

RULE 4.17
TEMPORARY RESTRAINING ORDERS
AND EX PARTE ORDERS

(A) Temporary Restraining Orders. *Ex parte* temporary restraining orders may be requested by either party after the commencement of a divorce, annulment, or legal separation case. Such requests shall be made by separate motion supported by an affidavit of the party. *Ex parte* temporary restraining orders shall be made by separate order and shall be granted for the following purposes:

- (1) **Abuse:** Plaintiff/defendant is hereby restrained from abusing, annoying, harassing, molesting, threatening or injuring plaintiff/defendant and the minor child(ren).
- (2) **Removal of Children:** Plaintiff/defendant is hereby restrained from removing the minor child(ren) from the State of Ohio, except temporarily (14 days or less) for vacation.
- (3) **Property:** Plaintiff/defendant is hereby restrained from damaging, moving, selling, giving away, transferring, disposing of, or encumbering any existing or later-acquired interest of either party in any real or personal property, with the intent to permanently deprive, except plaintiff/defendant's clothing, tools of trade, and personal effects.
- (4) **Vehicle:** Plaintiff/defendant is hereby restrained from interfering with plaintiff/defendant's use of the vehicle currently used primarily by the plaintiff/defendant.
- (5) **Funds & Businesses:** Plaintiff/defendant is hereby restrained from selling, giving away, withdrawing, transferring, or encumbering any funds, account, share, stock, bond, or other existing or later-acquired interest of either party in any asset, business, corporation, partnership, employer, pension fund, bank, trust, or financial institution.
- (6) **Debts:** Plaintiff/defendant is hereby restrained from incurring any debt or making any credit card purchase in plaintiff/defendant's name or on any joint account.
- (7) **Return to Premises:** Plaintiff/defendant, who has been voluntarily absent from the marital premises for the past thirty (30) consecutive days, is hereby restrained from re-entering the marital premises.
- (8) **Utilities:** Plaintiff/defendant is hereby restrained from terminating, modifying or changing the basic utility service (gas, electric, water, phone and trash) to the marital premises.
- (9) **Insurance:** Plaintiff/defendant is hereby restrained from terminating, modifying, or changing the beneficiaries of any life, health, automobile, or other insurance policy covering any party or minor child(ren), or otherwise violating R.C. 3105.71.
- (10) **Third Parties:** Third-party defendant is hereby restrained from permitting plaintiff/defendant to remove, sell, withdraw, transfer, or encumber any existing or later-acquired asset, real estate, vehicle, funds, account, share, stock, bond, or other interest of either party.

All other motions for temporary restraining orders shall be set for hearing with notice to opposing counsel and/or to unrepresented adverse parties.

(B) Dissolving of Temporary Restraining Orders. A party against whom an *ex parte* temporary restraining order was issued may file a motion, supported by an affidavit, requesting that the order be dissolved. In the absence of agreement of the parties as to the terms and conditions for dissolving such orders, the matter shall be set for hearing. The posting of a bond is within the discretion of the court upon motion by a restrained party.

(C) Ex Parte Custody and Parenting Time Issues. *Ex parte* orders of custody or parenting time shall not be issued except in emergency circumstances and, where practicable, only by the assigned judge. The party requesting such orders shall make every good faith effort to provide opposing counsel and unrepresented adverse parties with notice of the application to the court for relief. Any such orders which are granted shall be scheduled forthwith for a hearing on the merits of the *ex parte* order within ten (10) calendar days of the filing date.

The notice of such a hearing shall include the following language:

This matter is hereby set for hearing on _____ at _____ am/pm before Judge/Magistrate _____ to determine whether the *ex parte* order granted _____ shall remain in effect. Both parties, with or without counsel, shall be present on the above date at the second floor of the Dayton-Montgomery County Courts Buildings, 301 W. Third Street, Dayton, Ohio.