



HONORABLE BRIAN GNAGE
Family Law
Section C1/L/M1/EZ
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JUDICIAL PRACTICE PREFERENCES

Everyone shall treat everyone involved with dignity and respect.

EVIDENCE

RULES FOR EVIDENTIARY HEARINGS

ANY HEARING IN WHICH TESTIMONY OR PHYSICAL EVIDENCE IS GOING TO BE PRESENTED TO THE COURT

- 1. 5 DAYS PRIOR TO HEARING (between the parties):** Exchange all evidence to be presented at the hearing and exchange witness lists which include telephone numbers and email addresses.
- 2. 3 DAYS PRIOR TO THE HEARING (submission to the Court)**
The exhibits should be submitted to the Court in PAPER FORMAT.

DO NOT FORWARD LINKS FOR YOUR EXHIBITS SUCH AS GOOGLE DRIVE OR DROPBOX.

3. **3 DAYS PRIOR TO HEARING:** Email all case law anticipated to be argued to crfame2@jud6.org.

WITNESSES:

If you plan on calling witnesses, you must file a Witness List which includes their telephone numbers. The Witness List shall be exchanged between the parties 5 days prior to and emailed to the Court at crfame2@jud6.org three days before the hearing. The parties are responsible to providing Zoom login to their witnesses if approved for remote appearance.

COURT REPORTERS:

Court Reporters may be conferenced in if requested for a telephonic hearing. For Zoom hearings, court reporters will be invited to the hearing if requested.

A digital court reporter is **only** provided by the Court for injunction hearings (*domestic violence, dating violence, sexual violence, repeat violence, and/or stalking*). The Court does not provide a court reporter or digital recording for any other proceeding and it is the responsibility of the party desiring such reporting to arrange for a Court Reporter to be present for whatever hearing they believe a Court Reporter is necessary, and to be responsible for the payment for the court reporter's services. A list of Court approved Court Reporters, as well as information on how to obtain a transcript from a digitally recorded proceeding, can be found on the left side of the www.jud6.org website under "*Court Reporting.*"

PARENTING CLASSES:

All persons required to take a 4-hour parent education and family stabilization course pursuant to § 61.21, Fla. Stat., may attend the parenting class online or via distance learning without need of any motion seeking, or order granting, permission to do so.

PARTICIPANTS SHOULD ADHERE TO THE FOLLOWING GUIDELINES FOR ZOOM HEARINGS:

- A. THE PARTICIPANT MUST BE ON STABLE INTERNET AND NOT APPEAR VIA A CELL PHONE SIGNAL. This causes issues related to signal strength and also as the hearing goes on connection problems related to throttling.
- B. This is not a meeting. This is a court hearing. Dress and behave as if you were attending court in person. Pay attention to the time, as there are likely other hearings following yours and the hearing will need to conclude on time.
- C. At the start of the hearing all participants will be in a virtual waiting room, and the parties, counsel, and any court reporter, will be admitted in the virtual hearing by the presiding judge upon the start of the hearing. Do not disconnect if the proceeding does not start on time.
- D. Please “*rename*” yourself on Zoom to show your actual name, so you can be readily identified by others for your hearing.
- E. Any witnesses will be left in the waiting room/breakout room until such time as they are “*called*” to testify, at which point they will be admitted to the virtual hearing room.
- F. The same rules which apply to a hearing in person before the Court, also apply to a video hearing through Zoom.
- G. No minor children are permitted to attend, or be present in the room where any participant is attending the virtual hearing via Zoom.
- H. When speaking, remember to look directly at the webcam, not at the screen.
- I. Position the camera at your eye level or slightly above eye level, and be mindful of what is behind you as everyone participating in the hearing will be able to see.

- J. Participants should speak one at a time and pause prior to speaking in case there is any audio/video lag for any other participant(s).
- K. Participants are encouraged to mute themselves when not speaking in order to avoid any potential background noise.
- L. When a participant is speaking to another specific participant, s/he must address that participant by name each time.
- M. You may ask to show a witness a documentary exhibit which has been timely provided, in advance, to the court by sharing your screen. The parties are encourage to practice this beforehand to avoid delays during the hearing.
- N. If a party/attorney has an objection, they should state “*objection*” in a loud, clear voice, followed by a two or three word statement of the objection, and the other speaker should pause and allow the court to address the objection before continuing.
- O. **It is the responsibility of counsel, prior to the scheduled hearing, to insure not only the attorney, but the attorney’s client(s) and any witness(es) for their client:(1) have access to Zoom;(2) have access to the exhibits for which they will be testifying; and(3) are familiar with the use of Zoom.**
- P. If the proceeding is one in which the Court is required to create a record, the Court will have the digital court reporter enabled. For any other proceedings, it is the responsibility of a party desiring a formal record to obtain and provide a court reporter to attend in the manner set forth above. **No participant other than the Court is authorized to record the proceeding.** Use of any recording of this proceeding by anyone other than the Court to prepare official transcripts is prohibited. Any recording other than what is made by the Court is not the official record and may not be used in future trial or appellate proceedings.

Sometimes counsel ask to record the Court's findings and order to facilitate preparing a proposed Order. Please ask the presiding judge first.

IF YOU DO NOT HAVE A LAWYER:

The Judicial Assistant cannot answer your legal questions, and will not explain your situation to the Judge. Your opportunity to speak to the Judge happens in Court only.

The Clerk of Court has a Self Help Program for self-represented (*pro se*) litigants.

JAWS

SETTING HEARINGS:

Motions must be e-filed with the Clerk of the Court and sent to opposing counsel/self-represented party prior to scheduling a hearing. All hearings must be coordinated with opposing counsel. CMC's, Uncontested Final Hearings, Motions to withdraw and other simple matters may be set by contacting the Judicial Assistant. At the CMC hearing time will be coordinated and set by the Court if appropriate for other types of hearings.

The JAWS website includes links to [register new user account\(s\)](#) and [instructions](#) on how to use JAWS.

ALL COUNSEL/ASSOCIATED PARTIES:

It is the moving party's responsibility to confirm that all counsel/associated parties, including *pro se* parties, are in the JAWS database to ensure all parties receive emails regarding the scheduling and cancellation of hearings. Failure to comply with this procedure can result in cancellation of your hearing.

Additional email addresses for notification may be added for staff.

If a party feels the other party is unresponsive to agreeing upon a hearing date, the party should both call and email the opposing party at least three times prior to requesting the court to assist with selecting a hearing date.

CANCELLING HEARINGS:

Filing a Notice of Cancellation does not cancel a hearing with Judge Gnage. The parties shall immediately notify the JA of any cancelled hearings so that the time reserved may be used by other parties potentially. Parties wait substantial periods of time to have hearing time with the Court and untimely notice of cancellations results in lost hearing time other parties may be able to use.

JAWS ORDERS:

WHEN AN ORDER IS UPLOADED TO JAWS, AN EMAIL WILL BE SENT TO THE ASSOCIATED PARTIES. THIS DOES NOT MEAN AN ORDER HAS BEEN ENTERED. A SECOND EMAIL FROM JAWS WILL INCLUDE THE ELECTRONICALLY CONFORMED COPY OF THE ORDER WHEN IT HAS BEEN SIGNED BY JUDGE GNAGE.

Proposed orders may be uploaded to JAWS and will be signed with Judge Gnage's electronic signature. You must also upload an explanatory cover letter. All documents are to be uploaded as PDF documents. The instructions for uploading orders are as follows:

- JAWS submissions of proposed orders to the court should consist of two uploads:

- ✓ Everything but the proposed order goes in the upload location labeled “*Cover Letter*” - namely, the information that shows the judge why the order should be signed (*i.e., cover letter and motion or stipulation, plus exhibits if necessary*). **These are all uploaded as one single document.**
- ✓ The order or judgment to be reviewed and signed, **and nothing else**, goes in **second location where the title of the document must be filled in.**

It should never be necessary to make a duplicate upload. This may create many problems. *If there is a problem with uploading, contact the JAWS Help Desk, 727-453-4357.*

Do not submit proposed orders on JAWS in advance of a scheduled hearing unless specifically requested by the judge.

Helpful tips:

Your cover letter should include express confirmation by a member of the Florida Bar that the proposed order has been shared with all other parties, and that they have no objection as to its form. (*If there is an objection, submit the order via mail with an explanatory cover letter.*)

If your order is based on the judge's ruling after a hearing, state that fact, including the date of the hearing.

Electronically conformed copies will only be provided to the email addresses which have been associated to the case in JAWS. It is the responsibility of the party uploading a proposed order to confirm all email addresses have been added to jaws. The JA and the clerk DO NOT maintain the associated party data base.

NOTICE OF HEARING:

Ensure proper and timely notice is sent to all. Even with defaults, ensure all parties are copied all the time with everything. NOTICE and opportunity to be heard are KEY concerns for the Judge. Cross-Noticing on another attorney's time is strictly prohibited. **IMPORTANT: DO NOT** add a hearing or cross-notice a hearing

without approval from moving counsel and the Court. Any motion added or cross-noticed without approval will not be heard.

**PROCEDURES FOR SUBMITTING NOTICES OF HEARING,
PROPOSED ORDERS, PLEADINGS OR CASE LAW
TO THE COURT**

NOTICE OF HEARING:

Please provide a courtesy copy of the notice of hearing by email to crfame2@jud6.org.

PROPOSED ORDERS:

PROPOSED ORDERS THAT ARE AGREED UPON BY THE PARTIES SHOULD BE SUBMITTED THROUGH JAWS.

- ✓ As provided by the Standards of Professional Courtesy for the Sixth Judicial Circuit, the cover letter should state that opposing counsel/pro se party agrees or objects to the proposed Order or that opposing counsel/pro se party was given the opportunity to object to the proposed Order but did not.
- ✓ If you submit the Order by mail, please make sure to include copies of the Order for conforming and pre-addressed, stamped envelopes for all parties.
- ✓ The cover letter must show all opposing parties are copied with same. If the Order is the result of a particular hearing, reference the hearing date in the Order and cover letter.
- ✓ If there are disagreements/objections over a proposed Order, the parties must attempt to work them out before requiring further Court intervention. If the disagreements as to the form of the Order cannot be worked out, each side should submit a proposed Order with an extra copy highlighting the parts which are in disagreement together with a cover letter.
- ✓ The Court **DOES NOT** hold Orders pending objections. Additionally, the cover letter must show all opposing parties were copied.

- ✓ Proposed Orders/judgments **should not** contain blanks for the judge to fill in other than the date the judge signs. **Proposed orders/judgments containing blanks will not be signed.**
- ✓ The Judge will change any language or amounts in the Order/Judgment he does not find appropriate.
- ✓ **DO NOT** send unsigned proposed Orders to the Clerk of Court.
- ✓ Proposed Orders/judgments **should not** be submitted to the Court that contain only 1) “*DONE AND ORDERED...*” and/or 2) the Judge’s signature on the last page. Some part of the body of the Order shall accompany the Judge’s signature block.

MEDIATION:

Pursuant to Administrative Order 2006-062 PI-CIR all initial hearings on temporary relief matters in original petitions shall be automatically referred to mediation prior to a hearing on the matter. In addition, all post-judgment matters shall be automatically referred to mediation prior to a hearing. Once mediation is scheduled, a hearing may be set on the Court’s calendar to occur after the mediation.

MOTIONS TO CONTINUE:

The motion must state the length of time requested for the continuance and preferably propose a new agreed upon hearing date.

TEMPORARY MOTIONS HEARING REQUEST:

See Administrative Order 2011-006 PA/PI-CIR. All temporary motions (i.e. custody, visitation, support, etc.) **MUST** be mediated prior to a hearing being held. Hearing time on the court’s calendar on temporary matters will not be reserved until mediation has been scheduled. Temp hearings should not exceed one (1) hour except under extraordinary circumstances. To expedite the hearing, proffers are

strongly encouraged. True emergencies (see Emergency Motions) are an exception. The parties may schedule a temporary motion after the mediation is scheduled to be completed. If one party unilaterally cancels the mediation, then the non-cancelling has the option to keep the temporary motion hearing date.

SETTING PRE-TRIAL CONFERENCES AND TRIALS:

In most cases, a Case Management Conference is necessary to set a Pre-trial Conference and/or Trial. No motions will be heard at the Case Management Conference without prior approval of the Court. All parties must attend the pre-trial conference. It is assumed at a pre-trial conference that the case is ready to be tried, there are no pending motions, and discovery is completed, or is anticipated to be resolved quickly. The trial will be scheduled at the pre-trial conference. Should a pre-trial need to be reset, both parties must be in agreement in Order to get a reset date without a hearing. Otherwise, a Motion to Continue Pre-Trial should be filed and set for hearing.

PRE-TRIAL MEMORANDUM:

1. At least 72 hours prior to said pre-trial conference, the attorneys/pro se shall each file with the Clerk and serve on the Judge and opposing counsel/pro se a brief memorandum setting forth the information that is required in the order setting pretrial.

EMERGENCY AND EXPEDITED MOTIONS:

All Emergency and expedited Motions must be filed with the Clerk of Court prior to the Court determining emergency or expedited status. **Pleading should only include the words emergency and/or expedited if there is the potential for harm to one of the parties or minor children within 7 days.** The Court does not receive motions through the Portal when you check “emergency”. You must submit a copy of the Motion to the Court either by email, hand-delivery or regular U.S. mail. After review, the court may enter the Order without notice, allow a hearing to be set, may seek a written response from the opposing party, or take other appropriate action. ***IMPORTANT: The Court will accept witness affidavit(s) one day prior to hearing and/or hear proffered testimony only to determine if a full hearing is needed.***

TESTIMONY FROM CHILDREN:

Testimony from children is **NOT** permitted unless the Court grants permission after a hearing on a *Motion to Allow Child Testimony*. The Court will not automatically honor stipulations for a child to testify in Court. **DO NOT** bring children to contested hearings without prior Court approval.

ADOPTIONS/NAME CHANGES:

Adoption and name change files are reviewed by the Court's Staff Attorney prior to any final hearing being scheduled. You will be notified by the Staff Attorney if additional documentation is needed. When your case is ready for Final Hearing you will either be contacted by the J.A. or the J.A. will schedule your hearing.

NOTE: All final hearings on adoptions **must** have a court reporter present. A list of Court approved court reporters can be found on our website www.jud6.org under Court Reporting on the left-side of the screen.

SUBSTITUTION OF COUNSEL:

Rule of Judicial Administration 2.505e(2) requires the client's WRITTEN consent. Upload the cover letter, stipulation, signed consent and proposed Order to JAWS. Proposed Orders approving stipulations for substitution of counsel without the written consent of the client will not be signed.

WITHDRAWAL OF COUNSEL:

The Court may consider Motions to Withdraw as Counsel, without requiring a hearing, so long as written consent by the client is provided, as well as the opposing party's non-objection thereto *unless the motion is filed after the pre-trial*. The proposed Order **MUST** contain in the body of the Order the complete contact information for the party (i.e. address, phone number, e-mail address, etc.). If you do not have the client's written consent, then the motion must be set for hearing with proper notice to the client.

MOTIONS FOR REHEARING/RECONSIDERATION:

Provide the Judge with a copy of the motion by emailing it to the Judicial Assistant after it is filed. Do not schedule for hearing unless the court decides one is required.

DISCOVERY DISPUTES:

Counsel disputing a discovery response as deficient should first send a good faith letter to the opposing side outline the deficiencies in the responses. The good faith letter should give a reasonable time, at least two weeks, to ameliorate the deficiency. Prior to submitting a motion to compel a delinquent or alleged inadequate response to discovery, counsel must first attempt to contact opposing counsel via email and telephone. The motion to compel should include a good faith certification.

ATTORNEY'S FEES:

The Court usually reserves on the issues of both entitlement and amount. Prior to any attorney's fee hearing, the attorneys should exchange affidavits outlining the reasonable number of hours requested and the reasonable hourly fee. They should also make arrangements to meet prior to the hearing to discuss resolution and allow each other to talk with opposing experts. Fee affidavits are sufficient in lieu of expert testimony IF all parties agree to their use. All fee awards must meet the requirement of Florida Patients' Compensation Funds v. Rowe, 472 So.2d 1145 (Fla. 1985). Be prepared to have fee matters referred to mediation.

RESPONSIVE MOTIONS REQUIRED:

The Court incorporates by reference Administrative Order No. 2020-012 PA/PI-CIR for pretrial non-evidentiary motions. These specifically include Motions to Compel Discovery and Motions for Income Deduction Orders. The Court will not grant attorneys' fees if there is no hearing. Additionally, the Court may require a hearing depending on the nature of the Motions. If a party neither submits a written response, nor requests a hearing, then the party waives response.