

**Honorable Sherwood Coleman**

*Section 3 – Probate*

*Division 315 Court Street,*

*Room 417*

*Clearwater, FL 33756*

*727-464-3933*

Email for Section 3 - [Section3@jud6.org](mailto:Section3@jud6.org)

**Practice Preferences**

*(as of June 15, 2021)(amended as to 11-E  
Guardian’s Petition for Approval to Sign  
Order Not to Resuscitate)*

<b>INDEX</b>	<b>PAGE</b>
<b>1. Contacting the Judges Office</b>	2
<b>2. Bonds – Estates</b>	2
<b>A. Bond Schedule</b>	3
<b>B. Waiver of Bond</b>	3
<b>3. E-Filing</b>	4
<b>4. Ex Parte</b>	4
<b>5. Extensions of Time</b>	5
<b>6. Guardianship and Trust / Guardianship Fee Petitions*</b>	6
<b>7. “Homestead” or “Exempt” Property Sales prior to Expiration of Creditor’s Period</b>	6
<b>8. Judicial Review of matters forwarded by the Clerk - Getting your orders signed quickly</b>	6
<b>9. Motions for Rehearing</b>	7
<b>10. Order Checklists, Order to File Required Documents, Orders to Show Cause and Orders Disapproving (Guardianship) Reports – Written Response Required</b>	7
<b>11. Guardianship Petitions for Authority to Act and Waiver of Requirements (Certificate of Service and Types of Petitions)</b>	8
<b>A. Sale of Real Property</b>	8
<b>B. Sale of Vehicles</b>	8
<b>C. Approval for Medicaid Planning</b>	8
<b>D. Payment of Certain Expenses in Minor Guardianships</b>	9
<b>E. Purchase of Vehicles for Minors</b>	9
<b>F. Waiver of Educational Requirements in Guardianships</b>	9
<b>G. Obtaining Approval to Sign Order Not to Resuscitate</b>	11
<b>12. Notice (Due Process Requirements)</b>	13
<b>13. Pre-Trials and Non-Jury Trials</b>	13
<b>14. Priority Matters</b>	13
<b>15. Proposed Orders and Proposed Amended Orders</b>	14
<b>16. Scheduling and Cancelling Hearings</b>	15

<b>17. Substitution and Withdrawal of Counsel</b>	<b>17</b>
<b>18. Telephonic Appearances and Testimony</b>	<b>17</b>
<b>19. Uniform Motion Calendar (UMC)</b>	<b>17</b>

## 1. **CONTACTING THE JUDGE'S OFFICE:**

This Judge's office communicates primarily via e-mail for scheduling. Please make sure [Section3@jud6.org](mailto:Section3@jud6.org) is added as a contact to guarantee receipt of messages. **Do not email the Judge directly.** Emails are only to be sent to the Section 3 email.

FORMAT: Emails should include the case number, case name and brief reason for the email in the subject line (ex: 15001234ES Smith – request for hearing times).

The Judicial Assistant (JA) cannot answer your legal questions or provide legal advice. Sometimes a legal assistant or attorney will ask the JA how she thinks the Judge will rule or what the Judge's "policy" is regarding certain legal issues. Judge Coleman's judicial preferences are addressed in this document. The only "policy" of the Judge is to follow the law. **Other than as set out in this document, your opportunity to speak to the Judge happens in court only, not through a message delivered by the JA.**

If you are inquiring as to entry of an order, first check the online docket of the Clerk of Court to make sure it has not already been entered. Next, contact the Clerk's office to determine the status. The clerk may not yet have reviewed the relevant documents or may have the case pended before it is sent to the Judge's office for review (usually because of missing documents). Once the case is sent to the Judge, the turn-around time is typically very quick, usually no more than a day. If the order(s) cannot be signed at that time, the Judge will either forward the case to the JA for further action or return the case to the Clerk for preparation of an Order Checklist. *Please do not call the Judge's office to inquire about the status of orders unless you have confirmed with the Clerk that the case has been sent to the Judge.*

It is expected that attorneys and their legal staff as well as self-represented parties will be polite and courteous in their contact with the JA and the Judge. It is also expected that all attorneys and self-represented parties adhere to Administrative Order 2015-052 PA/PI-CIR RE: PROFESSIONALISM COMMITTEE AND STANDARDS OF PROFESSIONAL COURTESY.

## 2. **BONDS - ESTATES:**

In setting an appropriate bond, the Judge evaluates the circumstances of each case and considers the unofficial bond schedule developed many years ago by Judge Thomas E. Penick. Typically, the minimum bond set is \$18,000 as that is the highest bond available for the minimum bond premium; i.e., it costs the same for a bond of \$18,000 as it does for a bond of a lesser amount. The bond schedule has been adjusted to reflect that minimum and is set out below.

**A. Bond Schedule:**

<b>Estate Gross Value:</b>	\$0 – \$75,000 *	\$75,001 – \$100,000	\$100,001 – \$175,000	\$175,001 – \$250,000	\$250,001 - \$500,000	\$500,001 - Unlimited
<b>Bond:</b>	\$18,000	\$25,000	\$35,000	\$50,000	\$75,000	\$100,000 minimum**

\* Every wrongful death estate will have a minimum bond of \$18,000.

\*\* Do multipliers of \$100,000 for each \$500,000 of estate (i.e. \$1,100,000 estate calls for a bond of \$225,000).

Typically, the value of exempt assets and homestead property is excluded from the total amount of assets in determining the bond. **It is recommended that you propose a bond amount in accordance with the bond schedule.**

**B. Waiver of Bond:**

The bond exists to insure the performance of the Personal Representative (PR) to both beneficiaries and creditors and only in exceptional circumstances will it be waived. Examples of those circumstances include cases in which the proposed PR is a licensed attorney or cases in which all beneficiaries consent to bond being waived and the decedent has been dead for more than two years.

If you wish to seek that bond be waived, e-file a petition setting out the specific facts of your case that merit consideration for waiver of bond. Petitions to Waive Bond are routinely denied which merely state “boilerplate” language that doesn’t explain the facts and circumstances of the case. A commonly unsuccessful practice is the filing of a Petition to Waive Bond which makes the following bare allegation:

*“The value of the estate, the relationship of the PR to the beneficiaries, the exempt property and any family allowance, the type and nature of the assets, known creditors and the liens and encumbrances on the assets, if any, are such that no bond should be required.”*

Missing from the allegations in these failed petitions are the actual circumstances of the case. The court is left with the following questions: *What is* the value of the estate? *What is* the relationship of the beneficiaries to the PR? *What are* the type and nature of the assets? *Who are* the known creditors and what are they owed? And so on. Unless specific facts are included, these petitions are routinely denied.

3. **E-FILING:**

Please review [Administrative Order 2016-018 PI-CIR](#) (“AO”). Pursuant to the AO, all pleadings including proposed orders must be electronically submitted through the Florida Courts E-Filing Portal. **Numbered paragraph 4 of the AO lists those original which must be filed with the Clerk of Court.**

*The Judge’s office cannot accept any documents for filing with the Pinellas County Clerk of the Circuit Court or checks for certified copies of orders. You must send those documents directly to the Clerk of Court.*

**In all but the most exceptional circumstances, documents must be e-filed and posted on the docket before the court will take any action.** Notifications that e- filings are “accepted” are not the same as documents being processed, reviewed and posted on the docket by the Clerk’s office.

Please also note that even though you have e-filed a pleading, it does not mean that the pleading will be automatically forwarded to the Judge. There are several essential processes the Clerk’s office performs before documents are forwarded to the Judge.

4. **EX PARTE:**

“Ex parte” time with the probate Judge has been a practice in this circuit for many years. Traditionally, it has been used as a time for attorneys to “troubleshoot” **uncontested** cases. “Ex parte” refers to a judicial act that is done by, for, or on the application of one party alone. **It is unethical for the Judge and an attorney to meet without notice to any adversarial parties in the case.** The process of setting up ex parte appointments set out below exists, in part, to allow the Judge to review the attorney’s request and the case docket in advance of the proposed ex parte meeting to determine whether he can ethically converse with the attorney about his or her case via ex parte.

Ex parte time with the Judge is by appointment most Wednesday mornings from 10:00 am – 11:00 am, typically by phone. To schedule an appointment, please send an email to [Section3@jud6.org](mailto:Section3@jud6.org) for ex parte dates. In most cases, the electronic case file will be

previewed by the Judge and in some circumstances, the Judge may be able to resolve your problem without the need of the ex parte conference.

Occasionally, you may receive an email from the JA requesting that an Ex Parte Appointment be scheduled. This contact typically occurs after the Judge has reviewed a file and has questions for the attorney. You will be provided with the next available ex parte dates along with the *Ex Parte Appointment Request Form* to complete and then copy & paste (not PDF) the request form back in the return email. The JA will provide a confirming email of your ex parte appointment.

If you are requesting an ex parte appointment to discuss an Order Checklist you received, you must first e-file a written response to the checklist for the Judge to review (**see Preference #10**). The Judge may be able to resolve the problem upon review of your written response.

Please provide the most direct number for the Judge to call. If you are not available when the Judge calls, you will need to schedule another appointment.

#### 5. **EXTENSIONS OF TIME:**

The court reviews and rules on many Petitions for Extension of Time every day. Every Petition for Extension of Time must include the reason(s) the extension is needed. Petitions which simply state that “more time is needed” are insufficient. The Petitions must allege **why** more time is needed.

Attorneys should submit proposed orders for extension of time containing no blanks; i.e., the proposed time of extension must be included in the proposed order. (It is a time consuming process for the Judge to electronically fill in blanks on orders.) If the Judge does not agree with the relief sought, the Judge may change the language of the order, ask that a new order be submitted, or deny the order but the attorney must submit the order contained the proposed extension sought.

Petitions which seek a reasonable extension and provide a facially legitimate reason are granted without hearing. Because of this process, occasionally an objection is not docketed until after the order is entered. In these circumstances, the Judge may rescind the order of extension or may treat the objection as a motion for reconsideration.

**6. GUARDIANSHIP AND TRUST/GUARDIANSHIP FEE PETITIONS:**

All fee petitions in guardianship cases are reviewed by the Magistrate's office. Once the fee petition has been e-filed and processed by the Clerk's office, it will be forwarded to the Magistrate's office for review. If there are any questions or problems with the petition, the Magistrate's office will contact you. **Please note that fee petitions are pending for a 25 day objection period.** Fee petitions are not routinely set for hearing. When the order is ready for signature, it will be forwarded to the Judge.

With respect to fee petitions, review and ruling is facilitated by including in the certificate of service those interested parties and next of kin identified to the Court in earlier filings and/or explaining why they are no longer appropriately served in the petition or the certificate itself. Additionally, all parties," or "attorneys of record," or "individuals as set forth in the eportal" are not acceptable forms of identifying those served. You may; however, note "Copies to: The Attached Service List," which service list shall contain the eservice address to which the Order will be sent or the address if an eservice address is not available.

It is the policy of this court to require that the guardianship fee petition process be followed in cases where the court has established a trust within a guardianship (typically for Medicaid planning purposes) and guardianship assets have been transferred to that trust. In these cases, the fees of the trustee and the attorney for the trustee must be reviewed by the Magistrate's office and approved by the court in the same manner as guardianship fee petitions.

**ALL PETITIONS AND PROPOSED ORDERS FOR GUARDIANSHIPS AND PROBATE SHALL FOLLOW THE NOTICE AND SERVICE REQUIREMENTS TO NEXT OF KIN AND INTERESTED PARTIES UNDER THE STATUTES AND RULES AT A MINIMUM.**

**7. "HOMESTEAD" OR "EXEMPT" PROPERTY SALES PRIOR TO THE EXPIRATION OF CREDITOR'S PERIOD:**

Creditors of the estate have the right to object to petitions that may result in a determination that property is exempt from their claims. Nevertheless, the court recognizes that there may be an emergent need to conduct a sale prior to the end of the creditor period. Therefore, the court will consider petitions to sell property which PRs will eventually seek to determine to be "homestead" or "exempt" as long as the proceeds are held in escrow or trust until such time as the creditors have been ascertained and are noticed of the petitions to determine property to be protected from their claims. **The proposed orders authorizing any sales prior to the expiration of the creditor period must not contain any language stating that the court finds the property to be exempt or to be the homestead of the decedent or otherwise protected from claims**

of creditors.

**8. JUDICIAL REVIEW OF MATTERS FORWARDED BY THE CLERK - GETTING YOUR ORDERS SIGNED QUICKLY:**

The Judge normally receives 50-100 cases per day from the Clerk requiring review. These cases must be addressed by the Judge in between hearings, trials and emergencies. Many matters can be handled quickly but some require extensive review of the court file by the Judge. **In most circumstances, lengthy review by the Judge would not have been necessary had the attorney supplied the information needed either in the petition itself or by writing a letter to the Judge explaining why the order being sought to be entered is ready to be signed. Either the petition for the relief or the cover letter should act as a “roadmap” for the Judge which shows**

**why the proposed order is ready to be entered. Information for which the court typically has to conduct a time-consuming search includes whether the creditor period has passed, whether claims have been filed, and whether interested parties have been formally noticed or have consented to the order being entered. Providing this information, as well references to other important information in the court file, either in the petition itself or by separate letter, will result in your proposed orders being signed quickly and is greatly appreciated by the Judge.**

**9. MOTIONS FOR RECONSIDERATION OR MOTIONS FOR REHEARING:**

Such Motions are not set for hearing without review by the Judge. You must electronically file the motion with the Clerk. While the Clerk’s Office should forward the motion to the Judge for review, a copy of the motion should also be sent to the JA via US Mail as well to ensure that it comes to the Judge’s attention. If the Judge determines a hearing is required, the JA will contact the moving party to schedule the hearing.

**10. ORDERS TO FILE REQUIRED DOCUMENTS (“ORDER CHECKLISTS”), ORDERS TO SHOW CAUSE AND ORDERS DISAPPROVING (GUARDIANSHIP) REPORTS – WRITTEN RESPONSE REQUIRED:**

Attorneys often have legitimate reasons to disagree with various orders setting out requirements or can demonstrate they have already complied with the requirements. In all of these circumstances, the attorney must electronically file a written response to the particular order stating why the attorney should be excused from, or has complied with, the requirement.

Neither the attorney nor any member of his or her staff should contact the Judge’s office by telephone or email to “explain” the circumstances or ask the Judge for reconsideration.

The court will have the opportunity to consider any explanation or request for reconsideration in its review of the electronically filed written response. The Clerk's office will forward the written response to the court for its consideration as well as any "Priority Request" that has been made. (See number 14 below regarding "Priority Matters.")

11. **GUARDIANSHIP PETITIONS FOR AUTHORITY TO ACT AND WAIVER OF REQUIREMENTS:**

**CERTIFICATE OF SERVICE FOR PETITIONS FOR AUTHORIZATION TO ACT**

It is essential to comply with the requirements of 744.447 including Section (2). Except for petitions to authorize sale of perishable or rapidly deteriorating property, notice of petitions for authorization to act “shall be given to the ward, the next of kin, if any,” and to interested persons. Notice need not be given to a ward who is under 14 years of age or who has been determined to be totally incapacitated.

**In order to comply with this Statute, the Certificate of Service shall either show that the required people were served or, if appropriate, should indicate that there are no known next of kin or that the ward is under 14 or is totally incapacitated.**

**TYPES OF PETITIONS**

Contents of petitions seeking the court to authorize or approve of actions of PRs or guardians should be as thorough and specific as possible. It is difficult for the Judge to take the time to search through the court file to find information which should have been included in the petition. Examples are set out below:

A. **Sale of Real Property:**

In guardianship cases, sufficient evidence of the market value of real property is required. In most circumstances, mere reference to records of the Pinellas County Property Appraiser is insufficient. An appraisal or a market analysis by a real estate professional is necessary unless there are exceptional circumstances. In estate cases, if all interested parties consent to the sale of the property at a particular price, typically the court will not require evidence of value.

B. **Sale of Vehicles:**

In guardianship cases, a petition to sell a vehicle should include reference to the market value of the vehicle by some generally recognized source such as Kelley Blue Book or Edmunds. If the vehicle is being sold by the guardian through a bidding process, the petition should include an explanation of how it was advertised for bid or how bidders were chosen. In addition, in most cases, either a bid or written statement declining to bid must be included from a generally recognized dealer such as CarMax.

C. **Approval for Medicaid Planning:**

Petitions seeking authority to act related to Medicaid planning should contain as much information as possible including, but not limited to, the amount of the ward’s assets and monthly income, whether or not any known beneficiaries of the

ward's estate have been made aware of, and agree with, the plan, and the types of actions that will be taken in the process including whether a personal services contract is included and, if so, the general terms of the contract.

**D. Payment of Certain Expenses in Minor Guardianships:**

*“Support” Expenses:* In many minor guardianship cases, authority is being sought to pay expenses of the minor from guardianship funds. Parents have a legal obligation to support their minor children. Thus, in circumstances in which the expenses sought to be paid involve such things as clothing, tuition, medical, dental and orthodontic care, the petition must be supported by information demonstrating to the court why the expenses should be paid by the guardianship rather than the parent. In most of these cases, the parent(s) having the support obligation are also the guardian(s) seeking the expense payment. If the reason that guardianship funds are sought is that the parent(s) cannot afford the expense, detailed information must be provided demonstrating that allegation. Specifically, information regarding the income and expenses of the parent(s) must be included by either affidavit or verified petition. One means of providing this information is for the parent(s) to complete and file a simplified family law financial affidavit.

**E. Purchase of Vehicles for Minors:**

Authority is often sought to purchase vehicles for children. Unfortunately, many parent/guardians make the decision to purchase a vehicle in advance and then ask the court to approve it after the fact. In some cases, these retroactive petitions are denied. In representing clients, it is important for attorneys to make it clear to guardians that automobile purchases, like most other expenses, require advance approval. The court takes many factors into consideration in weighing the decision to approve purchase of a vehicle but, of course, the cost of the vehicle in relationship to the total amount of assets is important. In addition, the court considers whether the proposed vehicle appears to be a reasonable choice for the child. In some cases, the court is willing to consider authorizing a maximum purchase price in advance and then allowing the guardian the discretion to select a vehicle that does not exceed that price.

**F. Waiver of Educational Requirement in Guardianships:**

The court will rarely consider waiving the educational requirements for guardians. If all funds are to be held in a designated depository throughout the existence of the guardianship, the court may waive the requirement. However, if, at any point, the guardian seeks release of any of the depository funds during the course of the guardianship, the court may withdraw the waiver of the educational requirement. When seeking a waiver of the educational requirement, the guardian should submit an affidavit which sets out his or her understanding of basic guardianship principles relating to inventory, accountings and court approval of expenditures of funds.

G. **Obtaining Approval to Sign Order Not to Resuscitate:**

Pursuant to §744.441(2) a plenary or limited guardian may seek court approval to sign an order not to resuscitate. If required by exigent circumstances, the court must hold a preliminary hearing within 72 hours after the petition is filed and: (a) rule on the relief requested immediately after the preliminary hearing; or (b) conduct an evidentiary hearing not later than four days after the preliminary hearing and rule on the relief requested immediately after the evidentiary hearing. Before drafting an filing such a petition, counsel for the guardian should review both this statute and Rule 5.630 which was revised in December 2020 to address the contents of a petition under the statute.

These petitions are frequently filed under the most urgent of circumstances and if it is an emergency should be accompanied by a Priority Request to expedite processing and include “DNR” in the title. Counsel should expect the possibility of a telephone call to get additional information and/or coordinate hearing time. If the Petition or attachments include the Ward’s medical records, consider filing a “**Motion to Determine Confidentiality of Court Records**” (See Rule 2.420 (e)) and proposed Order. A person’s medical records enjoy a confidential status. First the right to privacy contained in Art. I § 23, Fla. Const., second, § 456.057(7)(a), Fla. Stat. and third § 90.503(2), Fla. Stat. all provide a basis for medical records to remain confidential. And, also consider Judicial Administration Rule 2.420 records pertaining to Baker Act, substance abuse services, tuberculosis, specific Guardianship reports, if applicable.

**12. NOTICE (DUE PROCESS REQUIREMENTS)**

See Section 11, above, regarding notice requirements for petitions for authorization to act in guardianship cases.

Attorneys should be familiar with applicable notice requirements including, but not limited to, Fla. Prob. R. 5.040 and 5.041. Generally, interested persons are required to receive appropriate notice of relief sought. Thus, every petition or motion should contain a certificate of service stating who has been served and the date and manner of service. If there are no interested persons, it must be so stated in the petition or motion.

In most cases, a hearing will be required when interested persons have been noticed. However, if formal notice is served on all interested persons in accordance with Fla. Prob. R. 5.040 and no objections have been filed, a hearing is typically not necessary. When hearings are necessary, if counsel does not believe anyone will appear, the matter may be set on the UMC Calendar (see number 19 below).

**13. PRE-TRIALS AND NON-JURY TRIALS:**

A Case Management Conference (CMC) will be scheduled for a minimum of 30 minutes. At the CMC, the Judge will schedule the Pre-trial Conference and Non-Jury Trial, if necessary. Please send an email to [Section3@jud6.org](mailto:Section3@jud6.org) to request hearing time for a CMC (to set pre-trial and trial dates).

**14. PRIORITY MATTERS:**

When a Priority Request is filed, it will be forwarded to the Judge for review along with a form which the Judge will use to indicate whether or not the request is "Approved." If the Judge approves the request, the case will be reviewed by the Clerk on a priority basis. If the Judge does not approve the request, the case will be reviewed in the order of the filing of all cases. The process set out below is also posted on the Pinellas County Clerk of Court website [www.pinellasclerk.org](http://www.pinellasclerk.org) and click on Attorneys' Page. Priority Requests shall include the following information:

**CASE STYLE/NUMBER**

**TITLE:** Title of document shall be "PRIORITY REQUEST"

**CONTENTS:**

The document shall contain a detailed and specific explanation of why the case should be given priority over all other cases accepted for filing. Brief statements

such as “real estate closing” are insufficient and will not be approved. If the basis for the priority request involves the sale of real estate, the reason for any alleged urgency must be set out in detail. Delay on the part of a real estate agent, beneficiary or attorney in preparing documents is not a sufficient basis for a priority request. There must be circumstances that cannot be addressed by an extension of a sales contract.

If, for example, the request involves the need for documents to be signed because a proposed Personal Representative is traveling from out of state to Florida, explain why the trip must occur at a specific time and why documents could not have been prepared earlier thereby avoiding the need for a priority. Proposed Personal Representatives should be routinely advised by counsel at the earliest opportunity of the amount of time it takes for cases to be processed and their need to wait to plan a trip to Florida until the Order Appointing Personal Representative and Letters of Administration have been signed. There may be a valid priority for cases involving travel by a Personal Representative to tend to property which is perishable or rapidly deteriorating. If so, the nature of the property and the circumstances requiring urgency must be described in detail.

If a Priority Request is being made because the Judge is awaiting the documents, the specific date and manner of communication of this circumstance must be stated; e.g., “Judge told attorney during hearing on [state type and date of hearing] to file a Priority Request when these documents were filed.” Or, e.g., “Judge’s Judicial Assistant instructed me on [date] [in person at the court house or in a telephone conversation or by email, etc.] to file a priority request regarding [explain].”

## **SIGNATURE**

The Priority Request Form must be signed by the attorney or pro se party. Any form not signed, will not be approved. Further, information below the signature shall include the typed name of the individual who signed, street address, email address, telephone number and, if applicable, bar number.

### 15. **PROPOSED ORDERS AND PROPOSED AMENDED ORDERS:**

#### **A. PROPOSED ORDERS should be electronically submitted via the Florida Courts E-Filing Portal.**

Proposed orders should be filled out as completely as possible. Because of the electronic signing process, the filling in of blanks by the Judge is a very time consuming process. Only in exceptional circumstances should there be any blanks in the body of

the order for the Judge to fill in. Attorneys should submit proposed orders containing the relief that is sought. For example, when seeking an extension of time, the proposed order should include the proposed time being sought. If the Judge does not agree with the relief sought, the Judge may change the language of the order, ask that a new order be submitted, or deny the order.

With regard to the placement of the date and signature, the electronic signing system includes the full date as well as the Judge's name and status as a circuit court Judge. Thus, your proposed order should NOT contain multiple blanks for the date to be entered nor should it contain any reference to the name of the Judge. The following format should be used:

## **ORDERED**

---

If you are submitting a proposed order from a hearing, please electronically submit the proposed order along with a cover letter to the Judge to advise the proposed order is from a hearing on "X" date and that the proposed order has been approved by opposing counsel, if any. If you need the order on an expedited basis, you must also e-file a priority request along with the proposed order. If opposing counsel does not agree to the proposed order, please also file a cover letter so indicating and stating that opposing counsel will file an alternative proposed order within five days if desired. Of course, your cover letter should also be sent to opposing counsel.

**B. PROPOSED AMENDED ORDERS** must normally be submitted with a properly filed Petition to Amend Order. However, in cases involving an amendment to correct a scrivener's or other technical error, a short letter of explanation for the need of an amended order is acceptable. Proposed amended orders submitted without any written explanation in either motion or letter form will not be signed.

### **16. SCHEDULING AND CANCELLING HEARINGS:**

All scheduling is done via email. Motions must be e-filed with the Clerk of the Court and posted on the docket *prior* to requesting hearing time.

Please note that when new cases are e-filed, unless there is a Priority Request, the thorough review and audit process performed by the Clerk's office can take several weeks. When documents are missing, the Clerk's office will prepare an Order to File Required Documents ("Order Checklist") and it may not be appropriate to schedule a hearing until the required documents have been filed.

To schedule a hearing, please send an email to [Section3@jud6.org](mailto:Section3@jud6.org). The Subject Line of the email should include the Case Number, Case Name and reason for the email (ex: 15001234ES Smith – request hearing times). The body of the email should contain the following information:

- Case Number & Name;
- Exact name and date of filing of the motion(s) to be heard;
- Duration of hearing time sought;
- Name of your counsel, phone number, and who they represent;
- Name of other counsel and/or opposing counsel (if any), their phone number and who they represent;
- Names of other known parties appearing; and
- If known, names of any parties or attorneys seeking to appear by phone.

***Hearings will not be confirmed unless ALL of this information is provided.***

The information is requested in the above format so it can be copied and pasted directly to the calendar thus expediting the scheduling process.

The JA will reply to your email providing multiple hearing dates. These dates are not held pending your response so please provide multiple dates back to the JA. (Of course, if there is an opposing party, these dates must be coordinated.) The JA will then reply with confirming email as to the date and time of the hearing.

Do not send out the Notice of Hearing until the hearing time has been confirmed by the JA. Once hearing time has been confirmed, e-file the Notice of Hearing. The Judge's office no longer requires that a hard copy of the notice be sent to the office via US Mail *unless* the hearing is scheduled less than two weeks away.

You must seek permission of the Judge's office to add a motion/petition to a scheduled hearing and the motion/petition must be cleared to add with any other counsel as well. Motions/petitions that are added and noticed *without* permission of the court will likely not be heard.

Please do not cancel a hearing without notification to and by agreement of the parties. A Notice of Cancellation must be e-filed with the Clerk of Court. Please notify the JA of the cancellation by either calling the office or sending an email to [Section3@jud6.org](mailto:Section3@jud6.org) with "CANCELLATION" in the subject line. A phone call is preferable if the cancellation is within 48 hours of the hearing.

17. **SUBSTITUTION AND WITHDRAWAL OF COUNSEL:**

Fla. R. Jud. Admin. 2.505(e)(2) requires that the client agree **in writing** to substitution of counsel. Proposed Orders Approving Stipulations for Substitution of Counsel submitted *without* the written consent of the client will **not** be signed by the Judge.

The court will consider proposed orders for withdrawal of counsel if accompanied by stipulations for same signed by all parties. Otherwise a motion and hearing will be required. Also, a hearing will be required in circumstances where the attorney is seeking to withdraw from representing either a PR or a guardian unless a substitution of counsel has been filed. When the withdrawal of counsel will result in a party being without counsel, the proposed order must contain the complete contact information for the party (i.e. address, phone number, e-mail address, etc.).

18. **TELEPHONIC APPEARANCES AND TESTIMONY:**

In most cases for hearings of 15 minute duration, the attorney will be permitted to appear by phone. Telephonic appearances should be requested at the time of scheduling the hearing.

If you asked for a party to appear by phone for hearing, your Notice of Hearing must indicate which party is/parties are appearing by phone. If **more** than one party is appearing by phone, **you will need to coordinate a conference call and get all parties on the line before calling the Judge's office.** The notice needs to indicate it's a "TELEPHONIC HEARING." Otherwise, the party must call in **at the time of the hearing.** **The court does not initiate telephonic hearings.**

**Generally, telephonic testimony can only be allowed if all parties consent.** Any attorney seeking to present telephonic testimony must follow the procedure set out in Fla. R. Jud. Admin. 2.530(d).

19. **UNIFORM MOTION CALENDAR (UMC):**

UMC calendars are most Wednesdays starting at 11:00 am. Typically, cases set on the UMC calendar are those where notice needs to be given to satisfy due process requirements to interested parties but no one is expected to object. The attorney does not need to physically appear at the hearing but must be available to conduct the hearing by telephone in the event any noticed party appears. If a party appears, the Judge's office will call the attorney for a hearing. If no interested party appears at the hearing, the Judge will enter the order. The hearing may be noticed for 15 minutes. We do ask that you include on the notice that attendance is not required unless there is an objection to the petition.

You may initiate the setting of a case on the UMC calendar yourself or you may be contacted by the JA to set your petition/motion on a UMC calendar if the Judge determines that one is needed. In either case, the JA will provide specific information and scheduling instructions to the attorney's office.

In some cases, it may not be necessary to set a UMC hearing if the attorney has either formally noticed interested parties or filed their consents. Sometimes, the notices and consents of all interested parties are not easily evident to the Judge in review of the docket. If the JA has contacted you to set a UMC hearing but you believe your case does not require such a hearing, you should communicate that to the JA by email with specific references to the notices or consents of each interested person on the docket.