



19th Judicial Circuit Court Judge Michael Linn
Guidelines and Procedures

Probate Division
Guardianship Division
(Updated: February 2019)

PLEASE REVIEW ALL PROCEDURES PRIOR TO CONTACTING THE JUDGE'S OFFICE

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I. COMMUNICATIONS WITH JUDGE'S OFFICE

Please do not ask the Judicial Assistant or other Court personnel to communicate any message to the Judge. This is prohibited ex-parte communication. The Court's staff is not permitted to relay ex-parte information to the Judge.

E-MAILS:

We can best respond to all communications to this office via e-mail rather than telephone calls. **Please send all e-mails to Judge Linn's Judicial Assistant at: IRCJudge5@circuit19.org.** E-mails must contain the case name, case number, subject matter and relevant date(s). Please ensure that any and all e-mails are also copied to all opposing counsel and/or *pro se parties* and indicate same in the body of your e-mail to prevent ex-parte communication to the Court. ***It is not necessary to send multiple e-mails regarding the same subject matter. This creates confusion and takes up valuable time. A response to your e-mail will be forthcoming at our earliest opportunity.**

PHONE CALLS:

As referenced above, e-mail is the most effective method of contact with this office. If you call and receive a voicemail, please do not leave more than one (1) message for the Judicial Assistants. Please do not leave a voicemail message and send an e-mail. ***Please do not call the Judicial Assistant to ask if Orders have been entered, as this information is available online at the Clerk's office website at clerk.indian-river.org.**

***PROBATE AND GUARDIANSHIP DIVISION IS COMPLETELY PAPERLESS - This office issues Orders via e-filing only. It is the responsibility of the moving party to provide Orders to any parties without e-mail service addresses. *You are required to provide the Judge's office with the Notice of Hearing and Hearing Packet, if any, via e-mail.**

II. PROBATE DIVISION PROCEDURES:

Checklists are required for both Opening and Closing Estates. The checklists are posted on Judge Linn's web page under "Forms" on www.circuit19.org:

- 1) Opening a Formal Estate;
- 2) Closing a Formal Estate (Discharge);
- 3) Summary Administration; and
- 4) Disposition of Personal Property without Administration.

Attorneys must verify completion and correctness of the Checklists by personal signature. No signature stamps are allowed. Once the checklist is complete, the attorney's office shall submit via e-mail only:

- 1) Completed checklist;
- 2) Proposed Order(s) in Word format and;
- 3) A description of the documents being provided, as well as the action you wish to be taken.

Original documents and monies are not to be sent to the Judge's office, and the Judge's office takes no responsibility for such items.

III. GUARDIANSHIP DIVISION PROCEDURES

INCAPACITY PROCEEDINGS:

Submit in Word format via e-mail;

- 1) Notice of Petition to Determine Incapacity with the hearing date filled in, if possible (refer to and schedule using the online scheduling system);
- 2) Order Appointing Attorney/Elisor; and
- 3) Order Appointing Examining Committee. If there is information on the proposed Orders that can be filled in by your office, please do so before submitting to the Court, including Case Number and e-mail service addresses. Do not include Certificate of Service by the Clerk.

EXAMINING COMMITTEE FEES:

Pursuant to Administrative Order 2017-06 in RE: Order for Compensation of Examining Committee, this office will only accept the Order for Compensation of Examining Committee posted under “Forms” on Judge Linn’s web page on www.circuit19.org. This Order must be sent within five (5) days after the hearing for incapacity is held. Payment of Examining Committee Fees where the Ward has been found indigent: These fees are preset and must be as follows:

Physicians: \$325.00

Psychologists: \$225.00

Lay People: \$125.00

IV. CONTESTED PROBATE / GUARDIANSHIP

REQUIREMENTS FOR COURT REPORTERS:

All evidentiary matters (both trials and hearings) must be recorded by a court reporter. It is the moving party’s responsibility to arrange to have a court reporter present.

SETTLEMENT OF CASES:

If your case settles immediately notify the Court’s Judicial Assistant via e-mail, transmittal confirmation to all parties, ATTACHING AN ALREADY E-FILED NOTICE OF SETTLEMENT, DISMISSAL DOCUMENTS AND FINAL DISPOSITION FORM.

i. HEARING SCHEDULING / HEARING CANCELLATION / APPEARANCE BY TELEPHONE:

***All Motions must be e-filed PRIOR to setting a hearing, however, the mere filing of a Motion is insufficient to set a motion for hearing.** The motion must be set for hearing to bring the matter to the Court's attention. You are required to provide the Judge's office with the Notice of Hearing and Hearing Packet via e-mail.

All hearings for 4 hours or less, including Uniform Motion Calendar and Special Set Hearings must be scheduled online by counsel. Please refer to Judge Linn's calendar posted at https://slccjis.stlucieco.gov/attorney_calendar to confirm and schedule available dates. You must register to obtain your User ID and Password on the site. When registering on the site, please include your e-mail address. Parties will be restricted to the time allotted for the hearing. The Court reserves the discretion to reject any scheduling. Attorneys who repeatedly abuse the online scheduling may be denied further privileges of self-scheduling. Any hearings requiring more than 4 hours must be scheduled by contacting Judge Linn's Judicial Assistant via e-mail. The e-mail shall include a copy of the Motion already e-filed with the Clerk.

Cancellation of any hearing must be done 1) through the online Court scheduling calendar, 2) by e-filing a Notice of Cancellation of Hearing in advance of the hearing date and 3) a courtesy copy of your Notice of Cancellation of Hearing to the Judicial Assistants via email, once you have e-filed same.

Telephone hearings are permitted as long as there is no testimony or evidence to be presented. No Motion or Order is necessary. ***All telephone appearances must be made through Courtcall.** Courtcall is an independent service provider. By using Courtcall, individuals are knowingly entering into a service agreement and are subject to follow any additional terms and conditions imposed by Courtcall and shall be solely responsible for any costs or other expenses incurred for those services provided. Courtcall charges each participant a fee for each Courtcall appearance. There are no subscription fees. Telephonic appearances must be arranged by contacting Courtcall by telephone at 888-882-6878 or online at www.courtcall.com. Courtcall will provide participants with a written confirmation of their telephonic appearance and a number to call to make said telephonic appearance. Persons electing to make a telephonic appearance must notify all parties in writing no less than five (5) business days prior to the scheduled hearing date.

ii. UNIFORM MOTION CALENDAR:

Uniform Motion Calendar Hearings are for 5 to 10 minute, non-evidentiary Motions only. Uniform Motion Calendar Hearings must be scheduled online. Please refer to Judge Linn's calendar posted at https://slccjis.stlucieco.gov/attorney_calendar to confirm and schedule available dates. Uniform Motion Calendar Hearings will normally be held Tuesday through Friday from 9:00 a.m. to 9:30 a.m. All Uniform Motion Calendar Hearings must be noticed for 9:00 a.m. and the Notice of Hearing must include the date that the motion was filed.

Hearings on UMC are limited to ten (10) minutes per case (not per Motion). Additional Motions should not be "piggy-backed" by cross-notice unless counsel first confirms with opposing parties and the online calendar, that sufficient additional time is available and can be reserved for same. UMC is heard on a "first come, first serve" 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.

Contested summary judgment and evidentiary motions will not be heard at UMC. The types of Motions suitable for hearing on the Uniform Motion Calendar include simple motions, such as motions to strike affirmative defenses, amend pleadings, discovery motions, objections to CME, etc. UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default based upon a proper motion with supporting documentation, unless a party appears to contest it. In that instance, the parties must reset per the online calendar for an evidentiary hearing/trial on such matters. Any Memorandums or Supplemental Articles must be filed 7 days prior to the hearing.

iii. SPECIAL SET HEARINGS:

For Motion(s) which are not appropriate for UMC Calendar because the Motion(s) require more than the allotted ten (10) minutes for UMC but less than four (4) hours, please refer to the calendar posted at https://slccjis.stlucieco.gov/attorney_calendar to confirm and schedule available dates. You must register to obtain your User ID and Password on the site. When registering on the site, please include your e-mail address.

iv. COOPERATION OF COUNSEL AND NOTICES OF HEARING:

Hearings must be cleared with opposing counsel and/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 set forth either in the Motion or in the Notice of Hearing. After 3 days, the requesting party may

unilaterally set a hearing. Notice of the hearing must be provided at least five (5) working days prior to the hearing. All 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., Rule 1.380(a)(2). All Notices of Hearing shall contain a certification signed by the scheduling attorney 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. 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.

v. 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. The motion must be e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via Courtcall telephonic appearance if their schedule will not allow them to appear in person.