

**Courtroom Guidelines, Procedures and Expectations for Family Cases
Assigned to Judge Paul B. Kanarek
(December 20, 2010)**

HEARINGS

Hearing time may be obtained by contacting the court's Judicial Assistant at (772-770-5052) or by e-mail to ShepkeG@circuit19.org.

1. **Setting of hearings:** Hearings must be cleared with opposing counsel or *pro se* parties. Good faith cooperation is expected from counsel, their support staff, and *pro se* litigants. Should counsel, their staff, or *pro se* litigants fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. After filing any motions or notices with the Clerk, a copy of any and all motions and notices of hearing must be immediately forwarded to the Judicial Assistant by U.S. Mail.

Additional motions should not be “piggy-backed” by cross-notice unless counsel first confirms with opposing counsel, and the Judge’s Judicial Assistant, that sufficient additional time can be reserved to hear them.

2. **Cooperation of counsel:** If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks notice to the opposing counsel who failed to cooperate.
3. **Emergency hearings:** If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. A copy of the motion must be faxed to the Court and to the opposing party or their attorney. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel for the moving party to set the hearing. The moving party will be responsible to provide notice to the other side.
4. **Appearance by telephone:** Telephone hearings are permitted as long as there is not testimony or evidence. No motion or order is necessary. All telephone appearances must be made through CourtCall, a company which provides connection between the parties and the courtroom for a flat fee. When you know the date and time of your hearing you must call CourtCall directly at **1-888-882-6878** to arrange for your appearance by phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing.**
5. **Uniform Motion Calendar** – A Uniform Motion Calendar will normally be held every Wednesday at 8:30 a.m.. All hearings must be scheduled for 8:30 a.m. Please refer to the Judge Kanarek’s calendar posted on our web site (www.circuit19.org) to confirm available dates. **You must give the opposing party notice of the hearing at least five (5) working days prior to the hearing unless otherwise agreed by the parties.**

Hearings at UMC are limited to 10 minutes per case (**not per motion**). When you attend UMC you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a “first come, first served” basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled.

Counsel who filed the motion must bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self addressed, stamped envelopes for all parties. If you want the court file at the hearing you must call the Clerk at least five (5) business days prior to the hearing and request that the file be brought to the hearing.

Copies of all hearing notices and relevant motions must be sent to the court’s Judicial Assistant five (5) working days prior to the hearing. Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted. The court will not hear motions for contempt, temporary relief or other evidentiary motions at UMC. The types of motions suitable for hearing on the Uniform Motion Calendar include Final Hearings in uncontested matters, discovery motions, motions for protective orders, motions to withdraw, motions to continue, motions for rehearing, motions to appoint experts, motions to set mediation, etc.

All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

6. Motion to Dismiss and/or Motion for More Definite Statement: The court will initially consider all Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must

strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall furnish a copy of the Motion to the Court's Judicial Assistant by U.S. mail. The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and *pro se* parties; and a cover letter showing copies to all counsel of record and *pro se* parties. If the moving party fails to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required an appropriate order will be entered. No case dispositive ruling will be made without a hearing.

7. Discovery Motions and Motions to Compel: Motions to Compel, as well as all discovery motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a **certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without court action.** *See* Fla.R.Civ.P. 1.380(a)(2).

When a motion to compel discovery alleges a complete failure to respond or object to discovery, and the time for complying with the discovery request has lapsed and there has been no request for an extension of time, an Ex Parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The movant shall submit the proposed order to the Court with sufficient copies and self addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to all parties.

8. Motions for Protective Orders: The filing of a Motion for Protective Order, without presenting it before the Court, is insufficient. The Court will make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery. Where necessary, and when possible, the Court will hear, and if possible, rule by telephone on motions that occur during depositions where a failure to do so would require the stopping of a deposition and the resetting of same depending on the Court's ruling.
9. Legal Memorandum and Citations: Any legal memorandums or briefs, along with hard copies of significant cited authorities (highlighting the pertinent sections is appreciated by the Court), should be provided to the Court at least three (3) business days before the hearing. The Court will attempt to review the motion and memorandum, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections is appreciated. Brevity is appreciated and memorandums should be kept to no more than five (5) pages in length. Case law and Memorandums provided to the Court during the hearing may not be considered. **The Court, on occasion, may rule on motions without a hearing. Therefore, both counsel**

filing the motion and opposing parties are encouraged to timely file written argument with the Court.

10. Motions for Temporary Relief: Motions for Temporary Relief in which one of the issues to be decided by the court involves time sharing for the minor children must go to mediation before the motion is scheduled for a hearing. All of the issues will be addressed at the mediation. The mediation shall be done on an expedited basis so as to not delay the temporary hearing. If either party takes any action to hinder the prompt mediation of these issues the court may impose sanctions. Upon written motion, with good cause shown, any party may apply to the court to waive mediation. Any such motion to waive mediation shall be signed by the litigant requesting the waiver as well as the litigant's attorney, if represented by counsel. All other motions for temporary relief may be scheduled for a hearing without this requirement.
11. Orders and Rulings of the Court: The Court will strive to issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling.

If counsel is asked to prepare an order, the order shall be drafted and circulated to counsel within two (2) working days of the hearing and must be submitted to the Court with a cover letter to all counsel and *Pro Se* parties within 7 days of the hearing. In the event there is an objection to a proposed order or judgment, the objecting party must submit an alternative proposed order or judgment within 5 days of receipt of the proposed order, and if not received within five (5) days, the Court will consider the objection withdrawn. Orders must describe, in the caption, the subject and ruling of the court, *i.e.* "Order Granting Petitioner's Motion for Temporary Relief" See Fla.R.Civ.P.1.100(c)(1)

Please submit proposed orders, agreed orders, or stipulations with sufficient copies for all parties and a stamped, self-addressed envelope for each. Do not put "cc: all counsel of record" at the bottom of the order. Each party shall be individually named.

The court will not execute proposed orders, agreed orders, or stipulations without a cover letter stating the action requested, that a copy was provided to all counsel of record and *Pro Se* parties; and if there is a stipulation or an agreed order that there are no objections to the entry of the order.

10. Motions for Rehearing, Reconsideration, or New Trial: Upon filing said motion the moving party shall send a copy to the Judge for review. The copy of the motion sent to the Judge shall be accompanied by generic order granting/denying the motion, with at least five lines for additional provisions, a transmittal letter showing copies to all counsel and *Pro Se* parties, and stamped, self addressed envelopes for all counsel and *Pro Se* parties. If the moving party fails to comply, any party may furnish a copy of the motion and the required documents to the Court. If the Court determines that a hearing is necessary, the movant will be advised to schedule and hearing and file appropriate notices.

11. Withdrawal or Substitution of Counsel: You must follow the provision of Fla.R.Jud.Ad. 2.505. You must obtain the client's consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.
12. Notice for Trial, Orders Setting Trial and Dockets: When you send a Notice for Trial please submit two complete sets of return envelopes. Due to the length of the trial order, please be sure that each envelope has enough postage for two (2) ounces or the Order Scheduling Trial will be returned.

The court will schedule the order of trials at the docket call. It will be the responsibility of the lawyers and *pro se* litigants to keep track of their position on the trial docket following docket call. Please note that cases set for trial will remain on the trial docket until the case is concluded. Cases will retain their priority.

13. Facsimile Transmissions: **DO NOT** send materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. The only things to be sent by facsimile are emergency matters and materials requested by the Court.
14. Settlement of Cases: If your case settles after you have received an order setting a case for trial please first immediately notify the Court's Judicial Assistant by telephone and follow up with a letter advising of settlement. This also applies to cases that are subsequently placed on the trial docket.
15. Case Management Conference: The Court will schedule certain cases for a formal Case Management Conference (CMC) and issue an order setting forth the matters to be covered at the conference. However any case can be submitted for a CMC by simply filing a written motion. Once submitted, the action will be controlled, not only by the Order Setting Trial, but also by the CMC order.
16. Bounds of Advocacy, Goals for Family Lawyers in Florida: Administrative Order 2007-13 adopts the Standards for Professional Courtesy outlined in the Bounds of Advocacy, Goals for Family Lawyers in Florida (May 2004). All parties and attorneys of record must conduct themselves in accordance with the guidelines contained therein. Additional copies are available from the court.