

Honorable Steven B. Whittington

Division A – CRIMINAL and CIVIL (civil, probate and guardianship)

(updated December 2022)

Scheduling

- All scheduling is conducted by email (DurhamL@clayclerk.com). Motions shall be docketed prior to hearing request and Clerk's motion docket number shall be provided.
- Hearings over one hour require a motion to set.
- Prospective dates are provided for counsel to coordinate and are not held or guaranteed until a confirmation email is received. Once you provide an agreed upon date, the JA will provide hearing confirmation for counsel to include when preparing a notice of hearing. Please do not file a notice of hearing until hearing confirmation is provided.
- Hearing location:
 - The Honorable Steven B. Whittington
 - Judge William A. Wilkes Judicial Complex (Clay County Courthouse)
 - 825 North Orange Avenue, Fourth Floor, Hearing Room 4-097 (or assigned courtroom)
 - Green Cove Springs, FL 32043
- **Rule 2.530 Communication Technology (Zoom):** All hearings are scheduled as in-person hearings; however, the Court may conduct non-evidentiary hearings set for 30 minutes or less using communication technology. A written motion is required pursuant to Fla. R. Gen. Prac. & Jud. Admin. 2.530. All such hearings shall be conducted using Zoom audio-video communication technology and hosted by the Court. Parties are encouraged to confer and file one agreed motion and proposed order when possible in lieu of individual motions. Counsel are required to use form proposed order available on website. Absent agreement, proposed orders may be submitted no sooner than 15 days after filing of the motion due to reasonable notice/objection period. All proposed orders must be entered no less than one week prior to hearing so that court calendars may be printed and published without further changes.

Motions to Set for Trial / Lengthy Hearing

- Motions to set are currently considered by email and set for hearing, if needed.
- **Hearings over 1 hour:** Complete a trial set memo-motions form and email a courtesy copy to the JA for the Court's consideration. Counsel shall agree upon the motions to be heard and length of time needed or request a hearing on a motion to set. Upon the Court's review, JA will contact counsel to schedule.
- **Trial.** A motion to set for trial shall be filed. Following consultation with counsel, a courtesy copy shall be provided to the JA along with a trial set memo, preferred trial week (schedule on website), and name/e-mail of preferred mediator. Upon the Court's review, the JA will contact counsel by email to schedule the trial or a hearing on the motion to set, if required by the Court.

Motion Practice / Evidence Submission

- **Motions to Appoint Process Server** are processed by the Clerk. File a motion and the Clerk will generate an order appointing process server.
- **Motion to Withdraw** requires consent of client and no-objection from all parties or hearing required.
- **Motion/Order to Cancel Sale** must be received no less than 3 days prior to sale date.
- **Motions to Compel.** Pursuant to First Amended Administrative Order 88-2, motions to compel will not be cancelled once set on the Court's calendar. Motions and notices of hearing should comply with the AO and rule of procedure, including certificates.
- **Compulsory Medical Examinations.** Counsel shall review the Court's CME Guidelines prior to requests for scheduling of objections/motions relating to CME's.
- **Hearing materials, binders, foreclosure packets.** All case related materials (binders, case law, foreclosure packets, etc.) should be mailed or hand delivered to the Court no later than five (5) days prior to hearing.
- **Evidence.** Counsel shall comply with the rules of evidence and procedure.
 - **Exhibit Form.** The exhibit form found on the Court's website shall be used for all evidentiary hearings.
 - **Submission of Evidence.** Evidence for Zoom hearings shall be delivered to the Court a minimum of five (5) business days prior to hearing. Evidence should not be filed with the Clerk until it is admitted into evidence by the Court.
 - **Format of Exhibits.** Exhibits to be entered into evidence by stipulation shall be pre-marked as numbered exhibits. All other exhibits shall be pre-marked for identification purposes as lettered exhibits. It shall be the responsibility of counsel to make sure each item of evidence is appropriately labeled prior to presentation to the Court.

Pretrial Stipulation

- **Pretrial Stipulation** is required and must be completed prior to the Final Pretrial Conference.

Proposed Orders

- Unless otherwise ordered, all proposed orders shall be e-mailed to JA within 10 days of the Court's ruling.
- The motion must be docketed on the Clerk's docket prior to submitting a proposed order.
- Civil and Criminal proposed orders should be emailed to the JA.
- Probate, Mental Health and Guardianship Orders: Effective 3-1-22, all proposed orders for Probate, Mental Health and Guardianship cases must be submitted directly to the Judge's queue through the Florida E-Filing Portal (filed different than a motion). Filer must submit both a cover letter in PDF format and a proposed order in Word format. If you would like to submit a courtesy copy of your motion, it must be submitted as an additional page(s) to the PDF cover letter resulting in one single PDF document. In **Guardianship cases**, parties **shall not** submit a Proposed Order Approving Annual Plan or a Proposed Order Approving Accounting **until after** the Report of Clerk has been finalized and docketed.

- **Electronic Signing.** Orders are electronically signed and should be submitted to the Court in Word format. Consent judgments signed by the parties may be sent in .pdf. Orders should contain one signature line for Judge's electronic signature. Cover letters should be scanned as separate documents.
- **Form.** The proposed order shall include: 1) title with subject matter of the pleading or motion; 2) the date of the hearing, if any; 2) the name of the motion heard and date in which it was filed/clerk's docket number (not e-portal); and 3) page numbers. Consent or agreed motions shall state such in the motion. The Court's signature page shall contain substantive language, not just a signature page and allow sufficient space for an electronic signature. All parties required to receive a copy of the order shall be so listed on the last page of the order with either their designated email address or mailing address.
- **Pro Se Parties/Mailing Orders:** If a party has not filed a Notice of Designation of Email Address, the Court cannot e-serve the party as the sole means of service. The order's certificate should reflect "Counsel to mail copies to:" and counsel shall mail copies of the conformed order to the parties.
- Where permitted by Rule, Counsel shall be responsible for mailing conformed copies of any order that requires service by mail in which stamped envelopes have not been provided by counsel to the Court. Certificate of service should reflect such as noted above. Default final judgments must be submitted by mail as the rule requires the Court to mail.

Cancellations/Settlement

Counsel must request permission of the Court to cancel a hearing. Once confirmed, Counsel must immediately file a Notice of Cancellation of the hearing. Merely e-filing a notice of cancellation or settlement does not remove the matter from the Court's calendar. Motions to Compel may not be canceled.

Emergency Motions/Petitions

Emergency motions may be emailed to the Judicial Assistant for the Court's review. The Judicial Assistant will notify the moving party whether the Motion/Petition will be heard on an emergency basis. There shall be no ex parte communication concerning emergency motions/petitions.

Pro Se Litigants

The Court is not permitted to communicate with parties outside of a hearing. The Court is unable to consider ex parte communication. Requests for relief must be in the form of a motion or pleading and filed with the Clerk. The parties must also copy opposing counsel on any emails, correspondence and pleadings filed with the Court, without which the inquiry may not be considered. The Court is prohibited from providing any party to a case with advice as to how to proceed or the rules of evidence or procedure. Pro Se parties may wish to contact an attorney, Legal Aid or Family Court Services to discuss any questions or concerns. **Pursuant to Fla. R. Gen. Prac. & Jud. Admin. 2.516(b)(1)(C), all pro se parties must serve a designation of a primary e-mail address and may obtain a form to do so from the Clerk of Court.**