

Helpful Hints for Practice in Division FD

For uncontested dissolution of marriage final hearings please:

- confirm with the courtroom deputy that we have the court file; if it is not here, please give him or her the case number and we will request it (A.O. 5.004-10/03)
- complete the Testimony at Final Hearing and Final Disposition forms
- confirm that the notice required by Fla. Fam. L. R. P. 12.440 (10 days where a default entered, 30 days from service of notice for trial otherwise, unless waived) has been given and that at least 20 days have elapsed since the petition was filed (Fla. Stat. §61.19)
- be prepared to prove that the residency requirement has been met by sworn third party statement or Florida driver's license, voter's registration card, or I.D. card (Fla. Stat. §61.052(2))
- verify that the action is at issue (by Answer, default, or express or implied waiver in a marital settlement agreement); if by Clerk's default, please verify that service of process was proper; if service was published, please be prepared to discuss the efforts made to locate the respondent
- verify that Notices of Social Security Number and, if required, Financial Affidavits, Certificates of Completion of Parenting Education and Family Stabilization Course, and Child Support Guidelines Worksheets have been filed (Fla. Stat. §§61.052(7),(8); 61.21(4); Fla. Fam. L. R. P 12.285(d)(j))
- be prepared to discuss any factual discrepancies between the pleadings, the Financial Affidavits, the Child Support Guidelines Worksheet, and the marital settlement agreement
- confirm that the marital settlement agreement addresses all matters required to be considered; agreements to agree are not enforceable (*John I. Moss, Inc. v. Cobbs Co.*, 198 So. 2d 872 (Fla. 3d DCA 1967))
- provide a proposed final judgment and, if needed, Income Deduction Order

If you are requesting hearing time for a specially set hearing please:

- co-ordinate the hearing time with the opposing party or counsel, as appropriate, and Nancy Brody, Judicial Assistant ((561) 355-6050)
- submit a proposed Order Specially Setting Hearing in the form attached
- provide copies of the pleadings or motion to be heard and any memorandum or supporting materials to be relied on at least one week prior to the hearing for review, unless otherwise ordered

- remember that a hearing set by court order may be canceled only by court order or withdrawal of the motion or dismissal of the pleading to be heard

If you are submitting a proposed order please:

- if it has been agreed to, so indicate in writing
- if it has not been agreed to, indicate why agreement is not required
- remember that agreements concerning practice or procedure are subject to a parol evidence rule unless made in court or at deposition (Fla. R. Jud. Admin. 2.505(d))

If you are submitting a proposed Order of Referral to Magistrate please:

- include a copy of the motion or pleading to which the referral relates
- confirm that the referral is made under the appropriate rule; copies of the appropriate forms referring under Fla. Fam. L. R. P. 12.490, 12.491, or both are attached

If you are submitting a proposed Order of Referral to Mediation please confirm that:

- the mediation time and date have been agreed to
- the mediator has been agreed to, if private
- it conforms with the form Order of Referral to Family Mediation (ADR Office) if mediation is through ADRO, available at 15thcircuit.co.palm-beach.fl.us

If you are submitting a proposed Order of Substitution of Counsel, please:

- confirm that your client's written consent has been filed (Fla. R. Jud. Admin. 2.505(e)(2))

If you seek to withdraw as counsel please:

- remember that all motions to withdraw must be set for hearing, with notice to the client (Fla. R. Jud. Admin. 2.505(f)(i))

If you are noticing a post-judgment petition for final hearing please:

- reference the pleading to be heard by name and filing date or docket entry number (Fla. Fam. L. R. P. 12.440, Fla. R. Civ. P. 1.440(b) (“(t)he notice shall include . . . whether the trial is on the original action or a subsequent proceeding . . .”)); often there are multiple post-judgment proceedings pending simultaneously

If you are seeking permission to appear by speaker telephone please

- submit a request in conformity with Fla. R. Jud. Admin. 2.530(c)