

Temporary orders: the basics in Summit County

1. Pursuant to Local Rule 9, temporary hearings are generally conducted on statements of counsel and submission of documents. One hour is allocated: 30 minutes per party. Local R 9.02(A).
2. To obtain an evidentiary hearing you must file a written motion and proposed order, and hand-deliver it to the magistrate of record, who will then set the evidentiary hearing. Local R 9.02(B)
3. Reminder: Civil Rule 75(N) permits a court to issue a temporary order relying solely on the affidavit or affidavits filed by the parties. Our local procedure affords parties a greater opportunity to help the court understand their financial situation, and to make the court aware of any special concerns regarding parental rights and responsibilities.
4. Policy and practice regarding separation of spouses.
5. What is time frame for separation?
6. Why separate?
7. What if parties choose to remain under one roof?
8. Parenting issues in temporary orders? In most cases, both parties will be designated as the residential parent and legal custodian, with parenting time made clear for each of them. This is intended to avoid giving the impression that either party has an advantage based on the temporary order when it comes to allocating parental rights and responsibilities at the final divorce trial. However, sometimes by agreement, and sometimes due to the particular circumstances of the family in question, one parent may be designated as the residential parent and legal custodian.
9. Certain expenses are treated by the court as “fixed” and are taken into consideration when we fashion the temporary financial order. Those “fixed” expenses include:
 - a. Mortgage
 - b. Real estate taxes and insurance if not part of the mortgage payment
 - c. Rent – including a reasonable rent allowance for a party who will be ordered to vacate the residence.
 - d. Health insurance premiums
 - e. Auto insurance premiums
 - f. Internet connection as needed for children’s educational requirements
 - g. Car payments
 - h. Student loans actually being paid
 - i. Child care expenses – verified as needed.
 - j. Any unsecured debt that the court orders a party to make payments on
10. Attorney fees at temporary hearing?
11. Reminder: a temporary order is not automatically stayed by the filing of a motion to set aside.
12. Be prepared: Have copies of all exhibits for the opposing party and the court. Be familiar enough with your client’s situation to be able to answer questions that might arise regarding, for example, work hours, new employer name, names of childcare providers, doctors or others who provide services for the children,

general time frame for extracurricular activities, etc. Also, be able to identify and explain any special needs a child may have.

13. Prepare your client to: live separate and apart, share time with children, share financial resources, live on less than when all were under one roof, plan for the future. Prepare your client to do more than identify and bemoan the problems the family has, but to actively engage in the search for solutions.