

DIVISION PROCEDURES – FM-E

EX PARTE: Involves only uncontested matters and Motions to Set for Trial and/or Motion to Set Hearings in excess of three hours. **All hearings, including ex parte hearings,** are scheduled with the Judicial Assistant. This is always done between 9:30 to 10:00 a.m. on certain dates of every month. The schedule is located on the website (<http://www.jud4.org/Ex-Parte-Procedures-and-Dates.aspx>) and posted inside Hearing Room 737. Telephonic appearances are allowed by out-of town attorneys. Ex parte dates are NOT posted on the office voice mail.

SETTING A CASE FOR TRIAL OR HEARINGS: Motions to Set for Trial and Motion to Set Hearings for greater than two (2) hours are heard during ex parte. Please do the following as applicable:

1. File a Motion to Set Case for Trial/Hearing.
2. Coordinate with opposing party or attorney to select an ex parte date which is convenient for all parties.
3. Serve the Notice of Hearing on all parties.
4. Out-of-area attorneys may appear by phone by requesting to do so.
5. Complete the Trial Memorandum Form in advance of the Motion to Set hearing, it is located on the website (<http://www.jud4.org/Ex-Parte-Procedures-and-Dates.aspx>) or is available in the Judge's hearing room.
6. The Judicial Assistant will prepare the Order Setting Case for Non-Jury Trial and Pretrial Conference or the Order Setting Case for Hearing.
7. Provide stamped, self-addressed envelopes for all parties NOT on e-service. The Court does not provide envelopes and postage.

When a case **SETTLES** prior to the pre-trial or trial date, **PLEASE, IMMEDIATELY** contact the Judge's office to remove the pre-trial and trial from the calendar. Please also file a Notice of Voluntary Dismissal with the Clerk's office to close the case.

SETTING HEARINGS: Hearings may be set by contacting the Judicial Assistant **by phone**. Please have opposing attorney on the line when you call and be prepared to provide the case number, the name of the motion to be heard (**MUST** be filed prior to calling to set for hearing), and how much time is required for the hearing. The Judicial Assistant will not resolve disputes regarding when a motion will be set.

DURATION TIMES FOR A HEARING: Motion hearings may be scheduled on either morning or afternoon calendars, commencing at 10:00 a.m. to 12:00 noon and 2:00 to 5:00 p.m.. Hearings that require more than three (3) hours of time must be approved by the Court during ex parte.

EMERGENCY MOTIONS/MOTIONS FOR REHEARING/MOTIONS FOR NEW TRIAL: The original motion must be filed with the Clerk. The Court requires a copy for review to be delivered to the office either by hand delivery, fax, or email.

Attorneys: You are expected to **carefully** consider whether the motion is a true “EMERGENCY” under the applicable case law and Rules of Procedure and Administration.

Each request will be reviewed by the Court to determine whether it is deemed an emergency. The Judicial Assistant will contact the parties or attorney(s) to set a hearing, as necessary.

COURTESY COPIES: Please submit to the judicial assistant, within two (2) days of scheduling a hearing, courtesy copies of notice of hearing, any motion, including a motion to set, any pleading to which a motion is addressed, any discovery response to which a motion is addressed, any prior court order that is related to the current motion, any proposed Consent Final Judgment or proposed Consent Order, any checklists, including the “best interest” checklist for cases involving minor children, any relevant expert witness report, any other document that pertains to the motion hearing.

EXHIBITS: Exhibits in excess of twenty-five (25) pages must be mailed or delivered to the court at least three (3) days prior to the scheduled hearing. Exhibits twenty-five pages or less may be emailed to the judicial assistant, but must be sent in one PDF, with exhibits marked clearly.

MOTION TO COMPEL:

1. Before filing a Motion to Compel pursuant to Rule 1.380, Florida Rules of Civil Procedure, or a Motion for a Protective Order, as provided in Rule 1.280(c), Florida Rules of Civil Procedure, the attorney for the moving party shall confer with the opposing party or attorney in a good-faith effort to resolve the issues raised, and shall file with the Court at the time of filing of the motion, a statement certifying that the moving attorney or party has so conferred with opposing party or attorney and that they have been unable to resolve the dispute.

2. When a motion has been placed on a Judge’s calendar, that motion may not be cancelled without the Judge’s consent.

3. As provided in Section (4) of rule 1.380, if the motion is granted, the Court shall award expenses which may include attorney’s fees.

QUALIFIED DOMESTIC RELATIONS ORDERS: In order for QDROs to be signed by the Judge, the proposed QDRO must be signed by each party and each signature must be notarized OR a five (5) minute hearing may be set with proper notice given to both parties. Simply emailing a proposed QDRO to the JA for signature without the parties' written consent is not acceptable even if you state in the email that the parties consent.

UNAVAILABILITY: Substitute Judicial Assistants are not available to cover this division during illness or vacation. When the Judicial Assistant for Division: FM-E is not present, leave a telephone message, and you will be contacted as soon as possible following the Judicial Assistant's return to the office.

LEAVING MESSAGES ON VOICE MAIL: Please include the case number, your name, phone number, and a brief message concerning your call. The Judicial Assistant will return calls as soon as possible.

SUBMITTING PROPOSED ORDERS: (Order Template can be found on the court's website, jud4.org/ex-parte-procedures-and-dates, under Judge Horkan's name)

1. All proposed orders should be drafted using 12pt, Times New Roman font, double spaced, and should be formatted to use "automatic numbering/listing". Additionally, orders that are more than one page should reflect page numbering on the bottom center of each page which indicates "Page 1 of 5" et cetera.
2. When entitling proposed Orders always designate the particular motion heard, such as "Order Denying Wife's Motion to Dismiss" or "Order Granting Husband's Motion for Contempt," et cetera. Consent Orders shall contain the word "Consent" at the beginning of the caption.
3. The attorney preparing a proposed Order subsequent to a hearing shall provide an advance copy to opposing counsel. The cover letter to be used and sent to opposing party or attorney is provided on the website (<http://www.jud4.org/Ex-Parte-Procedures-and-Dates.aspx>) under Letters for Attorneys Submitting Orders.
4. The proposed Order should then be submitted to the Court. The cover letter to the Judge is provided on the website (<http://www.jud4.org/Ex-Parte-Procedures-and-Dates.aspx>) under Letters for Attorneys Submitting Orders. **This cover letter MUST be completed and attached to all proposed orders that are submitted to the court.**
5. If ALL parties are on e-service, then you may email the proposed Order with the cover letter to the Judicial Assistant otherwise a sufficient number of distribution copies for all parties and stamped addressed envelopes must accompany the Order when submitted via United States mail.

6. The **DONE AND ORDERED** clause, along with the Court's signature line, should be on the same page. If the last page contains only the date line and/or Judge's signature line it must have the title of the Order and the case number on it also.
7. Full names and complete addresses/e-service address of counsel/parties to whom copies are to be provided should be included on the last page.
8. Should the Court request complex Orders to be submitted via email, they need to be formatted in Word.
9. The signature line and the day, month and year of the Order shall all be located on the right border of the page.