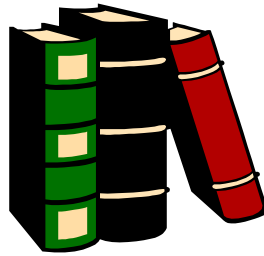


**EIGHTEENTH JUDICIAL CIRCUIT SEMINOLE  
COUNTY  
CIVIL/FAMILY DIVISION L  
MARK E. HERR**



**ADMINISTRATIVE  
POLICIES AND PROCEDURES**

***Please read instructions before contacting the Judicial Assistant***

***\*\*Updated April 9, 2024\*\****

## **GENERAL INFORMATION**

**FLORIDA SELF-REPRESENTED LITIGANTS (PRO-SE).** Please register for the [E-filing portal](#) so you can electronically receive and file documents. Neither the Judge nor the judicial assistant are permitted to give legal advice. If you need legal advice, you may contact the [Florida Bar Lawyer Referral Service](#) for a referral to an attorney. You may also use the following link: <https://selfhelp.flcourts18.org/>

**COMMUNICATION WITH THE COURT.** Ex-parte communication (any communication to the Judge without the other party's presence or knowledge) is strictly prohibited. Copy the opposing party or attorney when sending email messages or correspondence to the judicial assistant or Judge.

### **I. SETTING HEARINGS**

#### **A. MATTERS NOT REQUIRING A HEARING**

The following matters do not require a hearing.

- Stipulated modifications
- Stipulated orders and motions to enter an agreed order
- Cancellation and rescheduling a foreclosure sale
- Motion to vacate foreclosure judgement because of reinstatement
- Motions to waive mediation requirement in residential foreclosures
- Default judgment of liquidated amounts
- Motion for substitution of counsel (must be signed by client)
- Motion to withdraw (if a consent cannot be obtained, a copy of the proposed order is to be sent simultaneously to the party and to the Court with a cover letter stating that the party / opposing counsel must object in writing to the Court within 10 days)
- Appointment of a special process server
- Name Changes (See Section "H" below)
- Motion to Dismiss (however, see special Motions section below for procedures)

- Final Judgment of Dissolution of Marriage (as long as parties stipulate to all terms listed in the Final Judgment)

For the above matters to be considered by the Court, please submit a cover letter and proposed Order coded for electronic signature for the 18<sup>th</sup> circuit using the procedures set forth under the Proposed Orders section of these procedures.

## **B. SHORT MATTERS**

Short Matter Hearings are 5 minutes or less and are held in person. Available dates for short matters are found on the JACS available hearing date calendar. Click on "Display a list of available hearing dates" then "Retrieve" for current availability. To schedule a short matter hearing, please coordinate with the opposing counsel/party and then follow the Judicial Automated Calendaring System (JACS) Scheduling instructions. See Section F below. Prepare and e-file your Notice of Hearing. **Please** Do not email a copy of the Notice to the Judicial Assistant.

## **C. MATTERS REQUIRING HEARING**

All other matters and motions require hearings and are scheduled using the Judicial Automated Calendaring System (JACS) for 15 minutes to one hour and all are in person only. Please only schedule hearings on JACS after all **Meet and Confer Requirements** have been met (**see Section D below**). *If you wish to schedule 30 minutes or 45 minutes, etc., just use the appropriate number of time slots to equal time needed for your hearing. Each time slot when there is a "cattle call" block listed on JACS is 15 minutes long.* Please do not email a copy of the Notice nor a copy of the Motion to the Judicial Assistant.

IF YOU NEED A HEARING FOR MORE THAN ONE (1) HOUR, YOUR MOTION WILL HAVE TO BE PLACED ON A TRIAL DOCKET. To be placed on a trial docket you need to contact the trial coordinator. The Trial Coordinator for Division L is Shelbi-Ann Sisaleimsak, whose phone number is (407) 665-4222 and whose email is [divisionlcm@flcourts18.org](mailto:divisionlcm@flcourts18.org). If you have two motions each needing one (1) hour each, you CANNOT set one motion at 9:00 a.m. and the other motion at 1:30 p.m. even if time is available. They must be set on different days or set on the trial docket for two (2) or more hours.

## **D. MEET AND CONFER REQUIREMENT**

A mandatory meet and confer process is hereby established, as set forth below, for all motions to be set for hearing and to occur before scheduling the hearing except for the following motions:

Injunctive relief without notice

Judgment on the pleadings

Summary judgment

Counsel with full authority to resolve the matter shall confer **before** scheduling the hearing on the motion to attempt to resolve or otherwise narrow the issues raised in the motion and include a Certificate of Compliance (see below) that the conference has occurred in the Notice of Hearing filed with the court. **It shall be the responsibility of counsel who schedules the hearing to arrange the conference.**

The term "confer" requires a substantive conversation in person or by telephone or video conference in a good faith effort to resolve the motion without the need to schedule a hearing and does not envision an exchange of ultimatums by fax, e-mail, or letter. Counsel who merely attempt to confer have not conferred. Counsel must respond promptly to inquiries and communications from opposing counsel/opposing party who notices the hearing and is attempting to schedule the conference.

If counsel who notices the hearing is unable to reach opposing counsel/opposing party to conduct the conference after three (3) good faith attempts, **counsel who notices the hearing must identify in the Certificate of Compliance the dates and times of the efforts made to contact opposing counsel/opposing party. Counsel shall include in the Notice of Hearing the Certificate of Compliance certifying that the meet and confer occurred (or did not occur and setting out the good faith attempts to schedule the conference) and identifying the date of the conference, the names of the participating attorneys, and the specific results obtained.**

Counsel who notices the hearing shall ensure that the court and the court's judicial assistant are aware of any narrowing of the issues or other resolution because of the conference. **Failure to comply with the "meet and confer" requirement will result in the Court cancelling the scheduled hearing.**

**The following are templates to be included with your Notice of Hearing for the Certificate of Compliance:**

First Option (Meet and Confer Completed)

CERTIFICATE OF COMPLIANCE

*I HEREBY CERTIFY that on [DATE OF MEET AND CONFER] a lawyer in my firm with full authority to resolve this matter had a substantive conversation in person, by telephone or by video conference with opposing counsel/opposing party in a good faith effort to resolve this motion before the motion was noticed for hearing but the parties were unable to reach an agreement.*

/s/

*Counsel for the party who noticed the matter for hearing.*

Second Option (Meet and Confer Not Completed)

CERTIFICATE OF COMPLIANCE

*I HEREBY CERTIFY that a lawyer in my firm with full authority to resolve this matter attempted in good faith to contact opposing counsel/opposing party in person, by telephone or by email on:*

1. [DATE] at [TIME];
2. [DATE] at [TIME];
3. [DATE] at [TIME].

*to discuss resolution of this motion without a hearing and the lawyer in my firm was unable to speak with opposing counsel/opposing party.*

/s/  
*Counsel for the party who noticed the matter for hearing.*

## **E. COORDINATING**

Reasonable attempts need to be made to clear a date with opposing counsel/opposing party before scheduling on JACS. Making several attempts on the same day is insufficient. Do not contact the judicial assistant to determine what a reasonable attempt is or how much time is reasonable as that must be determined by the attorney. If the opposing party is pro se and a telephone number or email address is listed on any of their pleadings, you must make two attempts to coordinate a hearing on two different days. A message needs to 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 at least 14 days from the current date. If no phone number or email address are listed in the court file, then a hearing cannot be scheduled sooner than one (1) month.

## **F. JACS INSTRUCTIONS**

### **ATTORNEY JACS INSTRUCTIONS – TIME SLOTS AND DOCKET SEARCH**

1. Go to [www.flcourts18.org](http://www.flcourts18.org)
2. Click on Attorney & Citizen Resources
3. Click on Attorney Resources
4. Click on JACs Dockets and Calendars
5. Click on Available Dockets and Hearing Times
6. Click on the division or Judge to search for the calendar under the time slot search (red circle) or docket search (blue circle)

7. Click the correct division or judge that you are searching for
8. Available date and times or docket will appear on the screen.
9. When scheduling hearings, attorney must indicate the Clerk's docket # of the pleading being set for hearing and also must indicate which party is setting the hearing (The Plaintiff, The Defendant, etc).
10. If you need to set a 30-minute hearing, just use two (2) 15-minute slots. Same for 45 minutes or an hour hearings. Use the required number of slots to equal the time you are requesting and indicate in the notes the total amount of time requested.
11. To view the Court's Web Policy Instructions, you must be signed into JACS.
12. **Cancelling Hearings:** JACS system doesn't allow cancellations or modifications to be done within a certain time period, usually 7 days prior to hearing. If a hearing needs to be cancelled within 7 days or less from the date of the scheduled hearing, please refer to **Section L** below regarding cancelling hearings.
13. In order to access the **JACS Guide**, popups need to be enabled for the site. If the setting was turned off the guide will not come up. Follow the instructions below to enable popups for the JACS site in Chrome. Alternatively you can use another browser such as Edge or vice versa.

To enable popups for a specific site:

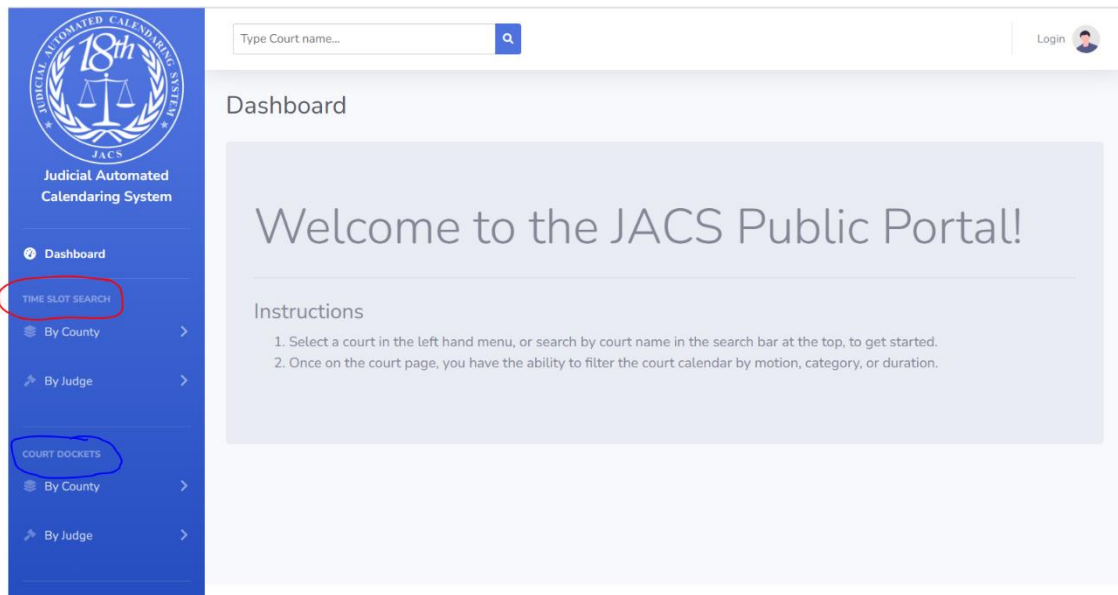
On your computer, open **Chrome**.

Go to a page where pop-ups are blocked.

In the address bar, click Pop-up blocked .

Click the link for the pop-up you want to see.

To always see pop-ups for the site, select **Always allow pop-ups and redirects from [site]** >  
**Done.**



## **NEW JACS SYSTEM SCHEDULING INSTRUCTIONS**

### **Attorney Scheduling**

Welcome Back!

Bar Number

Password

☐ Remember Me

Login

[Forgot Password?](#)

[Register an Account!](#)

If password is forgotten, click [Forgot Password?](#) (circled in black): You will receive a link to reset your password.

If you do not have a login, click [Register an Account!](#) (circled in yellow): You will receive a confirmation email from our tech support.

From the dashboard attorneys can see their scheduled and past hearings.



NEW JACS

Dashboard

COURTS

By County

By Judge

By Name

Type Court/Judge name...

Attorney

Dashboard

Scheduled Hearings

Case #	Date	Court	Type	Motion	Plaintiff	Defendant	Action
2022-CA-1234567	10/19/2022	Cir Civil Div D-Judge Dugan	In Person	Abate	Kunle	Jessica	

Past Hearings

Case #	Court	Type	Motion	Plaintiff	Defendant	Action
2022-CA-	Cir Civil Div D	In Person	Abate	Kunle	Jessica	

To get more information about a specific hearing, the attorney can click the “eye” icon in the action’s menu.

## Hearing

Information

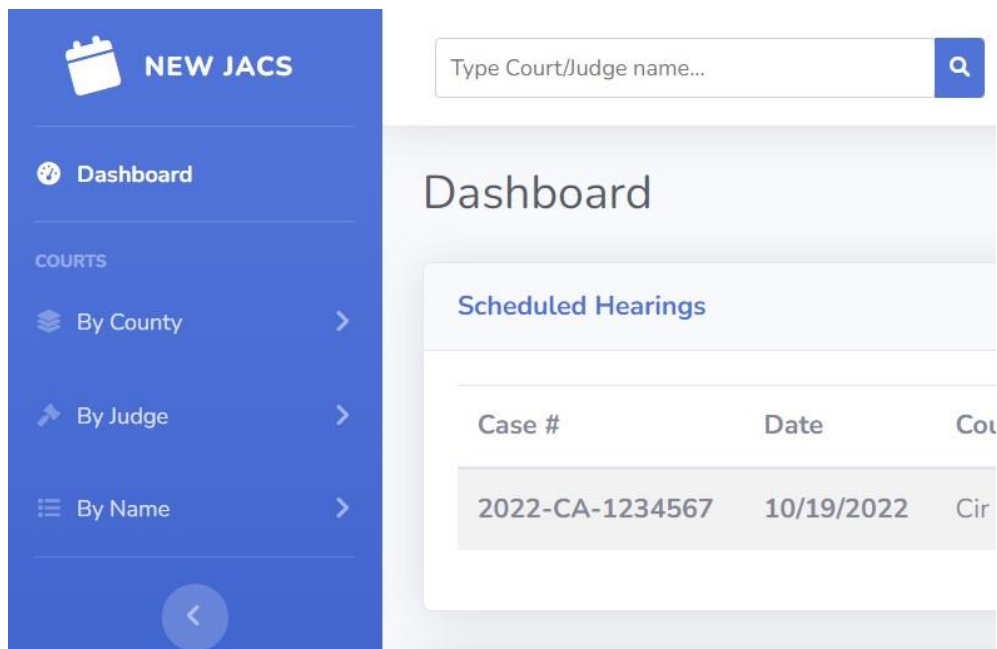
This hearing is scheduled for 10/19/2022 at 9:00 am for 15 minutes

Case Number	Motion	Type	
2022-CA-1234567	Abate	In Person	
Court	Category		
Cir Civil Div D-Judge Dugan	N/A		

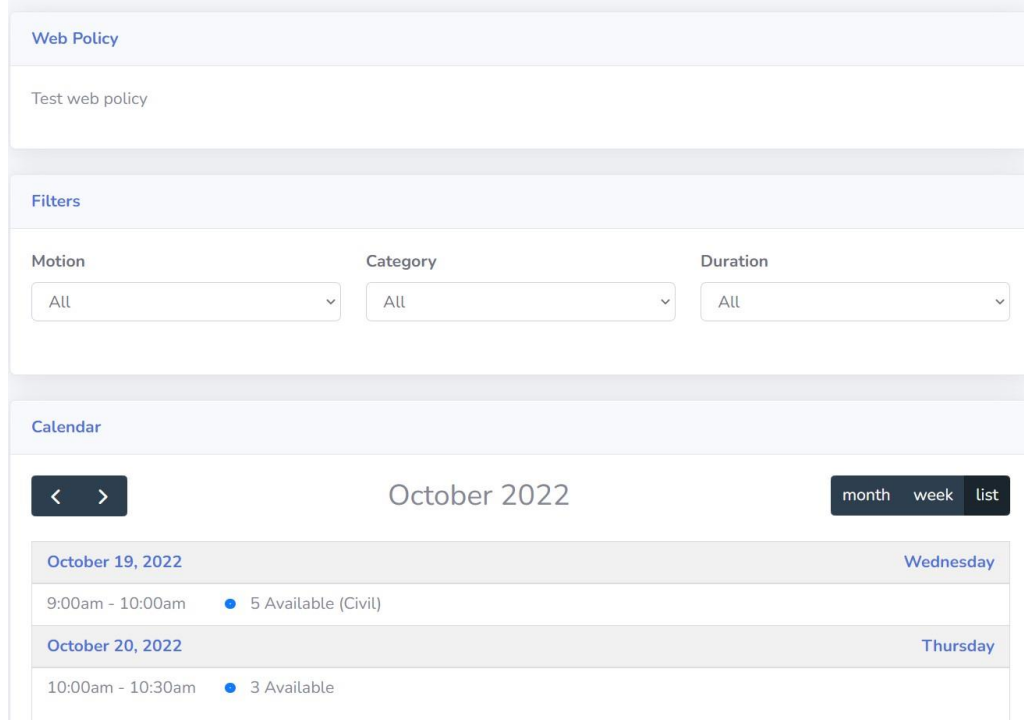
Plaintiff	Plaintiff Attorney	Defendant	Defendant Attorney
Kunle	Attorney	Jessica	Defendant Attorney

This scheduled hearing can only be modified by Kunle Adelakun

The attorney can use the menu on the left to find a court to schedule a hearing or use the search bar at the top of the window. The attorney can search by judge or court name.



Once selected, the Attorney will be redirected to the Court's scheduling page.  
Cir Civil Div D-Judge Dugan



Attorneys can filter hearing by using the dropdowns menu. Once the attorney has located the hearing that will work for them, they can simply click on the timeslot.

Wed Oct 19, 9:00 am - 10:00 am

Create Event

Case Number

XXXX

CA

XXXXXXX

Motion

Abate

Type

-

Role of Scheduling Attorney

☐ Plaintiff Attorney ☐ Defendant Attorney

Plaintiff Attorney (Optional)

Type Attorney name or Bar Number

Defendant Attorney (Optional)

Type Attorney name or Bar Number

Plaintiff (Optional)

Defendant (Optional)

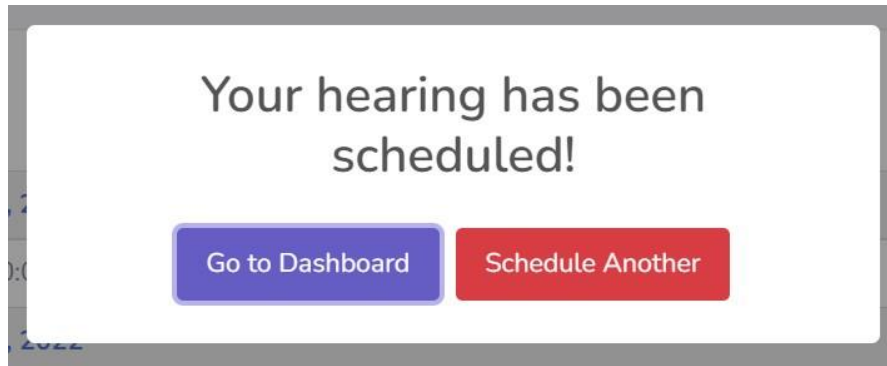
Notes

Close

Save changes

Once the attorney has finished filling out the required information and clicked save changes the hearing will be scheduled.

**FOR CATTLE CALL HEARINGS LISTED ON JACS, EACH TIME SLOT (WHEN YOU SELECT “CREATE EVENT”) IS 15 MINUTES LONG. IF YOU NEED 30 MINUTES, BOOK TWO (15-MINUTE) TIME SLOTS, ETC.**



## **G.** Notice of Hearing

A notice of hearing must specifically state the matter(s) to be heard. [Please include the Clerk's docket number and date of filing of the Motion to be heard.](#) 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 the hearing, the hearing may be subject to cancellation by the court pending proper notice to the Guardian Ad Litem. [Also, please indicate which party is setting the hearing \(Plaintiff or Defendant or Petitioner or Respondent, etc.\)](#)

Please **do not** send a copy of your Notice of Hearing & Certificate of Compliance regarding the Meet & Confer requirements to the Judicial Assistant unless specifically requested. Please **do not** send a copy of the Motion being set as these should already be a part of the Clerk's file when they are filed.

## **H. CROSS-NOTICING / "PIGGYBACKING" / CHANGING MOTIONS**

If you wish to add a motion to a previously set hearing date and do not need more time, you must contact the party who set the hearing and obtain permission to share their time. If you do need additional time, you may either set a new hearing on JACS for that same date and time, if available, or have the party who set the original hearing cancel theirs and reschedule it for a date with sufficient time for both hearings. Please make sure that Amended Notices and / or a Cross Notice of Hearing are e-filed.

Should the opposing party not agree to schedule any additional motion for the same time, you must find separate time on JACS.

If a matter settles prior to the hearing time scheduled and there are other pending motions, you may not unilaterally change the motion/matter being heard without first confirming same with opposing counsel. If opposing counsel objects and can verify a conflict or has less than five (5) business days' notice, then the hearing must be rescheduled.

## I. CONTINUANCES

If a continuance of a hearing is requested, the attorney who scheduled the hearing needs to go to JACS as when they scheduled the hearing, clear a new date with the opposing side. When ready to reschedule on JACS, click "To Re-Schedule a Hearing," hit "Reschedule". Click the new coordinated date and the hearing will be rescheduled and you will receive a new confirmation for your records. An Amended Notice of Hearing needs to be prepared and filed through the e-filing portal. Please **do not** send a copy of the Amended Notice of hearing to the JA.

## J. EVIDENTIARY HEARINGS

Evidentiary hearings are held **in person** at the Downtown Civil Courthouse 301 N. Park Avenue, Sanford, FL 32771. Courtroom assignments vary each week. When entering the courthouse, just ask the Deputies where Judge Herr will be holding Court that day.

## K. EMERGENCY HEARINGS

If you feel that your motion is an emergency (*an example of an emergency issue is a child seriously endangered*) **and** need the Judge to stop what he is doing to hold a hearing within 24 hours, contact the Judicial Assistant ([Christine.Hutchison@flcourts18.org](mailto:Christine.Hutchison@flcourts18.org)) with "Emergency Motion" in the subject line and attach your emergency motion for the Court's review. Checking the box on the e-filing portal to designate the motion as an emergency filing does **not** alert the judge to the existence of the emergency motion.

## L. CANCELLATIONS OF HEARING

**Only the party who scheduled the hearing may cancel the hearing.** The attorney who scheduled the hearing must log into JACS, go to courts, go to the day and time hearing is scheduled, click on the hearing, click edit event, scroll down to Cancel Hearing (red button), click "Cancel Hearing". **Cancellation on JACS may only be done prior to seven (7) days before the hearing is scheduled.** You **must** follow up with the filing of a Notice of Cancellation in the court file. Please email a copy of the Notice of Cancellation to the Judicial Assistant with the subject line stating Notice of Cancellation.

### **Cancelling hearings within seven (7) days or less of the scheduled hearing date:**

Judicial approval must be obtained before cancelling if the hearing date is **seven (7) days or less**. **\*Cancellation requests must be received at least two (2) business days in advance\*. Hearings will **not** be permitted to be cancelled if request not received within 2 business days of hearing.**

**Contact the JA via e-mail with the reason: The following are normally the only reasons why the Court will allow a hearing to be cancelled absent illness or emergency:**

1. The parties have resolved all the scheduled issues. This will require Motions to Withdraw the issues being filed with Clerk's Office (along with a proposed order being submitted through the E-Filing Portal for Judge's review & signature; a Joint Stipulation filed with Clerk's Office confirming all issues are resolved; or an Agreed Upon Order being submitted stating all scheduled issues have been resolved.\*\*
2. The parties have reached a settlement of the case. This will require submission of confirmation that the case has settled or a Notice of Voluntary Dismissal.\*\*

**\*\*If any of the above-listed pleadings have been filed with the Clerk's Office or Order entered two (2) business days **prior** to the date of the hearing, you may simply email a copy to the JA and the Hearing will be cancelled.\*\***

Please be advised that the dockets are printed two (2) weeks in advance.

## **II. FAMILY LAW TOPICS**

### **A. ADOPTIONS AND TERMINATION OF PARENTAL RIGHTS PENDING**

These motions are set for a short matter hearing (see the short matter section above for locating dates and times). If both parties are pro se (unrepresented) then they must complete a Request for Hearing or Other Action Form on the Circuit Court website <https://selfhelp.flcourts18.org>.

### **B. PETITIONS TO RELOCATE**

Parties must comply with § 61.13001, Fla. Stat. If a timely objection has been filed and a party is seeking expedited hearing time on their Motion for Temporary Relocation, they must contact the Judicial Assistant via email. Failure to contact the Judicial Assistant to obtain expedited hearing time will constitute a waiver of the time frames contained in the statute.

If **no objection** is filed within the 30 days, the moving party is to submit via the e-filing portal a proposed Order titled "Order Approving Relocation and Modifying Time Sharing" and the Order must repeat the proposed time-sharing schedule.

### **C. TEMPORARY RELIEF FOR FAMILY CASES**

Motions for Temporary Relief are scheduled before and conducted by the General Magistrate's office. Please send your name, case number and contact phone number to <https://selfhelp@flcourts18.org>. If the case has never been referred to the General Magistrate in the past (*from the time the case was first opened until now regardless of if you were the attorney at that time*) and you do not wish to have the General Magistrate hear the Motion for Temporary Relief, 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 will be limited to 60 minutes.

If the case has been referred to the General Magistrate in the past for a previous issue and neither party objected to that hearing within the ten (10) days provided per rule, then no party can ever object in the future to a hearing before the General Magistrate (*regardless of if new attorneys have taken the case*).

If a temporary relief hearing is set before the General Magistrate and this is the first hearing that has ever been referred to the General Magistrate and the opposing party objects within ten (10) days, 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 General Magistrate's docket (*Administrative Order 05-15S Amended*).

## **D. 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 by email to the Judicial Assistant with the proposed Order. The Order must have the heading, case number, and the parties' names completed. If the Judge enters the order ex parte a certified copy can be obtained through the Clerk's office for service and a hearing will 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 and will either notify you with an email and/or an Order denying. A hearing will be set on an expedited basis within 14 days and the moving party will be responsible for preparing the Notice of Hearing. (*An example of an issue for a child pick-up is a child seriously endangered.*)

## **E. UNCONTESTED DISSOLUTIONS OF MARRIAGE**

### **1. Both Parties Represented by Counsel**

The attorney(s) can follow the instructions below to submit the proposed Final Judgment via the e-filing portal for the Judge to review and sign in chambers.

Prior to submitting the proposed Final Judgment in an uncontested matter, check the Court's file to ascertain that the following documents are viewable:

- Financial Affidavit for Petitioner
- Financial Affidavit for Respondent
- A copy of Petitioner's Florida Driver's License confirming residency requirements
- If there are assets, a copy of the Marital Settlement Agreement signed by each party.

- **If there are any minor children, a Certificate of Completion of a State-Approved Parent Education Class and Family Stabilization Course for each party.**
- If there are any minor children, a copy of a Shared Parenting Plan signed by each party with agreed upon child support guidelines.

## **2. One Party Represented by Counsel**

If ONE party is represented by counsel, and the documentation listed under the above section pertaining to both parties being represented by counsel are viewable in the court file, the parties may waive appearance at a hearing by including notice in their cover letter that the unrepresented party reviewed and did not object to the form and content of the proposed Final Judgment.

## **3. Both Parties Unrepresented**

If BOTH parties are unrepresented, a short matter remote hearing MUST be scheduled. Prior to the hearing all the documentation listed under the above section pertaining to both parties being represented by counsel must be viewable in the court file. Please follow the instructions for setting a hearing above or click on the [Seminole Family Self Help](#) tab on the website.

## **F. COLLABORATIVE DIVORCE**

For parties divorcing pursuant to the Collaborative Process Act (§ 61.57, Fla. Stat.), the following items must be viewable in the court file:

- A Collaborative Memorandum of Understanding
- If there are any minor children, a Certificate of Completion of a State-Approved Parent Education and Family Stabilization Course for each party.

Simultaneously with the submission of the proposed Final Judgment, please send via email the signed Collaborative Marital Settlement Agreement and Parenting Plan (if applicable) to the Judicial Assistant. These documents will not be filed but will be reviewed by the Judge prior to the entry of the Final Judgment.

## **G. FINAL JUDGMENTS OF DISSOLUTION OF MARRIAGE OR PATERNITY**

Please do not reference exhibits in proposed Final Judgments, as exhibits cannot be attached. References to documents such as Marital Settlement Agreements and Shared Parenting Plans should be made in a Final Judgment by referencing the date of filing of the documents and / or Docket Number.



If alimony and/or child support payments will be made, and payments are to be made through the State Disbursement Unit, you must include a separate paragraph regarding payments which are to be made like the following:

*Payment shall be made to State Disbursement Unit (SDU) at P.O. Box 8500, Tallahassee, FL 32314. Payment shall be made in the form of cashier's check, certified check, money order, or other payment form acceptable to the SDU, and must include the case number, name of the payer and payee for proper identification.*

*Child Support payments shall continue until the minor child(ren) reach the age of 18 years, marries, dies, becomes emancipated, or otherwise ordered by this court; whichever event shall occur first.*

*Each party shall inform the other and the Clerk of the Circuit Court immediately of any change of name or address.*

If payments of alimony or child support are to be made directly to one party from the other, the Final Judgment must specifically state so.

The attorney preparing the Final Judgment is to submit the proposed Final Judgment to opposing counsel for approval as to form and content prior to submission to the court. All Final Judgments are to be accompanied by a cover letter stating, if in fact, that opposing counsel has reviewed and approved the form of the Final Judgment. If the attorneys cannot agree on the order, then the party may submit the order indicating counsel objects to said order. If opposing counsel has an objection, he/she may also submit a proposed Final Judgment for the Judge's review with an accompanying cover letter indicating such. Please highlight the differences in the competing Final Judgment so the Judge may ascertain them without difficulty. Do not ask opposing counsel to contact the Judge's office with objections to a proposed Final Judgment.

If all terms and conditions listed in the proposed Final Judgment are stipulated to by the parties, a Final Judgment may just be submitted through the E-Filing Portal with a cover letter indicating the same and hearing will not be necessary.

## **H. NAME CHANGES:**

### **(DOCUMENTS TO BE FILED WITH CLERK):**

PETITION

BACKGROUND CHECK

COPY OF DRIVER'S LICENSE

THESE CAN BE SET DURING SHORT MATTERS ONCE CLERK RECEIVES THE

BACKGROUND CHECK REPORT & DOCKETS IT IN THE COURT FILE— or - a Final Judgment may simply be e-filed through the Florida Courts E-Filing Portal as long as all required documents have been filed with Clerk.

### III. MOTION TO WITHDRAW AS COUNSEL

If the attorney obtains a signed consent from their client, then the proposed Order Granting Motion to Withdraw may be submitted via the e-filing portal. If no signed consent is obtained, a copy of the proposed order is to be sent simultaneously to the party and to the Court with a cover letter stating that the party / opposing counsel must object in writing to the Court within 10 days. **No hearing will need to be set unless the party objects to the Motion.** The proposed Order allowing withdrawal of counsel must reflect the following:

- The client's name, address and telephone number, and e-mail address
- Statement that all pleadings are to be furnished to the client
- Statement that the client is responsible for notifying the Clerk, in writing, within five (5) days of any changes of address.

### IV. MOTION FOR SUMMARY JUDGMENT (RESIDENTIAL FORECLOSURE)

Any case where the owner filed a responsive pleading MUST BE mediated before a hearing for a Motion for Summary Judgment. Mediations can be conducted at the Seminole County Courthouse or through a private mediator.

If the Plaintiff feels that mediation is not necessary, or the case has been pre-mediated then a motion to waive mediation needs to be filed explaining the reason(s). Motions to waive mediation can be signed ex parte. Please submit the proposed order with a cover letter via the e-filing portal for entry.

### V. MOTIONS TO DISMISS (FLA. R.CIV. P. 1.140 / FLA. FAM. L. R. P. 12.140), MOTIONS FOR REHEARING (FLA. R. CIV. P. 1.530 / FLA. FAM. L. R. P. 12.530) OR MOTIONS FOR RECONSIDERATION

Once a Motion to Dismiss, Motion for Rehearing, or Motion for Reconsideration is filed, a copy can be emailed to the Judicial Assistant for the Judge to review. The Judge will either make a ruling on the motion, without a hearing, and copies will be sent out or the Judicial Assistant will contact your office to let you know to set a hearing on JACS. **Do not set a hearing** unless you receive approval first. For Motions for Rehearing and Motions for Reconsideration, any hearing required by the Court is NOT the rehearing of the issue but an opportunity for the party to argue their motion before the court. Any responses to Motions to Dismiss should be provided to the Court promptly once a Motion to Dismiss has been filed with Clerk's Office. ***\*\*Starting November 2023, a General Magistrate will begin hearing Circuit Civil Motions to Dismiss (no Domestic matters). Email a copy of your filed Motion to Dismiss to the JA. She will then prepare an Order of Referral to the General Magistrate. General Magistrate's office will then advise if a hearing needs to be set or if she will just prepare an Order on the Motion.***

### VI. MOTIONS TO COMPEL DISCOVERY (FLA. R. CIV. P. 1.380 / FLA. FAM. L. R. P. 12.380)

For a short matter hearing on a Motion to Compel, a completed checklist is required. Please see the Appendix and complete the checklist attached on page 32. Once completed, send it to the Judicial Assistant via email no later than 3 days prior to the short matter hearing. If the completed checklist is not provided to the Judicial Assistant, the Motion to Compel will need to be set on JACS for at least 15 minutes. This does not apply if the Motion to Compel relates to setting depositions, mediation, or if a party has never submitted a response or objection to a discovery request.

## VII. HEARING MATERIALS FOR NON-EVIDENTIARY MATTERS

Unless specifically requested, do not send copies of materials viewable in the case file. Any relevant memoranda, case law, or other legal authority should be submitted on the day of the hearing, three (3) copies; 1 for Court; 1 for Clerk and 1 for opposing counsel/party. **Please do not mail or e-mail hearing binders or any evidence to the Judicial Assistant.**

## VIII. EVIDENCE FOR HEARINGS AND TRIAL

If your hearing is evidentiary, you must pre-mark all exhibits for identification with letters (i.e., "Plaintiff's Ex. A" or "Respondent's Ex. B") on the bottom right corner of the exhibit. Three (3) physical copies of all exhibits must be brought the day of the hearing or the day of the trial. 1 for Court; 1 for Clerk and 1 for opposing counsel/party. **Please do not e-mail or mail hearing /trial binders or any evidence to the Judicial Assistant.** Include an index with a list and brief description of each exhibit. Bates Numbering of exhibits is preferred, but not required. Video and audio recordings should be saved on a USB drive.

A Notice of Compliance should be filed simultaneously with the completion of the above requirements. Failure to file a Notice of Compliance may result in your exhibits not being considered by the Court.

Please see the Appendix to these procedures for the Court's preferred forms for both the evidence index and Notice of Compliance.

## IX. PROPOSED ORDERS

You must wait until your pleadings is accepted by the Clerk before e-filing the Proposed Order, to avoid rejection.

**Do not** SUBMIT Orders with blanks spaces. Submit the order with the wording you want in your order. If you are submitting an Order to continue a PTC, include the next date in your Proposed Order. You can obtain dates from the monthly calendar posted on our website: [www.flcourts18.org](http://www.flcourts18.org). Then: Attorney Resources; Civil Pre-Trial/Trial Dockets; select the Division/Judge your case is assigned to; select the month the trial period begins to view the Pre-Trial or Trial docket. If you have any questions about PTC dates or Trial dates, please contact our case manager: [Divisionlcm@flcourts18.org](mailto:Divisionlcm@flcourts18.org). Shelbi-Ann Sisaleumsak (407) 665-4296.

**Do not** check on status of orders unless 10 working days have passed. ALL proposed Orders should be submitted through the e-filing portal (in Word format) along with a separately filed cover letter (in PDF format). For the Order to be electronically signed the format of the order **MUST NOT** have the actual date, **MUST NOT** have “Circuit Judge” or “Judicial Assistant” signature lines within the order and **MUST** contain the four-letter codes, each on their own separate line. Example below:

**\*\*\*\*\* The bottom of all Orders must be worded as follows (do not use indentions, spaces, or tabs before or after the coding, use the align button instead. Do not use page breaks or column breaks in the bottom of the Order and do not put the CCCC and AAAA on the same line or the coding does not work):**

***DONE and ORDERED*** in Chambers at Sanford, Seminole County, Florida, this DDDD.

JJJJ

**CERTIFICATE OF SERVICE**

- *I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via the e-filing portal to the parties listed below on MMMM: Moving party (attorney) is responsible for service of signed orders to all non-registered pro-se parties. Within five (5) days from the date of e-service of the signed Order, the moving party (attorney) shall furnish a copy of the signed Order to each self-represented party by U.S. Mail.*

CCCC

AAAA

**(The “DDDD” (signature date), “JJJJ” (Judge signature), “MMMM” (mailing date), “AAAA” (JA signature) and “CCCC” (cc list), must be in all capital letters, not highlighted and not be in bold. Do not use margins/justifications from the Done and Ordered down. Do not use tabs or spaces before the JJJJ, CCCC, or AAAA coding, or the coding won’t work. Use the align button instead)**

**(\*\*See attached “Procedure for Submitting Proposed Orders in Seminole County”)**

**Please note:**

The E-portal converts every submission to a PDF. However, not all PDFs are the same. There are two scenarios:

- (1) If a paper Order is scanned into an image (JPEG, GIF, TIF etc.) and submitted, it is converted to a PDF.

(2) If a Microsoft Word document is submitted, it is converted into a PDF.

This is where it gets technical. The software used to extract a Microsoft Word document from a PDF will not work if option #1 occurs. The end result is a Microsoft Word document that contains the attorney's scanned image. This image cannot be manipulated or modified.

The only viable option is to use option #2. A PDF, created from a MS Word document, can be reverted back to its Microsoft Word format.

It also helps if the version of Microsoft Word is 2007 or greater.

**Please allow for a 72-hour delay for documents to appear on the Judge's Judicial Viewer. Documents do not appear immediately.**

If the parties agree upon the form of the proposed order without a hearing, the cover letter should confirm that opposing counsel has reviewed the order and has no objection to the form of the order. If the matter was heard and the Court ruled, the cover letter should confirm that opposing counsel has reviewed the order and has no objection to the form of the order. If opposing counsel has an objection, he/she may also submit a proposed order for the Judge's review with an accompanying cover letter indicating such, or a hearing should be scheduled. Please highlight the differences in the competing orders so the judge may ascertain them without difficulty. Do NOT ask opposing counsel to contact the Judge's office with objections to a proposed order.

If opposing counsel has been forwarded a copy of the proposed order, but has not responded within a reasonable time frame, you may forward the proposed order to the Court with a cover letter stating same ONLY IF the motion was already heard before the Court. If the motion has not been heard before the Court and you have not received a response from opposing counsel as to his/her position, then it MUST be set for a hearing.

If the other party is pro se, a copy of the proposed order is to be sent simultaneously to the pro se party and to the court with a cover letter stating that the pro se party must voice any objections in writing to the court within five (5) calendar days.

After a hearing is completed and the court has ruled, you MUST file the order within one week of the date the hearing took place.

## **X. 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, then a hearing must be set.

## **XI. TRIALS**

Lawyers and unrepresented parties should contact the Trial Coordinator regarding pre-trial conferences, pre-trial requirements, and trials. The Trial Coordinator for Division L is Shelbi-Ann Sisaleimsak, whose phone number is (407) 665-4296 and whose email is [divisionlcm@flcourts18.org](mailto:divisionlcm@flcourts18.org). Please note that there is now only one trial coordinator for both Civil and Family cases. The trial and pre-trial dockets are available on our website - Eighteenth Judicial Circuit Courts – Serving the citizens of Brevard and Seminole Counties. ([flcourts18.org](http://flcourts18.org)), under Resources □ Attorney Resources □ Civil Pre-Trial/Trial Dockets. Under the Division/Judge your case is assigned to, select the month the trial period begins to view the Pre-Trial or Trial docket.

## **XII. RESIDENTIAL FORECLOSURES:**

Any hearings regarding residential foreclosure cases, please contact the Foreclosure Case Manager at: [Divisionscm@flcourts18.org](mailto:Divisionscm@flcourts18.org). These are not set on Judge Herr's hearing dockets.

### **A. FAMILY DIVISION**

ALL CONTESTED CASES WILL BE REQUIRED TO ATTEND MEDIATION PRIOR TO A TRIAL OCCURRING.

**NOTICES 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 email addresses for all counsel of record or pro se parties. The notice shall include an estimate of the time required, and whether the trial is on the original action or a subsequent proceeding. The case will then be forwarded to the Trial Coordinator for review.

**PRETRIAL CONFERENCES.** Orders Requiring Mediation, Orders Setting Pre-Trial Conference and Trial Date will be entered by the Court. Pretrial Conferences will be conducted remotely. Parties are to be available for at least one (1) hour from the stated time for a videoconference from the Court. If an attorney has made an appearance and will not be in the office during the necessary time frame, the attorney MUST contact the trial coordinator before the pre-trial conference with an alternative time the attorney will be available or have counsel who is available for coverage. If the party is unrepresented, they MUST contact the trial coordinator before the pre-trial conference with an email or phone number. A time certain trial time will be given during the pretrial conference. If it becomes necessary to place a case on the trial docket as a backup, the parties will be notified of the actual time of trial no less than 24 hours prior to trial time. The court will not address any pending motions at this time.

**CASE MANAGEMENT CONFERENCES.** 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 ensures the parties meet full compliance with Florida Statutes Chapter 61 prior to trial.

**FAMILY TRIALS.** All family trials will be held in person.

## **B. CIVIL DIVISION**

**NOTICES 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 to 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 Trial Coordinator for review.

**PRETRIAL CONFERENCES.** Pretrial Conferences are automatically set for any case requiring more than one day. If less time is required, a pretrial 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 Pretrial Conference and Trial Date. Unless specifically excused by the judge, all attorneys/parties are required to attend the pretrial conference remotely via videoconference, 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 party who did not appear at the pretrial 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 that time.

Attorneys are expected to conduct voir dire in a professional manner without wasting time.

Responsibility for preparation of jury instructions is upon the party requesting the instruction unless the Court orders otherwise. Jury instructions shall be in 14-point type with Arial font and follow the format of the Standard Jury Instructions in Civil Cases. All draft jury instructions should be provided to the Court by noon the Friday before trial.

## **XIII. MOTIONS TO CONTINUE PRE-TRIAL/TRIAL**

Motions for Continuance of Case Management, Pre-Trial, and/or Trial must be heard at Short Matters (5 minute hearings only). Any motion for continuance must be made in writing, signed by counsel for the parties, and shall state when the cause will be ready for trial. In ruling upon such motions, the court will weigh the following factors:

- What are the legal grounds?
- When was the case filed?
- When was the case noticed for trial?
- When was the motion filed?
- Will the parties be prejudiced?



- Has the case been previously continued and if so, how many times?
- Has there been compliance with the temporary support order?
- What is the condition of court's calendar?

#### **XIV. CIVIL CASE MANAGEMENT**

Pursuant to Administrative Order No. 21-24 2nd Amended, Civil Case Management Plans are required. Please review the video tutorial found at <https://flcourts18.org/case-management/> to learn how to properly complete and submit Case Management Plans and proposed Case Management Orders.

A.O. 21-24 2nd Amended states "...All parties should note, if any party issues a Notice for Trial more than 120 days prior to the projected trial date set forth in the Case Management Order, the court will consider the parties ready for trial at that time and representing to the Court that they have agreed to move up the trial date to a more recent trial date than the originally agreed-upon date in the Case Management Order. As a result, the Court shall issue a trial order with a more recent trial date."

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 to all counsel of record or pro se parties. The notice shall include an estimate of the time required, and whether the trial is to be by a jury or non-jury trial. The case will then be forwarded to the case manager for review. After review of the file the case manager will send an email to all parties asking for a stipulation as to what trial period is agreed upon by all parties within 7 days. If the parties are unable to agree to a trial period or upon receipt of the stipulation, the Court will set the matter on a trial docket and all parties will receive an Order Setting Pretrial Conference. The parties will be required to strictly adhere to the Order Setting Pretrial Conference/Case Management Order. **If the parties are not ready for trial**, they may agree to withdraw the Notice for Trial and refile when ready. If the parties withdraw the Notice of Trial, the case will revert to the projected trial date and deadlines in the Case Management Order as previously ordered.

**\*\*If a case is at issue, a trial order may be entered for cases that fail to file a Notice for Trial at least 60 days prior to the projected trial date in the Case Management Order signed by the Court.\*\***

**Pretrial Conferences are held virtually via Microsoft Teams using the virtual courtroom link provided in the Appendix.**

**Failure to Comply Hearings: These are all held virtually via Microsoft Teams using the virtual courtroom link provided in the Appendix.**

**Important: If a Case Management Order has been signed by the Court, this matter will be removed from the Failure to Comply docket pursuant to the Order Setting Hearing for Failure to Comply with Administrative Order No: 23-10 Amended – "If a Case Management Order is signed by the Court prior to the above noted hearing, counsel/pro se parties are excused from the hearing."**



Please note, a separate order/notice cancelling the hearing will not be issued.

### Requests for Case Management Conferences:

All Requests for Case Management Conferences will be referred to our General Magistrate. Please email JA with copy of Motion for Case Management Conference. Our General Magistrate conducts her hearings either in person or remotely via TEAMS.

All questions as to Case Management Plans/Orders should be directed to Judge Herr's dedicated case manager at [divisionlcm@flcourts18.org](mailto:divisionlcm@flcourts18.org).

## XV. COMPULSORY MEDICAL EXAMINATIONS

### EIGHTEENTH JUDICIAL CIRCUIT COURT UNIFORM GUIDELINES REGARDING COMPULSORY MEDICAL EXAMINATIONS

CONDUCTED PURSUANT TO *FLA. R. CIV. P.*  
1.360(a)(1)(A) & IF ORDERED (B), AS WELL AS  
1.360(b) AND 1.390(b) & (c)<sup>1</sup>

In order to assist counsel for all parties seeking to invoke the privileges and protections afforded under *Fla. R. Civ. P.* 1.360, the Court herein addresses the most frequently disputed matters that are brought before the Court.

The examination under the Rule is a Compulsory Examination and not an Independent Examination. The physician or healthcare provider was not chosen by the Court. The examination must not be referred to in front of the jury as an "independent medical exam."

#### Request for, Objections to and Hearings on

Requests for an examination must set forth the time, place, manner, conditions, and scope of the examination as well as the name of and the qualifications of the person conducting the examination with specificity. **If examinations under these rules are requested such written request should be made no later than 70 days before the pretrial date to allow time for objections, hearings on same and an opportunity to reset the examination.** Objections to "Examination of Persons" under *Fla. R. Civ. P.* 1.360(a)(1)(A) must be filed no later than 30 days from the written request assuming service of process has occurred at least 15 days prior to the request being served. The objections must state the specific reasons for the objections. A hearing must be immediately requested on any objection filed. Failure to set the objection for immediate hearing within 5 days of filing said Objection will be deemed an "Abandonment of the Request" under the rules.

Examinations sought under *Fla. R. Civ. P.* 1.360(a)(1)(B) [non-physical condition] must be obtained with an order from this Court, or with a written agreement of all parties. Please make certain the time, place, manner, conditions, and scope of the examination, including if there is any testing, as well as the name of and the qualifications of the person conducting the examination are set forth with specificity. See, *Maddox v. Bullard*, 141 So.3d 1264 (Fla. 5th DCA July 11, 2014) [Order on psychological examination reversed because specifics were not set forth in the order including the “manner, conditions or scope of the examination thereby, in effect, giving the psychologist ‘carte blanche’ ....”]

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<sup>1</sup>These “Guidelines” are published to assist trial counsel with issues that routinely come before the Civil Courts involving expert examinations of injured parties and discovery of those expert opinions. Counsels are not precluded from filing the appropriate motions and obtaining a hearing before the Court on a particular case should the facts of that case, in good faith, suggest that these standard provisions should not control.

The date and time of the examination must be coordinated with opposing counsel. If the attorneys cannot agree on a mutually convenient date for the examination to occur within 45 days of the request, the Court, upon written motion, will pick the date without consultation with counsels' calendars.

### Location of Examination

The examination should occur in Seminole, or Orange County, absent agreement of counsel to the contrary, since counties are geographically close to one another. See *Blagrove v. Smith*, 701 So.2d 584 (Fla. 5<sup>th</sup> DCA 1997) Any other out-of-county examination must be approved by the Court after an evidentiary hearing and the proper record having been made. While requiring an in-county exam is not a hard and fast, inflexible rule, it is generally well within the Court's discretion. See *McKenney v. Airport Rent-A-Car*, 686 So. 2d 771 (Fla. 4<sup>th</sup> DCA 1997). Generally, if an out-of-county examination is to be conducted, the transportation and loss of work expense will have to be borne by the party requesting the examination.

A plaintiff who was a resident of Florida and who has now moved out of State, or who was a guest in State may be requested to undergo a CME. Knowing that such a request is permitted under the rules and is a normal process of litigation, attorneys for the Plaintiff should notify opposing counsel when they learn that their client is going to move out of State to allow for an examination before the party moves. A request that an out-of-state examination be done if not agreed to, will require a hearing.

Multiple factors will be considered by the Court, not the least of which is whether or not opposing counsel was notified that plaintiff was permanently moving before he/she moved. While it may be an inconvenience and an expense to plaintiff to return to Florida for an examination, it is also an inconvenience and an expense to defendant to have the defendant's examining doctor have to travel to Florida for the trial to testify. Factors such as the cooperation of Plaintiff, timeliness of the requested examination, type and availability of the physician or expert needed for the condition, whether it is an initial or subsequent or updated examination, whether it is in conjunction with a deposition or mediation that is also scheduled, and the cost as well as who will be paying the cost will be considered and evaluated. See, *Goeddel v. Davis*, 993 So.2d 99 (Fla. 5<sup>th</sup> DCA 2008) [clarifying *Tsutras* to say that the examination must be at a "reasonable place," not that it required Plaintiff to return to forum especially after he had already come to Florida for a deposition]; See also, *Tsutras v. Duhe*, 85 So2d 979 (Fla. 5<sup>th</sup> DCA 1997) If Plaintiff is out-of-state, the CME should be coordinated with a trip to Florida either for his/her deposition or mediation. The Court can award the reasonable expense of the travel if deemed appropriate.

### Persons Who May Be Present at the Examination

One of Plaintiff's counsel or a representative thereof, a videographer, a court reporter, an interpreter, if necessary, and/or if a minor, a parent or guardian, may attend the compulsory medical examination. See *Broyles v. Reilley*, 695 So. 2d 832 (Fla. 2d DCA 1997). Audio tape recordings are also permitted by Plaintiff. See *Palank v. CSX Transp. Inc.*, 657 So. 2d 48 (Fla. 4<sup>th</sup> DCA 1995). No other persons may attend without specific order of the Court. **Plaintiff's counsel will notify, in writing within 10 days of the examination, the names, relationship**

**to the plaintiff, and number of persons who will be present so that an examining room of sufficient size can be reserved.** The presence of these third parties is premised upon a requirement that they will not interfere with the doctor's examination. See *Bacallao v. Dauphin*, 963 So. 2d 962 (Fla. 3d DCA 2007). **To that end, no person present may interrupt, enter or leave the examining room during the examination, or vocalize in any matter.** No communication vocally, in writing, or in any other manner may occur between or amongst the party being examined and anybody else in the examining room except the examiner or individuals that she/he deems necessary for the examination.

If the person to be examined is not fluent in English and if the examiner is not fluent in the language of the person being examined a certified interpreter must be utilized to interpret the examination. The expense of the interpreter will be borne by the party requesting the examination.

### Number of Examinations

Generally, a party will be limited to one examination in a specialty. A second examination will only be allowed upon good cause being shown. *Royal Caribbean Cruises, Ltd. V. Cox*, 974 So2d 462 (Fla. 3<sup>rd</sup> DCA 2008). However, when there are multiple defendants, from separate accidents, and the allegation alleges that the injuries from the three accidents are "indivisible and superimposed upon one another and the plaintiff is unable to apportion her damages between them" each defendant may be entitled to a separate CME. *Goicochea v. Lopez*, 39 Fla. L. Weekly D1245b (Fla. 3<sup>rd</sup> DCA June 11, 2014) [noting that plaintiff had "pitted codefendant against codefendant."

### Videotape and Stenographic Record of Examination

As noted above, a person being examined may be accompanied by a videographer, certified court reporter, and/or interpreter. The recordings are the property of the legal representative of the person being examined and are considered work product, not discoverable without further order of this Court, unless listed as an exhibit for use at trial. See *McGarrah v Bayfront Medical Center*, 889 So.3d 923, (Fla. 2<sup>nd</sup> DCA 2004). The party requesting the examination is not permitted to record or video tape the examination. See *Prince v. Mallari*, 36 So.3d 128(Fla. 5<sup>th</sup> DCA 2010)

### Items and Information to Be Brought

The person being examined is not required to bring any medical records, diagnostic films or studies or aids or reports with him/her.<sup>2</sup> See *Franklin v. Nationwide Mut. Fire Ins. Co.*, 566 So. 2d 529 (Fla. 1<sup>st</sup> DCA 1990) (requesting party must obtain records through normal discovery process). See also *Rojas v. Ryder Truck Rental, Inc.*, 641 So. 2d 855 (Fla. 1994) (proper for injured party to sign appropriately limited release for out-of-state medical records where subpoenas have been ignored). The person being examined should have a form of identification to verify their identity if requested. If a patient information sheet was forwarded to counsel for the party to be examined at least 7 business days before the examination, the party to be examined should bring the completed information sheet with them.

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<sup>2</sup>If the original records, films or other diagnostic aids are in the actual possession of the party, or his/her guardian, being examined, those records would have to be produced at the time of the examination upon proper written request.

The examining physician may question the party about entries made on the form regarding medical issues. See *Bozman v. Rogers*, 640 So. 2d 180 (Fla. 1<sup>st</sup> DCA 1994) (court could require party being examined to provide all “appropriate” information by filling out forms and answering questions at CME).

The party being examined will not be required to provide information as to when or why they retained counsel. Further, while they will not be required to respond to questions regarding who was at fault in the accident, they will need to respond to inquiry from the healthcare provider regarding the mechanics of the accident or incident and their body movements within the vehicle or at the time of the incident. They will be required to provide their medical history without limitation as to time frame and a work history with regard to the physical attributes and activities of their present and past occupations and hobbies.

### Limitations on Examination

The examiner will be limited to non-invasive procedures unless a prior order from the court has been obtained and will further be limited to the extent of the examination that was set forth in the “Request for Examination” and/or Order allowing the examination. Neither an examination nor subsequent opinions resulting from the examination outside of the examiner’s specialty will be permitted.

### Times for the Examination

While an expert’s time is valuable, so is the time of the party who is being examined. The party being examined should arrive no later than 15 minutes before the start time of the examination. Examinations which have been scheduled for a specific time should commence within 30 minutes of that time. The party who was to be examined will be free to leave the examiner’s office if she/he has not been called in for the examination after having waited for 30 minutes from the published start time of the examination.

### Expert Reports and Anticipated Discovery and Testimony

#### Subpoenas

Retained experts must be produced for discovery deposition without the necessity of a subpoena. If specific items are to be brought to the deposition by the retained expert witness, opposing counsel must be notified in writing sufficiently in advance of the deposition pursuant to time limits set forth in Rule 1.310, *Fla.R.Civ.Pro.* in order to produce said items or documents. Otherwise, unretained experts are required to be produced.

All experts should be under subpoena for trial. The Court cannot force a witness to appear who is not under subpoena.

## Written Reports

Pursuant to *Fla. R. Civ. P.* 1.360(b) a “**detailed written report**” will be issued by the examining physician or healthcare provider **and provided to all counsel no later than 14 business days after the day of the examination**. As noted in the rule, “...if an examiner fails or refuses to make a report, the court may exclude the examiner’s testimony if offered at the trial.”

The party requesting the examination shall also provide to opposing counsel, at the time the examination is scheduled, no less than three dates when the examiner will be available for oral deposition. Should any of the dates be within 14 days of the examination the above referred to report shall be provided to deposing counsel no later than 5 days before the deposition date.

No report under *Fla. R. Civ. P.* 1.360 will be admissible at trial absent a stipulation by the parties.

## Opinions Not Contained in Written Reports

Experts rendering opinions under this rule will be prohibited from expressing opinions, diagnostic impressions, causation opinions and other conclusions that are not contained within the written report. Any changes of opinions or conclusions based on new information must be made known to opposing counsel immediately, a revised or supplemental report provided and dates for updated depositions must also be provided. At trial, failure to have taken all immediate, timely and reasonable steps to advise opposing counsel of changes in experts’ opinions or conclusions will mitigate against allowing such testimony. See *Office Depot v. Miller*, 584 So. 2d 587 (Fla. 4<sup>th</sup> DCA 1991).

## Expert Fees and Charges

The Court will not require counsel to tender fees for discovery or trial testimony in advance of or as a condition of the examiner appearing. However, the Court does require full payment to be remitted to the examiner no later than 10 business days from receipt of the invoice from the examiner’s office.

The retaining party is free to compensate an expert witness any amount they deem appropriate or any amount which they have agreed by contract to pay. The Court will only require opposing counsel to pay a reasonable fee for the time reserved or the time used whichever is less. If counsel and the examiner can agree on such a fee, that fee will apply. If no agreement can be reached, the Court will, upon proper motion and hearing and notice to all parties of interest, including the examiner, establish a reasonable fee for the services. In some cases, this may involve an evidentiary hearing as to the reasonable amount of the fee and the time expended. Be sure to advise the Judicial Assistant as to how much time will be needed. See *Fla. R. Civ. P.* 1.390(c)

# **APPENDIX**

## **DIVISION L FORMS**

***Judge Herr's Virtual Hearing Instructions***  
***(FOR PRE-TRIAL CONFERENCES ONLY, ALL HEARINGS ARE IN PERSON ONLY)***

Judge Herr's pre-trial conferences are held via Microsoft Teams. His virtual courtroom is accessible via the link or QR code below, or by typing <https://fl18.org/b> into Microsoft Edge or Google Chrome web browser<sup>1</sup>. Please copy and paste this link and QR code on your Notice of Hearing.

**JUDGE HERR'S VIRTUAL COURTROOM:**

<https://fl18.org/b>



At the designated time that your case is noticed for hearing, you will enter the virtual lobby by clicking the link or scanning the code. Please understand that often, multiple hearings are set for the same time. You will be called to enter the virtual courtroom once the Judge is ready for your hearing.

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<sup>1</sup> Safari will not work with Microsoft Teams; if you are connecting through Apple products you will need to download the free app. For emergency purposes only, if you cannot connect, the backup telephone line is +1 386-310-1754; conference ID: 551 860 825#



***FORM***

***Evidence Index***

**CASE NO. (YYYY-DR/CA-#####)  
CASE STYLE (i.e., JONES v. SMITH)**

**HEARING DATE (MM-DD-YYYY at XX:XX a.m. / p.m.)  
DOCKET NUMBER AND MATTER HEARD (i.e., Docket No. 48  
Petitioner's Motion for Temporary Relief)**

**Petitioner's / Respondent's / Plaintiff's / Defendant's Exhibits**

<b>EXHIBIT IDENTIFIER</b>	<b>EXHIBIT DESCRIPTION</b>	<b>BATES NUMBERS (if using bates numbering)</b>	<b>ENTERED INTO EVIDENCE AS (leave blank for Court)</b>

**FORM**

**Notice of Compliance re: Evidence for Hearings**

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR SEMINOLE COUNTY, FLORIDA

PARTY A,  
Petitioner / Plaintiff,

and

CASE NO.: 2021-DR-123456

PARTY B,  
Respondent / Defendant.

\_\_\_\_\_/

**NOTICE OF COMPLIANCE WITH DIVISION L EVIDENTIARY  
HEARING PROCEDURES**

COMES NOW Party A, and files this Notice of Compliance with Division L Evidentiary Hearing Procedures, and states that on COMPLIANCE DATE (MM-DD-YYYY), the day of the hearing in this matter scheduled for HEARING DATE (MM-DD-YYYY) at TIME (XX:XX a.m. / p.m.) three (3) physical copies of the evidence to be relied upon by Party A was hand-delivered to the Court; 1 for the Judge, 1 for the Clerk & 1 for opposing party/counsel and digital copies of the evidence was emailed to the opposing party/counsel at least seven (7) days prior to the scheduled hearing.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail or via the e-filing portal to the parties listed below on DATE OF SERVICE (MM-DD-YYYY):

PARTIES SERVED

\_\_\_\_\_  
Signature of Counsel for Party or  
Party if unrepresented

## **FORM**

### **Checklist for Motions to Compel for Short Matter Hearings**

*(Examples in italics)*

<b>NAME OF REQUEST</b>	<i>Production of Documents</i>
<b>DATE OF REQUEST</b>	<i>September 1, 2021</i>
<b>DATE RESPONSE DUE</b>	<i>October 1, 2021</i>
<b>DATE OF GOOD FAITH ATTEMPT TO RESOLVE</b>	<i>October 5, 2021</i>

<b>REQUEST IDENTIFIER</b>	<b>REQUEST DESCRIPTION</b>	<b>RESPONSE</b> (Leave blank if none)	<b>COURT'S RULING</b> (Completed at hearing)
<i>No.1</i>	<i>Last 3 yrs. Tax Returns</i>	<i>Last 1 year</i>	
<i>No. 5</i>	<i>Last 3 yrs. Checking Acct. Statements</i>	<i>Last 3 months BOA Last 1 year Suntrust</i>	