

What is a settlement conference?

A settlement conference is a meeting between the attorneys and the parties of a divorce to determine the status of the case and discuss a possible settlement. A settlement conference is required before your case can be scheduled for a hearing or trial. If your case does not settle at the conference, it will be continued for another conference, a non-contested hearing or a trial date. Your appearance is required at the settlement conference.

What is a Guardian Ad Litem?

A Guardian Ad Litem (GAL) is an attorney appointed by the judge to represent the best interests of children involved in legal proceedings. They are always appointed when one party alleges abuse or neglect of the children by the other party. The Guardian Ad Litem is paid for by the child's parents. The court will rely heavily on the guardian's recommendation concerning the children, so it's always best to give your full cooperation in this situation. Sometimes the court will appoint a Guardian Ad Litem in divorce matters where the child was born to the parents prior to the marriage, and the father is the one that filed the initial divorce petition with the court. This is done whether or not abuse or neglect allegations have been made.

If my spouse and I have children, do we have to attend a parenting class?

Yes. The required parenting class must be completed before the court will grant your divorce. Generally, your spouse will not have to attend the class unless he or she files an answer to your petition with the court.

How long does it take to be legally divorced in Missouri?

Every case is different and it's impossible to know how long your divorce will take. However, a completely non-contested case usually takes between 40 and 60 days to be finalized. A contested case may take anywhere from six months to a year to be finalized. In rare cases, it may take more than a year from the date of filing. At Eastman Law Firm we do our best to process our clients' cases as quickly as possible while fighting for the best possible outcome.

Is it possible for me and the other party to modify our judgement using one attorney?

Yes, as long as you both are in complete agreement regarding all issues of your modification. Eastman Law Firm's lawyers can only represent one person's best interests. If you and the other party have unresolved issues, he or she will have to either retain a different attorney or represent himself or herself.

I had my initial consultation and I am ready to proceed. What do I do now?

You may stop by our Hazelwood office any time Monday through Friday between 8:30 a.m. and 5 p.m. to pay the retainer. An appointment to pay for your modification retainer is not necessary. Once you pay all or at least half of the retainer, a follow-up appointment will be scheduled with one of our skilled attorneys. At that appointment you will review and sign documents for filing with the court. You will also need to bring the documents listed in the initial consultation. Your case will be filed with the court once the retainer is paid in full and the petition for modification has been signed by you.

What is a retainer?

A retainer is a sum of money required to secure the legal services of an attorney. Eastman Law Firm's hourly attorney rate for modifications is \$200, and our paralegal's rate is \$75/hr. You will be billed at these rates for things such as phone calls, meetings, court appearances and any other action taken on your case. The retainer covers an estimate of the time we believe it will take to complete your case. Sometimes a case may require more time than initially anticipated, especially if the other party retains his or her own attorney. In that event, your actual fees and costs will eventually exceed the retainer. The retainer does not include court filing fees, service of process fees, depositions or any other expense which may be incurred on your behalf. We do our best to keep our fees low, but please keep in mind that the actions of your spouse, his or her attorney and the courts are beyond our control.

What happens after I pay my retainer?

Upon payment for all or at least half of your retainer, a follow-up appointment will be scheduled with one of our competent modification attorneys. At the follow-up meeting, you will review and sign a Motion to Modify, a Statement of Income and Expenses and a Statement of Property form to be filed with the court. This meeting will take about 30 minutes. Your case will be filed once the retainer is paid in full and the petition has been signed by you.

What are Statement of Income and Expenses and Statement of Property forms?

Missouri courts require a Statement of Income and Expenses and a Statement of Property form be filed with every modification motion. The Statement of Income and Expenses form requires only your monthly income and estimated expenses, not those of your spouse if you are married. The Statement of Property refers to all property owned by you. Many times these forms will be completed in our initial meeting, or during the follow-up meeting.

What happens after my retainer is paid and I sign the Motion to Modify?

Once you have signed the Motion to Modify and paid your retainer in full, we will prepare your case for filing and should have it filed within a few days. The court will then issue a summons to be served to the other party. We usually receive a copy of this summons within a week of filing. Once we receive the summons, we will then forward it to the process server to serve to the other party. At this time, we will notify you by mail so you will know the summons is in the process of being served. If you have not already done so, please be sure to provide us with the best time and place to obtain service.

What is a Summons?

A summons is a document issued by the court and served to the other party along with a copy of your signed Motion to Modify, Statement of Income and Expenses and Statement of Property. The summons informs the other party that you have filed an action with the court, and that he or she has 30 days from the date of service to retain an attorney. The other party is not required to sign the summons, nor does the summons contain a court date.

What if the other party does not want to be personally served?

If the other party does not wish to be personally served, he or she may come to our office in Hazelwood to pick up a copy of the Motion to Modify and sign an Entry of Appearance indicating that he or she has received the motion and is waiving the personal service.

What happens after the other party is personally served or signs an Entry of Appearance?

As soon as we receive the service affidavit from the process server, we will inform you of the date the other party was served. He or she will have 30 days from that date (or from the date of filing the Entry of Appearance) to file an official answer with the court. The other party may get an attorney, or he or she may decide to self-represent. In the case you and the other party agree on all the terms of the modification, we will prepare a consent agreement. If the other party chooses to do nothing by the end of the 30-day period, your matter will be scheduled for a hearing with the court.

What happens if the other party does nothing and we have a court date?

If the other party fails to respond to the motion in any way and a hearing date has been scheduled, you will be required to appear at the hearing. If the reason for modifying your judgement is related to child support, proof of the other party's income will be necessary to calculate a child support amount. Without this proof of income, a child support

amount will be very difficult to determine at the hearing. If you are unable to provide proof of income, it may be necessary to serve a subpoena to the other party's employer to get the information.

What happens if the other party and I are in agreement of the modification and he or she does not want to retain an attorney?

If you and the other party come to an agreement and he or she does not want to retain a separate attorney, we will request a summary of the agreement the two of you have reached and prepare a consent agreement for you to approve. Once you have approved the consent agreement, you may present it to the other party for his or her review. Once you are both satisfied with the agreement, we will meet with you to have all the documents signed. Once they are signed you may take them to the other party to be signed, or he or she may come to our office to sign them. We will not meet with anyone unless you are present. We may be able to assist you in negotiating minor details of the agreement; however, if the other party has any major issue with the agreement, he or she will need to seek advice from an outside attorney as we will not give legal advice to the other party.

Do I have to appear in court for a modification?

Yes, you will be required to appear in court. However, on occasion the court will enter the modification order without a court appearance if you and the other party have signed a consent agreement.

What happens if the other party gets an attorney?

If the other party hires a lawyer, it usually means there are unresolved issues with the modification and your case has become contested. The other attorney will usually file a response to the motion, and most times a cross-motion as well. We will schedule your case for a settlement conference as soon as another attorney enters the case.

What is a settlement conference?

A settlement conference is a meeting between the attorneys and the parties of a modification to determine the status of the case and discuss a possible settlement. A settlement conference is required before your case can be scheduled for a hearing or trial. If your case does not settle at the conference, it will be continued for another conference, a non-contested hearing or a trial date. Your appearance is required at the settlement conference.

What is a Guardian Ad Litem?

A Guardian Ad Litem (GAL) is an attorney appointed by the judge to represent the best interests of children involved in legal proceedings, and is paid for by the child's parents.

The court will rely heavily on the guardian's recommendation concerning the children, so it's always best to give your full cooperation in this situation.

How long will it be before the modification case is complete?

Every case is different, and it's impossible to know exactly how long it will take to resolve the case. However, modifications usually take anywhere from four to six months from the date of filing the motion.

Is it possible for me and the other party to use one attorney for a paternity case?

Yes, as long as you are both in complete agreement regarding all issues of your paternity case. Eastman Law Firm, or any attorney, can only represent one person's best interests at a time. If you and the other party have unresolved issues, he or she will need to retain another attorney or self-represent.

I had my initial consultation and I'm ready to proceed. What do I do now?

You may stop by our Hazelwood office any time Monday through Friday between 8:30 a.m. and 5 p.m. to pay the retainer. An appointment to pay your paternity case retainer is not necessary. Once you pay all or at least half of the retainer, a follow-up appointment will be scheduled with a qualified attorney. Your case will be filed with the court once the retainer is paid in full and the Petition for the Declaration of Paternity has been signed by you.

What is a retainer?

A retainer is a sum of money required to secure attorney services. The hourly rate for an attorney with Eastman Law Firm for paternity cases is \$200. You will be billed at these rates for things such as phone calls, meetings, court appearances and any other action taken on your case. The retainer covers an estimate of the time we believe it will take to complete your case. Sometimes a case may require more time than initially anticipated, especially if the other party retains an attorney. In that event, your actual fees and costs will eventually exceed the retainer. We do our best to keep our fees low; however, please remember that the actions of your spouse, his or her attorney and the courts are beyond our control.

What happens after I pay my retainer?

Upon payment of all or at least half of your retainer, a follow-up appointment will be scheduled with a qualified paternity lawyer. At the follow-up appointment, you will review and sign a Petition for the Declaration of Paternity, a Statement of Income and Expenses and a Statement of Property to be filed with the court. This meeting will take

approximately 30 minutes. Your petition will be filed with the court once the retainer is paid in full and the petition has been signed by you.

What if the child's father's name does not appear on the birth certificate?

If you are the mother filing the paternity action, you will also sign a petition requesting the court to appoint you as the child's "Next Friend." A Next Friend is a court-appointed adult representative of a minor child in a legal action. The Next Friend of a minor child gains no preferential treatment in any manner whatsoever, as it is merely a formality to be named the child's Next Friend.

If you are the father filing the paternity action, the court will most likely not appoint you as the child's "Next Friend." Instead, it is normal for the court to appoint a Guardian Ad Litem (GAL) for the child, or an attorney appointed by the judge to represent the best interests of children involved in legal proceedings. The reason a man bringing a paternity action is not appointed Next Friend to his minor child is because the law does not yet recognize him to be the child's legal father until a legal determination of paternity has been made by the court.

If the father's name appears on the child's birth certificate and the child was born in the State of Missouri, a Next Friend appointment is not necessary.

What is a Guardian Ad Litem?

A Guardian Ad Litem (GAL) is an attorney appointed by the judge to represent the best interests of children in legal proceedings. They are appointed by the court in paternity actions which are brought by the alleged father who does not appear on the child's birth certificate. The Guardian Ad Litem is paid for by the child's parents. The court will rely heavily on the guardian's recommendation concerning the children, so it's always best to give your full cooperation. Guardians are also appointed when abuse allegations are made by either party.

What are Statement of Income and Expenses and Statement of Property forms?

The court requires a Statement of Income and Expenses and Statement of Property be filed with every Petition for the Declaration of Paternity. The Statement of Income and Expenses form requires your monthly income and estimate of monthly expenses – it does not include your spouse's income, if you are married. The Statement of Property refers to all property owned by you. These forms will often be completed during your initial consultation, or during the follow-up meeting with your attorney.

What happens after my retainer is paid and I sign the Petition for the Declaration of Paternity?

Once your retainer is paid in full and the paternity petition is signed, we will prepare your case for filing with the court, and should have it filed within a few days. The court will then issue a summons to be served to the other party. We usually receive the summons from the court within a week of filing the Petition for the Declaration of Paternity. Once we receive the summons, we will forward it to the process server to be personally served to the other party. At this time, we will notify you by mail so you will know the summons is in the process of being served. If you have not already done so, please be sure to provide us with the best time and place to obtain service.

What is a Summons?

A summons is issued by the court and served to the other party along with a copy of your paternity petition, Statement of Income and Expenses and Statement of Property forms. The summons informs the other party that you have filed an action with the court and he or she has 30 days from the date of service to retain an attorney, or else he or she will be in default. The other party is not required to sign the summons, nor does the summons contain a court date.

What if the other party does not want to be personally served?

If the other party does not wish to be personally served, he or she may come to our office in Hazelwood to pick up a copy of the Petition for the Declaration of Paternity and sign an Entry of Appearance indicating that he or she has received the petition and is waiving the personal service.

What happens after the other party is personally served or signs an Entry of Appearance?

As soon as we receive the service affidavit from the process server, we will inform you of the date the other party was served. He or she will have 30 days from that date (or from the date of filing the Entry of Appearance) to file an official answer with the court. The other party may get an attorney, or he or she may decide to self-represent. In the case you and the other party agree on all the terms of the case, we will prepare a consent agreement. If the other party chooses to do nothing by the end of the 30-day period, your matter will be scheduled for a hearing with the court.

What happens when the other party is in default?

A person is in default when he or she fails to file an answer to the paternity petition with the court within 30 days of service. If the other party is in default, we will schedule your case for a hearing as soon as possible. Proof of the other party's income will be necessary to calculate a child support amount. Without this proof of income, the amount won't be determined at the hearing. If you are unable to provide this proof of income, it may be necessary to serve a subpoena to the other party's employer for the information.

What happens if the other party and I are in agreement of the modification and he or she does not want to retain an attorney?

If you and the other party come to an agreement and he or she does not want to retain a separate attorney, we will request a summary of the agreement the two of you have reached and prepare a consent agreement for you to approve. Once you have approved the consent agreement, you may present it to the other party for his or her review. Once you are both satisfied with the agreement, we will meet with you to have all the documents signed. Once they are signed you may take them to the other party to be signed, or he or she may come to our office to sign them. We will not meet with anyone unless you are present. We may be able to assist you in negotiating minor details of the agreement; however, if the other party has any major issue with the agreement, he or she will need to seek advice from an outside attorney as we will not give legal advice to the other party.

Do I have to appear in court for a paternity hearing?

Yes, you will be required to appear in court. However, on occasion the courts will enter paternity orders instead of a court appearance, if you and the other party have signed a consent agreement.

What happens if the other party gets an attorney?

If the other party gets an attorney for your paternity case, it usually means there are unresolved issues and your case has become contested. The other attorney will usually file a response to the paternity petition, and most likely a cross-petition as well. We will schedule your case for a settlement conference once another attorney enters the case.

What is a settlement conference?

A settlement conference is a meeting between the attorneys and the parties of the paternity case to determine the status of the case and discuss a possible settlement. A settlement conference is required before your case can be scheduled for a hearing or trial. If your case does not settle at the conference, it will be continued for another conference, a non-contested hearing or a trial date. Your appearance is required at the settlement conference.

How long will it take for my paternity case to be complete?

Every case is different, and it's impossible to predict how long your paternity case will take. However, Missouri paternity cases usually take anywhere between four and six months from the date of filing the paternity petition.

A Note from Bruce Eastman

While the preceding information is not intended to answer all of your questions, I hope it answers a few. Do not hesitate to call me if you have additional questions or concerns. If I am not available, you may leave me a voice mail message or ask to speak with my paralegal, Stephanie Kennedy. I retrieve my voice mail messages several times a day unless I am in court. In that event, I will retrieve messages at my first opportunity. I know how important it is for you to receive a return call as soon as possible. I always do my very best to return phone calls, but sometimes my calendar is heavy and it may take me a day or two to call you back. Please be patient and please resist the urge to make repeated phone calls. If you have an emergency that cannot wait for my return call, ask to speak with Stephanie. Also, be sure to keep us informed of any change of address, change of telephone number, or change in employment.

I am looking forward to being your lawyer and I understand that your circumstances are unsettling and stressful. I will do my best to help you through this difficult time and will try to make your experience with my firm a positive one.

If you have additional questions about divorce, paternity or modifications in Missouri, call the knowledgeable family law attorneys with Eastman Law Firm today at (314) 921-2100. Your first consultation is free, and payment plans are available.