

Judge Don H. Lester Instructions
Division B - Odd Numbered Civil, Probate and Guardianship Cases

Hearings. Schedule hearings via email to randolphj@clayclerk.com

- Hearing times are not secured until you receive an email confirmation.
- Requests to add motions to existing hearing time require judge's approval
- Cancellation of hearing should be emailed to randolphj@clayclerk.com
- Memoranda of Law and hearing materials/notebooks must be delivered 3 business days before hearing
- No hearing will be scheduled until the motion is filed
- Requests for one (1) hour or more require judge's approval

Motions and Proposed Orders – Civil. All motions must either be fully consented or set for hearing.

- Agreed/Consented/Stipulated Orders must show consent on the face and contain signatures of all parties
- Proposed orders can be emailed to randolphj@clayclerk.com in Word or WordPerfect format, and must be specific in detail [i.e., for extension of time]
- Moving party must either provide self-addressed stamped envelopes or an email address for service on all parties
- Motion to Set Trial is required [Notice of readiness is not acceptable.]
- Trial is set via email by forwarding the Motion to Set Trial and completed Trial Set Form to randolphj@clayclerk.com
- Motion to withdraw requires consent or at least a non-objection to the form of order from all parties

Motions and Proposed Orders – Probate.

- In all probate cases in which a will or other document has been deposited separately with the clerk of court, the petition for administration must include language indicating that the documents have been deposited and provide the case number assigned to the deposit

- Proposed probate orders should be efiled through the e-portal. See Guidelines for filing probate orders

Video conference Appearance. Video conference appearance is permitted for non-evidentiary hearings scheduled for thirty (30) minutes or fewer

- Video conference appearance requires motion and proposed order
- Motion must identify what is to be heard at hearing, date and time of hearing
- Absent a court order for good cause shown, personal appearance is required on motions for summary judgment and final pre-trial conferences

Foreclosures.

- Foreclosure packages must be received at least 3 business days before hearing or brought to hearing by attorney
- Motion/Order to Cancel Sale must be received 3 business days before sale date

TRIAL PROTOCOL

1. All persons addressed by title and surname.
2. Permission must be obtained to approach the bench, the clerk or a witness.
3. No questioning of a witness or delivering opening statements or closing arguments until permission granted to begin.
4. No speaking objections. If objecting, stand and state the legal basis for the objection. No response from opposing counsel unless requested.
5. Stand at all times when addressing the bench.
6. No food, water bottles or other liquid containers allowed in the courtroom. Water carafes and cups are provided.
7. Do not ask the court to declare a witness an expert. It is up to the party calling the witness to lay a sufficient predicate for opinion testimony, and it is up to the opposing party to object if the predicate is insufficient.
8. Counsel are free to move about the courtroom, but do not invade the jurors' space.