

Larimer County District Court
201 LaPorte Ave., Suite 100
Fort Collins, CO 80521
Courtroom 2B
(970) 498-6280

Temporary Orders' Hearing Procedures

Settings: Settings for a Temporary Orders' Hearing are held by Magistrate Jostad. He will place the call to the telephone numbers provided on the notice. The Notice to Set should include **the telephone numbers for any party/counsel to be contacted**. Settings occur by filing a Notice to Set, with 10 days notice in advance of the setting. The Court requests that attorneys and pro se parties be available by telephone at the time of the setting. If an attorney or a pro se party is not available, Magistrate Jostad has discretion to not go forward with the setting. The Notice to Set shall be set for 1:30 p.m. on Tuesdays/Thursdays. Parties/counsel shall be available between 1:30 p.m. and 2:30 p.m. due to the variable number of settings. The Court encourages, but does not require, mediation or conferences between the parties prior to the filing of a motion for temporary orders and the notice to set. Counsel should discuss the issues prior to the hearing, and the Court may specifically review the matters in dispute at the time of setting. In the Court's discretion, the matter may not be set for hearing if the parties or counsel have not attempted any discussion of the disputed issues.

Notice of Hearing: The party or counsel who filed the motion for temporary orders and the Notice to Set will be responsible for filing/mailling the Notice of Hearing, which sets forth the time and date for the hearing. Hearings are set for a maximum of 1 ½ hours, and the parties should equally divide the time available. Both parties shall file a current sworn financial statement, a proposed child support worksheet (if applicable) and a temporary orders' position statement **no later than two (2) days in advance** of the hearing. Attorneys are required to e-file these pleadings, and pro se parties must file these pleadings by the due date at the clerk's counter on the first floor. Failure to comply with these filing deadlines may result in sanctions or continuance of the hearing.

Continuances/Settlement of Temporary Orders: By agreement, the parties may vacate the temporary orders' hearing, and the parties/counsel are not required to attend if the parties specifically agree not to go forward with the hearing. Parties should be aware that if one party appears for hearing and is prepared to go forward, the Court will hold the hearing. Therefore, any agreements should be firmly established and confirmed in writing. Filing of agreements, or some telephone notice of a temporary orders' agreement, is appreciated. The Court reserves its authority to reject any settlement agreement that improperly limits the Court's jurisdiction or appears unconscionable. Deviations from the child support guidelines shall be supported factually.

Hearing Procedures: Prior to the start of the hearing, the division clerk will collect any exhibits that a party intends to use at the hearing, (Petitioner's exhibits shall be numbered, and Respondent/Co-Petitioner exhibits shall be lettered). The clerk will also collect any courtesy copies of the sworn financial statements, child support worksheets and temporary orders' position statement that were previously filed. The parties shall provide copies of all exhibits to the other party, and have a copy of each exhibit available for the witnesses. The hearing will begin with affirmation of any partial agreements. Parties are encouraged to focus on disputed items, and to provide stipulations to undisputed items, such as use of property, vehicles, insurance matters, uncontested payments of certain debts, decision-making responsibilities, parenting time. Counsel shall be prepared to proceed by providing offers of proof, with the witness available for cross-examination or Court inquiry. Counsel are reminded that the offers of proof should be factual in nature, and not closing arguments. Both parties have a **maximum** of 45 minutes. If there is insufficient time at the conclusion of the hearing, the Court will either issue a written ruling, or schedule another appearance for parties/counsel for a ruling from the bench. If there is sufficient time available (i.e., if both parties only use approximately 30 minutes for their evidence), the Court may exercise its discretion to rule from the bench at the close of the evidence. Alternatively, the Court may take the matter under advisement and issue a written ruling, or schedule the matter for a bench ruling.

Rulings/Exhibit Destruction: In most cases, if the Court rules from the bench, the moving party shall prepare Temporary Orders for endorsement by the Court. The moving party should seek the approval as to the form of the order from the opposing party/counsel. In any event, a copy of the proposed order shall be provided to the other party/counsel with a certificate of mailing included with the proposed order. At the request of either party, with the requesting party responsible for the cost subject to reallocation at permanent orders, a transcript will be prepared and the Court will endorse an order adopting that transcript. Counsel/parties will endorse an exhibit destruction form that provides for the destruction of exhibits after the time for any appeal or request for review has passed. Any request for review shall be filed within 21 days of the filing of the signed order.

Dated this 14th day of March, 2012.



John A. Jostad
District Court Magistrate