners* could help the cooperation and good outcomes for everyone in the family.
2. **Cooperation Update:**
 - a) **Required discussion:** Counsel for mother has not been able to speak to father (who is without representation) as he has declined to speak about the matter with him. Counsel sent father a copy of the instant motion one week ago and asked that he be in touch should he change his mind. He has not contacted counsel as of this filing.
 - b) **Suggestions for helpful resources:** Mother and her counsel believe the following resources could be useful for the parents in resolving this and any future issue, reducing any conflict between them, and building cooperation: mediation after completion of at least half of the *Parenting as Partners* class.
 - c) **Website work:** Both parents have been advised of their duty to review and bring to any upcoming hearing their copies of their Agreed Commitments from UpToParents.org.
 - d) **Co-parenting class:** Both parents completed the basic TransParenting class in May 2007.
 - e) **Parenting Plan:** The parents have a current Parenting Plan, and both have been advised of their duty to review it. Mother will bring a copy to any hearing.
 - f) **History of Hearings:** The parents have had the following hearings:

- (i) June 16, 2007: Provisional hearing on exclusive occupancy of marital residence, child custody, child support, and parenting time schedule.
- (ii) July 30, 2007: Hearing on father's motion to change custody and parenting time and on mother's request for a custody evaluation.
- (iii) September 1, 2007: Hearing on parents' separate rules to show cause and cross-motions to hold each other in contempt.
- (iv) February 1, 2008: Hearing on mother's motion to modify custody and for second custody evaluation.
- (v) February 19, 2008: Hearing on parents' cross-motions to correct errors.
- (vi) September 1, 2008: Hearing on father's rule to show cause and hold mother in contempt.
- (vii) November 19, 2008: Hearing on submission of agreed settlement of divorce and approval of joint legal custody.
- (viii) January 11, 2009: Hearing on mother's motion to modify custody and father's motion to change custody.
- (ix) January 21, 2009: Hearing on parents' cross-motions for attorney fees.
- (x) August 30, 2009: Hearing on mother's motion to modify custody and parenting time.
- (xi) November 17, 2009: Hearing on father's rule to show cause and hold mother in contempt.
- (xii) January 4, 2010: Hearing on father's motion to change custody and mother's rule to show cause, motion to hold father in contempt.
- (xiii) January 15, 2010: Continued hearing on father's motion to change custody and mother's rule to show cause and motion to hold father in contempt; and hearing on mother's request for attorney fees.
- (xiv) February 10, 2010: Hearing on parents' cross-motions for reconsideration of rulings on custody and parenting time.
- (xv) February 16, 2010: Hearing on mother's motion to modify parenting time.³

Respectfully submitted,

Attorney for Mother

³ Note from article author: This hearing history is a condensed version of one from an actual case. The litigation in the actual case was longer than what is shown here, including eight different motions to change custody. It's likely that the sad procession of hearings carried on largely because no one had assembled in one place a simple chronology of all the times the parents had been in court. That chronology could have drawn everyone's attention—or at least the court's—to the minimal prospects that each new hearing and ruling would actually help the family function. It likely also would have led to an earlier (and thus more promising) referral of the parents to a high-conflict class or counseling.

Appendix C: Judges' Notice to Parents in Divorce Cases in _____ County, Indiana

As Judges presiding over divorce (marital dissolution) cases in Streeeter County, we will do our best to guide everyone in ways that help the entire family.

Please consider these thoughts to better understand this process, what is expected of you, and what can help you. ***Please note! Where there's been domestic violence or abuse, parents are expected to immediately seek counseling to decide which of the ideas in this Notice they may safely use.***

1. ***We expect everyone's goal in any divorce case to be helping the family work—even if it's as a family with a divorce.***

No one “wins” in divorce, and any crusade for “victory” will cause more conflict, expense, and damage to children. In all likelihood, a good result is possible for you only if you work for a good result for the entire family, including your children and their other parent.

See FamilyCourtWebsite.org for more information on our expectation of cooperation.

2. ***Please acquaint yourself with the Morguson County Rule for Cooperation in Family Cases.***

That Rule for Cooperation will apply in your case. Copies are available at the Clerk's office and FamilyCourtWebsite.org Specific parent obligations in the Rule include:

- contacting the Domestic Relations Counseling Bureau (574-235-0022) within 15 days of the initial petition,
- completing important website work from UpToParents.org, and
- taking that work to a mandatory co-parenting class

3. ***In addition to the required website work, we recommend that you fill out a Parenting Plan Worksheet (PPW) as soon as possible.***

Children's needs increase dramatically when parents separate. We strongly suggest that you use the PPW form attached to the Rule for Cooperation to build agreements on the decision-making and living arrangements that can protect your children. While we hope you will not need court hearings, note that the Rule for Cooperation requires parents to bring their completed UpToParents.org work and a current PPW to any court hearing

4. ***Because of its emotional and financial costs, many parents are well-advised to consider if divorce is necessary for them.***

In divorce, parents must divide assets and double many expenses. Added to this financial burden are the even greater emotional costs to members of the family. If there is no emergency, you may wish to use counseling and other resources to see if your marriage can be saved.

5. ***We expect all parents and attorneys to remember that parent conflict is gravely dangerous to children and to conduct themselves in ways that reduce conflict.***

Dozens of studies show that parent conflict seriously hurts children. We expect parents, whenever it is safe to do so, to relate courteously for the sake of all members of the family, including especially the children.

Conflict between parents is the best predictor of a child's later maladjustment. —Dr. Anthony L. Berardi

6. ***We expect all parents and attorneys to remember that children need the best possible safe relationship with both parents.***

We expect everyone to support whatever safe relationship the children can have with each parent.

Children have no defense against their parents' anger. —Dr. Ross Campbell

7. ***We do not allow inappropriate use of court.***

We will not allow you to be victimized by hearings or other proceedings that simply embarrass you or hurt your best interests. We also will not allow you to make such use of the legal system against anyone else. Remember also that divorces are no-fault cases and are heard by experienced judges, not juries. Those judges are entirely unimpressed with attempts to make divorce about faultfinding or blame.

8. ***The Courts are available in dangerous cases like domestic violence, but we expect parents and attorneys to understand that legal battles in other cases may actually hurt.***

- Most issues families face in divorce are not really legal issues and have no legal answers.
- While parents' cooperation can build better alternatives, a judge can only pick from the bad alternatives available in the middle of parent conflict.
- Going to court or submitting to evaluations almost always creates hurt, fear, distrust, and financial costs far outweighing any benefits.

9. ***Carefully consider using any counseling or other help to move forward successfully.***

Separation and divorce are confusing and emotionally devastating experiences, whether parents divorce or reconcile. Seek the help you need to create a better future.

10. ***Protecting your children is likely your light out of hurt and fear.***

There is a good guiding light almost all parents can use in divorce: ***parents who do what is best for their children almost always do best for themselves.*** Parents who build peace, courtesy, and cooperation for their children are the very ones who can use their money and emotional resources building a better future rather than arguing the past.

If parents will agree on one thing, they'll agree on everything, if that one thing is, "What do we want our children to look like at 25?"
—Patrick Brown