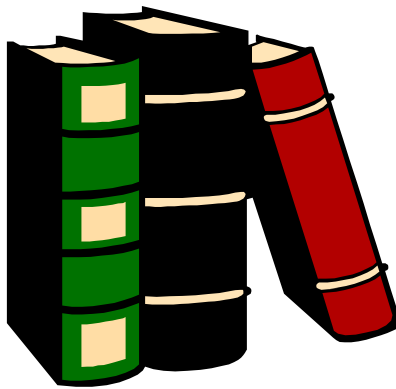


**EIGHTEENTH JUDICIAL CIRCUIT  
SEMINOLE COUNTY  
CIVIL/FAMILY DIVISION L**



**PROCEDURES AND PRACTICES**

**JUDGE DONNA L. MCINTOSH**

**UPDATED AUGUST 2018**

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## COURTROOM DECORUM

All counsel are to familiarize themselves with and abide by Administrative Order 09-06, Supersedes 92-116, regarding Courtroom Decorum and Procedure. See <http://www.brevardclerk.us/administrative-orders?MonthDisplay=6&YearDisplay=2009>.

### HEARINGS

**1. SCHEDULING:** All parties are required to give a good faith assessment of the time needed for the hearing. If other parties are waiting for their hearing, and your case goes over the time limit, your hearing will be terminated and rescheduled for a subsequent hearing. Hearings (up to one hour, 4-15 minute timeslots) are to be scheduled online using the JACS system. Please log onto JACS [www.flcourts18.org](http://www.flcourts18.org) to obtain hearing time under Attorney/Citizen Resources and then Dockets and Calendars. Please review “Judge McIntosh/Division L Scheduling Policy” before setting any hearings. After you have coordinated and you are ready to schedule your hearing, go to [www.flcourts18.org](http://www.flcourts18.org), under the Attorney/Citizen Resources tab; then select (under Attorney Resources) Schedule A Hearing (JACS). (If you do not have a user name/password, please visit the “Answers to FAQs” to learn how to obtain one.) Click on “Scheduling Functions” and enter your user ID and password to schedule a hearing. You may schedule in 15 minute increments up to ONE HOUR. *(For example, if you need a 45 minute hearing, you will schedule your hearing for 3 15-minute slots.)* If evidence will be presented, please note “evidentiary” in the Judge’s Notes on JACS. **IF YOU NEED A HEARING FOR MORE THAN ONE HOUR, YOUR MOTION WILL HAVE TO BE PLACED ON THE TRIAL DOCKET.** To be placed on the trial docket, please contact the appropriate Trial Coordinator or Case Manager listed under the Trials heading starting on Page 10 below. If you have two motions requiring one hour each, you CANNOT set one motion at 9:00 a. m. and the other motion at 1:30 p.m. on the same day, even if the time is available. They must be set on different days or set on the trial docket for 2 hours.

**Coordinating:** Reasonable attempts need to be made to clear a date with opposing counsel before scheduling on JACS. Several attempts on the same day is insufficient. **DO NOT** contact the JA to determine what a reasonable attempt is or how much time is reasonable. This must be determined by the attorney.

**Pro Se Parties Only:** If the opposing party is *pro se* and a telephone number or email address is listed on any of their pleadings, **you must make attempts on two different days to coordinate the hearing.** A message must be left on both days requesting them to call your office by the end of that business day to coordinate the hearing. If at the end of the second business day you do not receive a call back, then you may set a hearing unilaterally online giving at least fourteen (14) days notice of the hearing to the pro se party. If no phone number is listed in the Court file, you may set a hearing unilaterally online giving at least thirty (30) days notice of the hearing to the pro se party.

Once your hearing is set on JACS, you will receive a confirmation number. Please print out the confirmation page and attach it to your copy of the Notice of Hearing for your records. Please do not send a copy of the Notice of Hearing to the Judge. You must file the original Notice of Hearing in the Court file.

**Motions:** When scheduling a hearing on JACS, if you do not see the subject of your motion that you are trying to set for hearing listed in the drop down box, please click cancel and logout at the bottom of the main menu and review the “Answers to FAQs.” The JACS system will only allow you to select one motion in the drop down box. If you have more than one motion that you wish to address on that date and time, please list the other motions in the “Additional Motions to be Addressed” box.

**Courtroom:** When scheduling in JACS, do not select a courtroom in the drop down box, as this will limit your search for available hearing time. Leave the box blank. Judge McIntosh holds hearings in **Courtroom J**, unless otherwise noted on the door.

**Select role of Scheduling Attorney:** If you get a prompt while trying to schedule your hearing that you need to select a role of the scheduling attorney, you need to logout of JACS and log back in, and attempt to schedule the hearing again. After you select the date for your hearing, there will be an option right above where you input your case number for you to select whether your attorney represents the Plaintiff or Defendant.

**2. TELEPHONE HEARINGS:** Telephone hearings are permitted as long as there is no testimony to be offered or evidence submitted. Please file a Motion and proposed agreed Order to appear by phone. The Order **must** include the date and time of the hearing, a telephone number for the Judge to call at the time of hearing, and **must** specify the name of the attorney appearing by phone. *If multiple parties wish to appear by phone*, please file a Motion and proposed Order with the date and time of the hearing, one phone number for the Judge to call (Counsel scheduling the hearing should use a conference call service, if possible, for the Court to call only one number to reach all parties), and the name of each party attending via telephone. The parties appearing by phone need to stand-by for one hour, from the time the hearing is set, for the Judge’s phone call. After hearing and the Judge has ruled, a proposed Order may be submitted through the e-portal, along with a separately filed cover letter confirming there are no objections to the proposed Order.

**3. CONTINUANCES:** If a continuance of a hearing is requested by a party who did not set the hearing and the party who scheduled the hearing will not agree to reschedule, then a Motion for Continuance may be presented at a noticed Short Matters hearing. (See below for Short Matters procedures).

If agreed, the attorney must obtain new dates, and re-coordinate with the opposing parties. When you are ready to rescheduled, go to JACS and select “To Re-Schedule a Hearing” under the Main Menu. Type in your confirmation number and select “Reschedule.” Click on the newly coordinated date, and the hearing will be rescheduled and you will receive a new confirmation

number for your records. An Amended Notice of Hearing must be prepared, with an attached copy of your confirmation page to your copy of the Amended Notice for your file. Please do not set a copy of the Amended Notice to the Judge. You must file the original amended Notice of Hearing in the Court file.

**4. CANCELLING:** Only the party who scheduled the hearing may cancel the hearing. The attorney who scheduled the hearing must go on JACS and click “To Cancel a Hearing” under the main menu. Enter your confirmation number and click “Cancel Hearing.” You **MUST** follow up by filing a Notice of Cancellation in the Court file. Attach a copy of your confirmation page to your Notice for your file. **Please send a copy of the Notice of Cancellation to the JA** (Charlotte.Legette@flcourts18.org). **IF A HEARING IS CONTINUED OR CANCELLED, IT IS THE RESPONSIBILITY OF THE SCHEDULING ATTORNEY TO IMMEDIATELY ADVISE THE JUDICIAL ASSISTANT THAT THE SCHEDULED HEARING IS CONTINUED OR CANCELLED SO THAT IT IS REMOVED FROM THE COURT’S DOCKET.** Should a hearing be cancelled less than 24 hours prior to the hearing, the scheduling attorney’s office **must** email and/or call the JA to advise the court of the cancellation.

**5. CROSS-NOTICING/PIGGY-BACKING:** If you wish to add a motion to a previously set hearing and you do not need more time, you must contact the party who scheduled the hearing and obtain permission to share their time. If you need additional time, you may either set a new hearing on JACS for the same date and time, if available, or have the party who set the original hearing cancel theirs and reschedule for a timeslot with sufficient time for both hearings. Please make sure that Amended Notices and/or Cross-Notice of Hearings are filed with the Clerk. Please do not send a copy of your Amended Notice or Cross-Notice of Hearing to the Judge. Should the opposing party not agree to schedule your motion for the same time, you must find additional available time in JACS.

**6. NOTICE OF HEARING:** A Notice of Hearing must specifically state the matter(s) to be heard. A Notice of Hearing that states “All Pending Motions” is a nullity. Any party scheduling a hearing **MUST** provide notice to the other parties, even if defaulted by the Court. If a Guardian *ad Litem* appointed in the case is not given notice of a hearing, the hearing may be subject to cancellation by the Court pending proper notice to the Guardian *ad Litem*. Please do not send a copy of your Notice of Hearing to the Judge. You must file the original in the court file.

**7. MATTERS NOT REQUIRING A HEARING:** **The following matters do not require a hearing** and a proposed Order may be submitted through the e-portal as an “Agreed Order,” along with a separately filed cover letter indicating no objection to the proposed Order or with a Stipulation.

- Appointment of Special Process Server
- Appointment of Special Magistrate to hear UCD
- Stipulated Modifications
- Stipulated Orders

- Motion for Substitution of Counsel (Signed by Attorney **and** Party)
- Motion to Enter an Agreed Order
- Motion to Cancel and Reschedule a Foreclosure Sale
- Motion to Vacate Foreclosure Judgment (because of reinstatement)
- Default Judgment of *liquidated* amounts
- Motions to Withdraw (WITH SIGNED CONSENT FROM CLIENT)
- Uncontested Final Judgment for Dissolution of Marriage (**when BOTH parties are represented by counsel**)

**8. EMERGENCY HEARING:** If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be emailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via telephone if their schedule will not allow them to appear in person.

**Expedited:** If you need a hearing within 5 business days, then your motion is NOT AN EMERGENCY, but is an EXPEDITED motion, and you must contact the JA for available hearing time.

**9. SHORT MATTERS/EX PARTE:** Short Matters/*Ex Parte* hearings are five to ten minutes or less, and no evidence or testimony is allowed. Judge McIntosh holds Short Matters/*Ex Parte* at 8:30 a.m. in Courtroom J on various dates, please refer to JACS for those dates in the JACS header/Judge's Rules under Judge McIntosh's calendaring page. Short Matters are not scheduled through JACS, nor through the JA. Simply coordinate with the parties and file a Notice of Hearing in the court file. Telephonic Appearances are **not** permitted during Short Matters/*Ex Parte*.

**10. TEMPORARY RELIEF FOR FAMILY CASES:** Motions for Temporary Relief are scheduled before and conducted by the General Magistrate's office (407) 665-4050. If the case has never been referred to the GM in the past (from the date of initial filing until present, regardless if you were attorney of record at that time), and you do not wish to have the GM hear the motion, then an objection must be filed in writing. Before the hearing can be scheduled before the Judge, **mediation MUST have occurred regarding the temporary issues.** Temporary Relief hearings before the Judge are limited to 60 minutes.

If a temporary relief hearing is set before the GM, and this is the first hearing that has ever been referred to the GM and the opposing party timely objects, the **objection must contain the agreed date and time for mediation, or the objection is not a valid objection and the hearing will remain on the GM's docket** (*Administrative Order 17-08S*).

## 11. CONTEMPT:

**Civil:** Motions for Contempt in civil cases are scheduled on JACS.

**Family:** Motions for Contempt in family cases are scheduled with the General Magistrate's office (407) 665-4050. If the case has not been referred to the GM in the past, and you do not wish to have the GM hear the motion, then a timely objection must be filed in writing. If a timely objection is filed, a hearing may be scheduled on JACS.

**12. UNCONTESTED DISSOLUTIONS OF MARRIAGE:** A Proposed Final Judgment in an Uncontested Dissolutions of Marriage, where at least one party is represented by counsel, may be filed through the e-portal, along with a separately filed cover letter stating no objections to the proposed Final Judgment. These may also be scheduled during Short Matters. If there are minor children involved, the Final Judgment must incorporate specifics on child support (*i.e., how much, how it is to be paid, and how often*).

If both parties are *pro se*, they must fill out the Form A located on [www.flcourts18.org](http://www.flcourts18.org) under "Program/Services, Self Help (Represent Yourself)," and file the Form A with the Clerk of Court.

**13. ADOPTIONS and TERMINATION OF PARENTAL RIGHTS PENDING ADOPTION:** These matters are set during Short Matters. If both parties are *pro se*, they must fill out Form A located on [www.flcourts18.org](http://www.flcourts18.org) under "Program/Services, Self Help (Represent Yourself)," and file the Form A with the Clerk of Court.

## MOTIONS

**14. MOTION TO DISMISS OR STRIKE/RULE 1.140:** The moving party must file and then email a courtesy copy of their Motion to Dismiss to the JA for the Judge's review, prior to setting a hearing on the motion. The Judge will review the motion and either grant or deny the motion without a hearing, or request that a hearing be set. The JA will contact the moving party and advise if a hearing is necessary. Any hearings set on a Motion to Dismiss or Strike on JACS prior to Court approval **will be cancelled**.

**15. MOTION TO WITHDRAW AS COUNSEL:** If the attorney obtains a **signed consent** from their client, then the proposed Order may be submitted through the e-portal. If the attorney is unable to obtain a signed consent from their client, the motion must be heard during Short Matters with at least 7 days notice to the parties. Please make sure the Motion and Notice of Hearing have a Certificate of Service that indicates that they were mailed to the client. The proposed Order allowing withdrawal of counsel must reflect the following:

- The client's name, last known address, telephone number, and, if possible, e-mail address;
- A statement that all pleadings are to be furnished to the client;

- A statement that the client is responsible for notifying the Clerk of Court, in writing, within 5 days of any change of address.

#### **16. MOTION FOR SUMMARY JUDGMENT (RESIDENTIAL FORECLOSURE):**

**Mediation Required:** Any case where the owner filed a responsive pleading **MUST BE** mediated before a hearing on an MSJ can be scheduled. Mediations can be conducted at the Seminole County Courthouse or through a private mediator. Please review the Practices and Procedures under the foreclosure link at [www.flcourts18.org](http://www.flcourts18.org) for the required forms and information.

**Dispense with Mediation:** If the Plaintiff feels that mediation is not necessary or the case has been pre-mediated, then a Motion to Dispense with Mediation may be filed explaining the reason(s). Orders to Dispense with Mediation can be signed *ex parte*. Please upload the proposed Order to the e-portal for entry.

**Mediation Not Required:** If no responsive pleading has been filed by the owner, then a Motion to Dispense with Mediation is not required. You may set your case for an MSJ hearing (using JACS, or if unopposed, you may schedule during Short Matters).

**17. MOTION FOR REHEARING / RECONSIDERATION:** Once a Motion for Rehearing/Reconsideration is filed with the Clerk, please mail a copy to the Judge for review. The Judge will either rule on the motion, without a hearing, and copies will be sent out or the JA will contact your office to let you know that you may schedule a hearing on JACS. **DO NOT SET A HEARING UNLESS YOU RECEIVE APPROVAL FIRST.** The hearing is NOT the rehearing of the issue itself, but is simply an opportunity for the party to argue their Motion for Rehearing/Reconsideration before the Court.

**18. MOTIONS *IN LIMINE*/PRE TRIAL MOTIONS:** All Motions *in Limine* and Pre-Trial Motions *must be scheduled for hearing prior to the trial date.*

**19. NOTICE OF INTENT TO RELOCATE:** Pursuant to Fla. Stat. § 61.13001, the following information **MUST BE INCLUDED** with the Notice, and the Notice **MUST** be signed under oath and penalty of perjury:

- A description of the location of the intended new residence, including state, city, and specific physical address (if known);
- The mailing address of the intended new residence, if not the same as the physical address (if known);
- The home telephone number of the intended new residence (if known);
- The date of the intended move, or proposed relocation;



- A detailed statement of the specific reasons for the proposed relocation of the child. If one of the reasons is based upon a job offer, which has been reduced to writing, the written job offer **MUST** be attached to the Notice of Intent to Relocate;
- A proposal for the revised post-relocation schedule of time-sharing, together with a proposed for the post-relocation transportation arrangements necessary to effectuate time-sharing with the child;
- Substantially the following statement, in **ALL CAPITAL LETTERS**, and in the same size type (or larger) as the type in the remainder of the Notice:

AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN WRITING, FILED WITH THE CLERK OF COURT, AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE, WITHIN 30 DAYS AFTER SERVICE OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

- The mailing address of the parent or other person seeking to relocate to which the objection should be sent.

If an objection has been filed within 30 days, the party **MUST** file a Petition to Relocate to seek relief. A hearing **CANNOT** be set until an objection has been filed, or the time for filing an objection has expired.

If no objection is filed within the 30 days, the moving party is to send the Judge a proposed Order titled "Order Approving Relocation and Modifying Time Sharing," and the Order must repeat the proposed time-sharing schedule.

**20. MOTIONS FOR JUDICIAL DEFAULT:** Motions for Judicial Default **WILL NOT** be signed without a hearing. If you are unable to obtain a Clerk's Default, a hearing **MUST** be set.

**21. MOTION FOR CHILD PICK-UP ORDER:** Without notice, a copy of the motion with justification for lack of notice must be provided to the Judge via hand/mail/or email along with the approved proposed Order. The Order must have the heading, case number, division and the parties' names filled out. If the Judge enters the Order *ex parte*, a certified copy must be obtained through the Clerk's office for service, and a hearing may be indicated on the Order as to the date and time for the parties to appear in Court to present evidence.

The Judge may deny the *ex parte* request, but set a hearing. A hearing will be set on an expedited basis, and the moving party will be responsible for preparing the Notice of Hearing.



**ALL CONTESTED CASES WILL BE REQUIRED TO ATTEND AND COMPLETE A  
MEDIATION SESSION**

**Pre-Trial Conference:** Orders Requiring Mediation, Setting Pre-Trial Conference, and trial date will be entered by the Court. Pre-Trial Conferences will be conducted telephonically. Parties are to be available for at least one hour from the stated time for a phone call from the Court. If an attorney has made an appearance and will not be in the office during the necessary timeframe, the attorney **MUST** contact the Trial Coordinator **before the Pre-Trial Conference** with an alternative phone number where the attorney will be available at the time of the Pre Trial Conference. If the party is *pro se*, they **MUST** contact the Trial Coordinator **before the Pre Trial Conference** with a phone number. A time certain trial date will be given during the Pre Trial Conference. If it becomes necessary to place a case on the trial docket as a back-up, the parties will be notified of the actual time of trial no less than 24 hours prior to trial time. The Court will not hear any pending motions at the Trial.

**Case Management Conference:** A Case Management Conference will be set if both parties are *pro se*. The Case Management conference will be conducted by the General Magistrate's Office. The General Magistrate will determine the status of the case, order the parties to attend mediation, and ensure the parties meet full compliance with Florida Statutes Chapter 61 prior to Trial.

**CIVIL DIVISION:**

**Civil Coordinator:**                   **Kelley Rowland**  
  (407) 665-4203  
  Kelley.Rowland@flcourts18.org  
  (Contact regarding Case Managements, Pre-Trial Conferences, and  
  Trials)

**Notice for Trial:** A Notice for Trial stating that the cause is at issue must be filed with the Clerk's office and must contain complete, current e-mail addresses for all counsel of record or *pro se* parties. The Notice shall include an estimate of the time required, whether the trial is to be by a jury or not, and whether the trial is on the original action or a subsequent proceeding. The case will then be forwarded to the **Civil Division Coordinator** for review. The Court will issue an Order Setting Case Management Conference, which is required for all cases requiring one day or more to complete. Cases requiring less than one day will be placed on a one or two week trial docket.

**Case Management Conference:** The Trial Coordinator will conduct a Case Management Conference telephonically to determine the exact status of the case. Parties are to be available for at least one (1) hour from the stated time for a phone call from the Trial Coordinator. If an attorney has made an appearance, the attorney **MUST** contact the Trial Coordinator **before the Case Management Conference** with a phone number where the attorney will be available at the time

of the Case Management Conference. *Pro se* parties **MUST** contact the Trial Coordinator **before the Case Management Conference** with a phone number if they wish to appear by phone. Parties will be required to strictly adhere to the Order Setting Case Management Conference. The Trial Coordinator may, at the time of the conference, schedule expert disclosure deadlines and/or set a Pre Trial Conference and Trial date.

**Pre-Trial Conference:** Pre-Trial Conferences are set for any case requiring more than one day. If less time is required, a Pre-Trial Conference will have to be requested at the time of noticing the case for trial. The Court will expect full compliance with the Order Setting Pre Trial Conference and Trial Date. **Unless specifically excused by the Judge, all attorneys/parties are required to attend the Pre-Trial Conference in person,** even if a time certain for trial has been set. The Court may designate counsel to send written Notice to opposing counsel or *pro se* parties who did not appear at the Pre Trial Conference. The Court **will not address** any pending motions at this time.

**Jury Selection:** All juries are selected on Monday morning of the trial week. All attorneys and parties are expected to be present for trial at 8:30 a.m. The presiding Judge will normally review the docket for last minute adjustments at the Pre-Trial Conference.

Attorneys are expected to conduct *voir dire* in a professional manner without wasting time. The presiding Judge will not tolerate attempts to curry favor with jurors. Questions which do not touch upon a juror's qualifications to serve, or the issues in the case, will not be allowed. Questions should be designed to solicit an answer that will assist in deciding if the juror should be challenged, either peremptorily or for cause, and not for reasons of idle curiosity. For instance, spare time activities, reading habits, and bumper sticker preferences are not normally a valid subject of inquiry. Direct questions such as, "Do you belong to the N.R.A.?" rather than, "Do you have any bumper stickers on your automobile?" get to the issue at hand, instead of soliciting an answer, which may have nothing to do with the case. Counsel are prohibited from suggesting to a juror that *voir dire* can be conducted individually at the bench without the express permission of the Court. Jurors will be excused from the Courtroom before the Jury selection process begins. The Court will alternate between counsel asking them to accept or challenge jurors. The Plaintiff will be requested to accept or challenge the first juror. This procedure will be continued until a jury is selected. Back strikes are allowed until the jury is sworn. Most juries are sworn immediately after selection to avoid last minute back strikes and delays.

Responsibility for preparation of jury instructions is upon the party requesting the instruction, unless the Court orders otherwise. Jury instructions shall be in 12 point type, Times New Roman font, and follow the format of the Standard Jury Instructions in Civil Cases. All draft jury instructions must be provided to the Court by noon the Friday before trial.

**FORECLOSURE DIVISION:**

**Foreclosure Coordinator:**

**Lisa Hockenhull**

(407) 665-4296

Lisa.Hockenhull@flcourts18.org

Contact regarding Trials

**Notice for Trial:** A Notice for Trial stating the cause is at issue must be filed with the Clerk's office, and must contain complete, current, e-mail addresses to all counsel of record or *pro se* parties. The Notice shall include an estimate of the time required. The case will then be forwarded to the **Foreclosure Division Coordinator** for review. The Court will issue an Order setting the case for trial, which is required for all cases. Should a case require more than two hours it may be rescheduled to the Court's civil trial docket to complete. The Court will expect full compliance with the Order Setting Foreclosure Trial.