

# Judge John I. Guy

Division FM-C

Hearing Room 742

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## **DIVISION PROCEDURES**

**EX PARTE:** Includes only uncontested matters, Motions to set for trial, and coordinating hearings in excess of one hour. These proceedings are not scheduled with the Judicial Assistant. Ex parte proceedings are held between 9:00 to 10:00 a.m. on specified dates every month as posted on the updated Ex Parte schedule. The Ex Parte schedule is posted on the web at <http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/2016-ex-parte-FM-C.aspx> posted outside Hearing Room 742 on the seventh floor of the Duval County Courthouse. Prior to a hearing for the entry of an uncontested Final Judgment of Dissolution of Marriage, the movant should complete a checklist for consent final judgment. A copy of the form can be found on the web at <http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/Checklist-Uncontested-DOM.aspx> Uncontested divorces may be scheduled for a time certain if the parties desire privacy. **It is best to call the day before a scheduled ex parte date to confirm the date's availability.**

**PUTTING CHILDREN FIRST IN DIVORCE COURSE:** Administrative orders issued in the Fourth Judicial Circuit by the Chief Judge require that parents who are parties to a dissolution of marriage action or a paternity action **shall complete a four-hour parenting course**, such as the Putting Children First in Divorce Course offered by Hope Haven, or a similar qualified program. The parties are further required to file the Certificate of Completion in the Court file before the entry of a Final Judgment in both dissolution of marriage actions and paternity actions.

**SETTING A CASE FOR TRIAL:** Motions to set for trial and Motion to set hearings in excess of one hour are heard during ex parte. When setting a case for trial, the moving party shall:

1. File a Motion to Set Case for Trial/Hearing.
2. Coordinate with the opposing party or attorney to select an ex parte date convenient for all parties.
3. Serve the Notice of Ex Parte Hearing on all parties. (Out-of-town attorneys may appear by phone for the ex parte hearing by requesting to do so.)

4. Complete the Trial Memorandum Form on the web at [http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/FMC-Trial-Set-Memorandum-Form-\(1\).aspx](http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/FMC-Trial-Set-Memorandum-Form-(1).aspx) in advance of the Ex Parte hearing.

The Court will prepare the Order Setting Case for Non-Jury Trial and Pre-Trial Conference or the Order Setting Case for Hearing. Pre-Trial conferences are held on the Thursday before the trial week. A schedule of Judge Guy's trial weeks can be found on the web at (<http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/2016-ex-parte-FM-C.aspx>). The Court will e-file the Order Setting Non-Jury Trial or Hearing. Please provide self-addressed stamped envelopes for pro se parties and any third parties that cannot be served through the e-portal. The Court does not provide envelopes and postage. If a case **settles** prior to the pre-trial or trial date, **please immediately** contact the Judge's office via email to [jennw@coj.net](mailto:jennw@coj.net) to remove the Pre-Trial and Trial from the calendar.

**MEDIATION AND PRE-TRIAL CONFERENCES.** If the parties have not already mediated and/or cannot agree on a mediator, the Court will select one for you at the motion to set hearing. Mediation should occur as soon as possible to minimize the expense and uncertainty of litigation. An exception to the general rule that a prompt mediation is useful involves matters in which a time-sharing evaluator will likely be appointed. The Court prefers that mediation take place after a report is submitted by a time sharing evaluator. The Report on Mediation shall be prepared in accordance with Rule 12.740(f), Fla. Fam. L. R. P., and filed with the court prior to the Pre-Trial Conference. The requirement to mediate this case cannot be waived by agreement of the parties. If the parties have not mediated prior to the Pre-Trial Conference, the Court will continue the Trial pending the mediation unless good cause is shown. Unless otherwise agreed upon by the parties or ordered by the Court, the parties shall be equally responsible for payment of all costs of mediation. For mediations scheduled with the Family Mediation Unit, the fee shall be paid to the Clerk of Court in full prior to the mediation.

**SETTING HEARINGS:** Hearings may be set by contacting Judge Guy's judicial assistant Jennifer Weigel at 904-255-2428. Please have the opposing attorney on the line when you call and be prepared to provide the case number, the name of the motion to be heard (which must be filed prior to calling to set for hearing), and how much time is needed for the hearing. The Judicial Assistant will not reserve tentative dates or times, so prepare to set the date and time of the hearing when the parties call the Judicial Assistant. It is not necessary to send courtesy copies of motions to the Judicial Assistant, but please be prepared to provide the docket number of the motion being scheduled.

**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 1:30 to 5:00 p.m. Hearings that require more than one hour must be approved by the Court during ex parte.

**CANCELLATION OF HEARINGS:** When cancelling a hearing, please file a Notice of Cancellation with the Clerk and provide a courtesy copy to the Court via email to Judge Guy's Judicial Assistant at [jennw@coj.net](mailto:jennw@coj.net). If the hearing is imminent, please call 904-255-2428.

**EMERGENCY MOTIONS:** When filing an emergency motion please be mindful that the matter must be: (1) a genuine emergency and (2) must be filed with the Clerk of Court, [Rule 1.610 & 12.610(a)]. If seeking an ex parte hearing without notice of hearing, you must state an adequate reason why the other party should not be given notice. All such motions must be verified/sworn by the movant & signed by counsel. Emergency motions should be e-mailed to Judge Guy's Judicial Assistant or delivered to the Judge's chambers for review. There shall be **no ex parte communication concerning this request**. After the Judge has reviewed the action, the Judicial Assistant will advise if the motion will be granted without a hearing or notice, denied, granted with a hearing on an emergency basis or for movant to schedule the matter on the next regular calendar date. Should the Judge be out of the office for an extended time, please follow local rules of procedure by contacting the next division in alphabetical order.

**MOTION TO COMPEL:** 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. 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.

**UNAVAILABILITY:** If the Judicial Assistant 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.

**CONTINUANCE OF TRIAL:** If a trial continuance is granted, the party requesting the continuance shall prepare a one-page proposed Order granting the continuance. The Order shall provide that all provisions of Court's previous Order Setting Non-Jury trial remain in full force and effect, or that the trial will be reset upon either party's Motion to Set. The proposed Order must be emailed to [jennw@coj.net](mailto:jennw@coj.net) with a similar email to the opposing party.

## **SUBMITTING PROPOSED ORDERS:**

1. When submitting a proposed order the moving party shall bring the original and conforming copies of the Order to the hearing.

2. 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 web at [http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/Letters-for-Attorneys-Submitting-Orders-\(1\).aspx](http://www.jud4.org/Ex-Parte-Procedures-and-Dates/docs/FM-C/Letters-for-Attorneys-Submitting-Orders-(1).aspx) under Letters for Attorneys Submitting Orders. Once approved by opposing counsel, the proposed Order should be submitted to the Court via email to the Court's judicial assistant at [jennw@coj.net](mailto:jennw@coj.net) (Word formatting is preferred). If counsel for the parties are unable to agree, then both counsel may submit their proposed Order to the Court.

3. When submitting orders by mail, sufficient number of distribution copies for all parties and stamped addressed envelopes must accompany the Order. It is required that Income Withholding/Deduction Orders, Qualified Domestic Relation Orders, and any other order that requires the receipt of a copy by a third party be submitted by mail.

4. The **DONE AND ORDERED** or **ORDERED AND ADJUDGED** (for Final Judgments) 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.

5. Full names and complete addresses of counsel/parties to whom copies are to be provided, including email addresses for the service of pleadings, should be included on the last page.

**TEMPORARY NEEDS HEARING INFORMATION:** All temporary issues are to be set before the General Magistrate. You may call the new dedicated number 904-255-1180 between the hours of 9:00 a.m. and 4:00 p.m. to schedule temporary needs and/or post judgment hearings before Magistrates.

**OBJECTIONS TO MAGISTRATES/HEARING OFFICERS:** It is required that any objection to the referral of a matter to the Magistrate be filed with the Clerk of Court timely, and that a courtesy copy be provided to the Court by email to [jennw@coj.net](mailto:jennw@coj.net). The Court typically requires parties to mediate prior to scheduling a hearing date before the Court on matters previously referred to a Magistrate/Hearing Officer.

**EXCEPTIONS TO THE MAGISTRATE'S REPORT:** It is required that any exceptions to the Magistrate's report be filed with the Clerk of Court timely, and that a courtesy copy be provided to the Magistrate's office, and that a courtesy copy also be provided to the Court by email to [jennw@coj.net](mailto:jennw@coj.net).

**DEFAULT FINAL HEARINGS:** Default Final Hearings should be coordinated with the Court's Judicial Assistant on the Court's regular calendar. **Default Final Hearings will not be heard during ex parte.** The party seeking the default judgment should bring proof of service or diligent search to the hearing. The Court will enter an Order Setting Trial and serve the order on all parties, even those parties in Default for matters involving unliquidated damages and/or child support and timesharing, as required by Rule 12.440, Florida Family Law Rules of Procedure.

**SERVICE BY PUBLICATION:** Cases wherein the Respondent has been served by publication should include a diligent search affidavit with proof of searches, a minimum, with the entities listed below:

- United States Postal Service
- Internet Search
- Department of Motor Vehicles
- Department of Corrections
- Letters to Armed Forces of the United States
- Duval Tax Collector

**ADOPTIONS:** Petitioners in relative adoption cases are required to set forth in the petition any prior criminal arrests or domestic violence actions to which they have been a party. **The Court does not hear adoption matters during ex-parte.** Those matters may be coordinated with the Court's Judicial Assistant. It is not necessary that children attend final hearings, but they are certainly welcome, as are other family members.

**MOTIONS FOR REHEARING:** Motions for rehearing and/or reconsideration must be filed with the Clerk and a copy e-served to the Judge's office at jennw@coj.net. Please do not call the Judge's office to schedule a hearing on the motion. The Judge will review the motion and either issue an order or the Judge's Assistant will call to schedule a hearing.

**TELEPHONIC APPEARANCES:** Pursuant to Rule 12.451 Florida Family Law Rules of Procedure, if good cause is shown and upon reasonable notice to all parties, requests to appear by telephone may be granted. However, it is the Court's preference that parties or witnesses unable to physically attend a hearing or trial appear via Skype. Please refer below for specific provisions regarding appearances by telephone and Skype. This language below should be included in any proposed order granting such a request. The device used for the Skype call may be connected to a monitor (provided by the I.T. department) so that the testifying party can be viewed by everyone. Please note that it is important that the Court's I.T. department know in advance what equipment counsel plans to use for a Skype session (e.g. laptop, iPad, or Android tablet). The I.T. department usually has access to standard HDMI and VGA cables; however it is important to discuss this in advance to determine what the need is. **The Court recommends the use of the**

**Duval County Courthouse technology website at <http://www.jud4.org/Technology> for instructions and forms to reserve equipment.**

**Procedures for Appearing by Telephone:**

- a. Any party or witness appearing by telephone should call the Court's Judicial Assistant at 904-255-2428 approximately five (5) minutes prior to the start of the Non-Jury Trial and shall have a Notary Public/Classification Officer physically present with him/her to issue the oath.
- b. The party or witness appearing by telephone should ensure that the Notary Public/Classification Officer is prepared to provide their name, commission number or social security number, and their commission expiration date.
- c. The party or witness appearing by telephone should also ensure that the Notary Public/Classification Officer is prepared to identify them, and state the form of identification presented by the party testifying.

**Procedures for Appearing by Skype:**

- a. Counsel shall bring their own device and shall be prepared to initiate the Skype call, and shall make arrangements with the Court's Judicial Assistant to test the connection prior to the Non-Jury Trial in this matter.
- b. Counsel are encouraged to make contact with the Court's Judicial Assistant by email or telephone and the Court's I.T. department by contacting Vince Paruolo at 904-255-1085 or [Paruolo@coj.net](mailto:Paruolo@coj.net) at least three (3) business days prior to the Non-Jury Trial to arrange a time to test the connection.
- c. Any party or witness appearing by Skype should have a Notary Public/Classification Officer physically present with him/her to issue the oath.
- d. The party or witness appearing by Skype should ensure that the Notary Public/Classification Officer is prepared to provide their name, commission number or social security number, and their commission expiration date.
- e. The party or witness appearing by Skype should also ensure that the Notary Public/Classification Officer is prepared to identify them, and state the form of identification presented by the party testifying.

**INTERPRETERS:** The Court will provide interpreters for matters wherein the requesting party is indigent or for matters wherein there are minor children subject to the action. Attorneys that represent parties who will need the Court to provide an interpreter should notify the Court's Judicial Assistant of the need for same at the time the hearing is scheduled. The Court will attempt to schedule any such hearing early in the day so that the interpreters, who are paid for a two-hour minimum, may be able to handle all such cases in a relatively short order.

**RECOMMENDATIONS:** If you have a recommendation as to amending or revising our policy or practice, you may email the Court's Judicial Assistant at [jennw@coj.net](mailto:jennw@coj.net). Thank you for your courtesies and cooperation.