

TITLE VIII: Magistrate's Proceedings (Proposed Effective Date 11/1/2011)

8.0 Court's Action on Magistrate's Decisions

The Court's action regarding magistrate's decisions shall be governed by Civil Rule 53(D)(4).

8.1. Objections to the Magistrate's Decisions

(A) **Form.** An objection to the magistrate's decision pursuant to Civil Rule 53 shall be in writing and filed with the Clerk.

(B) **Content.** Objections shall be specific and state with particularity the grounds for objection. Any objection to a finding of fact within the magistrate's decision shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact.

(C) **Time.** A timely objection to a magistrate's decision is filed within fourteen days of the date the magistrate's decision is filed. If any party timely files objections, any other party may also file objections no later than ten days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law pursuant to Civil Rule 52, the time for filing objections begins to run when the magistrate files an amended decision including findings of fact and conclusions of law. Written objections shall first be submitted to the Domestic Relations Docket Office (Room 3-46) and then filed at the Clerk of Courts Office (800 Broadway, 3rd floor).

(D) **Hearing on Objections** – Upon request by either party, at the time of filing or within ten days thereafter, the Court may schedule a hearing that shall be limited to fifteen minutes, per side, unless otherwise ordered by the Court. Every effort must be made to coordinate the hearing date with opposing party or counsel. The Court may sua sponte determine that a hearing is unnecessary and will send a notice to the parties if a hearing is cancelled for that reason.

(E) **Service of Objections.** A copy of the objections shall be served on opposing counsel, the opposing party, or other interested parties, as appropriate. The notice shall include the date, time and room number for any scheduled hearing on the objections.

(F) **Supplemental Objections.** If a transcript of the proceeding has been timely ordered, a party may supplement the objections with leave of court in accordance with Civil Rule 53(D)(3)(b)(iii).

(G) **Transcript Request Procedure.** If a transcript is requested pursuant to Civil Rule 53, the objection shall state that a full or partial transcript has been ordered. The objecting party shall complete a Request for Transcription (DR Form 8.30) and present the form to the Decree office on the same day as the filing of objections. Failure to do so may cause the Court to rule on the objections as if no transcript has been ordered. The party filing an objection has an affirmative duty to ensure that the transcript is prepared and delivered to the Court, by having the transcript filed with the Clerk of Courts or causing the transcript to be filed with the Clerk of Courts. Transcripts not received within **thirty** days from the filing of objections will not be considered, unless an extension of time to file the transcript has been requested and granted.

(H) **Payment of Transcript Costs.** Unless otherwise ordered by the Court, the party ordering the transcript shall be responsible for the fees associated with the securing of the transcript.

8.2. Motion to Set Aside Magistrate's Orders

(A) **Form.** A motion to set aside the order of a magistrate pursuant to Civil Rule 53 shall be in writing and filed with the Clerk.

(B) **Content.** The motion shall be specific and state with particularity the grounds for setting aside the pretrial order. Any motion contesting a finding of fact within the order shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact.

(C) **Time.** A timely motion to set aside a magistrate's order is filed within ten days of the filing of the magistrate's order. The motion shall first be submitted to the Domestic Relations Docket Office (Room 3-46) before filing at the Clerk of Courts Office (800 Broadway, 3rd floor).

(D) **Hearing on Motion to Set Aside Order.** Upon request by either party, at the time of filing or within ten days thereafter, the Court may schedule a hearing that shall be limited to fifteen minutes, per side, unless otherwise ordered by the Court. Every effort must be made to coordinate the hearing date with opposing party or counsel. The Court may sua sponte determine that a hearing is unnecessary and will send a notice to the parties if a hearing is cancelled for that reason.

(E) **Service of Motion to Set Aside Order.** A copy of the motion shall be served on opposing counsel, the opposing party, or other interested parties, as appropriate. The notice shall include the date, time and room number for any scheduled hearing on the motion.

(F) **Transcript Request Procedure.** If a transcript is requested pursuant to Civil Rule 53, the motion shall state that a full or partial transcript has been ordered. The party shall complete a Request for Transcription (DR Form 8.30) and present the form to the Decree office on the same day as the filing of the motion to set aside. Failure to do so may cause the Court to rule on the motion as if no transcript has been ordered. The party filing the motion has an affirmative duty to ensure that the transcript is prepared and delivered to the Court, by having the transcript filed with the Clerk of Courts or causing the transcript to be filed with the Clerk of Courts. Transcripts not received within **thirty** days from the filing of the motion to set aside will not be considered, unless an extension of time to file the transcript has been requested and granted.

(G) **Payment of Transcript Costs.** Unless otherwise ordered by the Court, the party ordering the transcript shall be responsible for the fees associated with the securing of the transcript.

8.3. Request for Findings of Fact and Conclusions of Law

A request for findings of fact and conclusions of law must be filed within seven days of the date of the filing of the magistrate's decision pursuant to Civil Rule

53(D)(3)(a)(ii). Upon the filing of a request for findings of fact and conclusions of law, the time for filing objections is automatically stayed. Objections may then be filed within 14 days of the date of the filing of the amended magistrate's decision with findings of fact and conclusions of law.

8.4 Record of Proceedings

A digital recording will be made of hearings before a judge or magistrate. A copy of the digital recording is available upon request and receipt of payment. Prior hearings that were audio-electronically recorded may be available if a Tape Preservation Request form was filed with the court within 30 days of the filing of the Magistrate's Decision or Order.

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