



# 2024 ANNUAL CONFERENCE

Minnesota Family Support & Recovery Council  
in partnership with Minnesota County Attorney's Association



## Pleadings 101

Paternity  
Establishment  
Modification



# Ethical Considerations

- Signature of Attorney on pleadings certifies:
  - The document is not presented for improper purpose; and
  - The allegations have evidentiary support
- A lawyer shall provide competent representation
- There is a basis in law and fact and it is not frivolous



# Intervention

- A county must be a party in a legal action to protect interest.
- A county may intervene in both PA and NPA cases.
- A county does not need to intervene if no other legal action exists. If the county is initiating the action, then the county should name themselves as a party and list itself in caption.

# How to Intervene in Ex-Pro



- Serve all parties notice of intervention.
- File notice and affidavit with court.
- No affidavit is required for parties who accept e-service.
- Intervention is effective when last person is served with notice.

# Intervene in District Court



- Serve and file notice of intervention; and
- Indicate, “absence of objection by an existing party to the action within 30 days after service thereof upon the party, such intervention shall be accomplished.”
- Include appropriate pleading information and supporting documents.
- Parties to an action may consent to the intervention.



# Paternity Law in 3 steps

## ➤ Rules

- Minnesota Rules of General Practice - Expedited Process Rules
- Minnesota Rules of General Practice - Rules of Family Court Procedure
- Minnesota Rules of Civil Procedure

## ➤ Statutes - Parentage Act section 257.51 – 257.74

## ➤ Case Law - MFSRC.org



# Paternity Basics

- Personal service required
  - Upon all parties according to statute, including all alleged fathers
  - Paternity cases must be set for hearing
- Remember paternity rights
  - Right to Jury Trial
  - Right to Court Appointed Attorney
  - Right to Genetic Testing

# Paternity pleadings must address



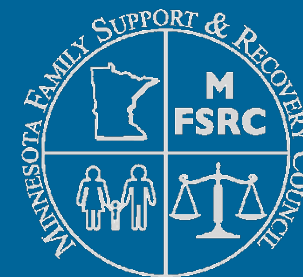
- Adjudication
- Custody
- Parenting time
- Child's legal name





# Paternity pleadings must address

- Ongoing/past child support (Basic, Medical, Child care)
- Costs of expenses (Service, G.T. testing, Pregnancy and Confinement Expenses)
- SSN's unless ordered by the court to be protected
- Amended birth certificate for child



# Initial Pleadings

- OTSC (if your county initiates things this way)
- Summons
- Complaint
  - Allegations
  - Relief Requested
- Notice of motion and motion for genetic testing
- Supporting affidavit
- Scheduling statement
- Request for Admissions (if your county does this)
- Certificate of Representation

# Questions



- Enjoy the journey and try to get better every day. And don't lose the passion and the love for what you do.
  - Nadia Comaneci



# Establishment of Support

- Recognition of parentage signed and filed
- Scope of action is limited to ongoing, past support, and reimbursement of public assistance
- IV-D case must be heard in the Expedited Process



# Establishment Basics

- Personal Service is required unless already served or consent
- No hearing required, but one can be requested by any party
- Provide evidentiary support
- Get the right sized order

# Evidentiary Support for Affidavits and Pleadings



- Gather sufficient factual information
- Know the contents of the document and verify facts in affidavits
- Remember your oath – The witness must in good faith believe that the information is true and correct
- Attorneys cannot sign pleadings unless they are grounded in fact and law



# Evidentiary Support

- Child support worksheet
- Past support addendum/calculations
- Prism printouts (CAFS, DEED, etc.)
- Employment verification/paystubs



# Evidentiary Support

- Insurance information
- Childcare verification
- Financial statements
- Consent to service





# Initial Pleadings

- Summons
- Complaint
- Request for hearing
- Notice of motion and motion to establish support



# Initial Pleadings

- Supporting Affidavit
- Form 11.1
- Certificate of representation
- Affidavit of Service

# Questions



Every man has a right to his opinion, but no man has a right be wrong in his facts.

Bernard M. Baruch



# Writing Enforceable Orders

- Sufficient Findings
  - Demographic information
  - Income information
  - Non-joint children



# Writing Enforceable Orders

- Sufficient Findings
  - Appendix A and other notices
  - Child support worksheet
  - Deviation



# Writing Enforceable Orders

- Avoid being too creative
- Effective dates start on the first of the month
- Reserved v. \$0.00 Orders
- Understand the County's interest



# Modification of Support

- If IV-D case, then you can ask county to review
- Every three years a notice is sent to request review
- A party may request their own modification
- County will proceed when modification criteria is met



# Modification Criteria

- Substantial change in circumstance.
  - Minn. Stat. § 518A.39, subd. 2(a)
- That makes the existing order unreasonable and unfair.
  - Minn. Stat. § 518A.39, subd. 2(b)



# Motion for Modification Requirements



- Personal Service is required unless already served or consent
- Specifically list relief requested
- Effective date

# Motion for Modification Requirements



- Responsive timelines
- Information on appearing/requesting hearing and consequences for non-appearance
- Right to representation notice settlement notice

# Supporting Affidavit for Modification



- Detailed facts
- Names, addresses and d.o.b.
- SSNs of parties (11.1)
- Non-joint deductions

# Supporting Affidavit for Modification



- Gross income
- Insurance information
- Public assistance
- Childcare costs



# Approach to review pleadings

- Review pleadings more than once.
- Check to make sure the following are correct (caption, court file numbers, parties, correct pleadings, support documents, no protected identifiers or private data, calculations and legal reasoning to meet your burden.
- Every case is different so review with intent the 2<sup>nd</sup>, 3<sup>rd</sup> time to ensure they are legal sufficient.
- Have a discussion with CSO/SRS for any gaps or confusing information.

# Questions



To improve is to change; to be perfect is to change often.

Winston S. Churchill



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## Hearings 101

Prep Sheets

Pre-Hearings

Hearings



# General Thoughts

- Lots of “right” ways of doing things
- Personal style
- Find what works for you
- Like live improv theater





# What to Know

- Know your Goal
- Know your Values
- Know the Case
- Know your Partner



# What to Know

- Know the Rules
- Know the Law
- Know the Courthouse/Court Staff
- Know the Judicial Officer



# What to Know

- Know when to Adapt
- Know when to Stand Firm
- You are the Face of the County
- You set (and help to control) the Tone



# Prep Sheets

- Your Outline of “What you Know”
- How you Prepare the Case
- How you Share the Case with the Atty
- How you conduct the Pre-hearing and Hearing



# Prep Sheets

- Your Working Script
- Your Architectural Plans
- Your Game Plan

# Questions???



A problem well stated  
is a problem half solved.  
Charles F. Kettering



# Pre-Hearings

- Chance for Informal Discovery
- Settlement Conference/Mediation
- You are a Guide and then an Advocate
- Listen to the Whole



# Pre-Hearings

- Remove Artificial Barriers
- Establish Rapport
- Show Empathy
- Be ready and able to Redirect





# Pre-Hearings

- Summarize Along the Way
- Get the Ball Rolling
- Be Consistent
- OK to show your Human Side



# Pre-Hearings

- Your Dress Rehearsal
- Your Framing and Roughing-In
- Your Pre-Game Warm-up

# Questions???



The greatest obstacle to discovering the shape of the earth, the continents, and the oceans was not ignorance but the illusion of knowledge.

Daniel J. Boorstin



# Hearings

- Mini-Trials
- Relaxed Formal but still Formal
- Digitally Recorded in ExPro
- No Two the Same



# Hearings

- Opening Statement
- Direct Examination
- Use of Exhibits (MNDES)



# Hearings

- Cross Examination
- Objections
- Closing Argument



# Hearings

- Protect the Record
- Summarize but don't Testify
- Plain English whenever possible
- Be Assertive but Respectful



# Hearings

- Questions from the Court
  
- Escape Plan
  - May I have a moment, Your Honor?
  
  - May I have a short recess, Your Honor?
  
  - May I submit a written response, Your Honor?





# ExPro v. District Court

## ➤ ExPro

- If it is the County's motion, be prepared to present testimony and exhibits
- Rules of Evidence are relaxed, especially regarding hearsay (Rule 364.10)
- Expect the CSM to ask some questions
- Motions to Correct and Motions for Review are options



# ExPro v. District Court

## ➤ District Court

➤ Motion Hearings – usually just legal argument and no testimony

➤ Evidentiary Hearings – a lot like ExPro but stricter Rules of Evidence  
now apply

➤ Motions to Correct and Motions for Review are not available



# Final Thoughts

- Have a Plan
- Be able to Adapt
- You will make Mistakes
- The Platinum Rule

# Final Thoughts



If people understand what is happening while it is happening to them and around them and they believe they had a fair opportunity to have their thoughts and feelings heard, they are going to be more satisfied with the outcome and more willing to follow the Court's ultimate decision.

# Questions???



You cannot control the waves,  
but you can learn to surf.