UNIFORM ORDER FOR COURTROOM PROCEDURES AND CONDUCT OF TRIALS DIVISION 41 (C)

I. FORMALITIES, DEMEANOR, CONDUCT

All counsel, parties and witnesses appearing in Division 41 (C) shall observe all traditional formalities and rules of conduct established for the courtroom by long standing custom, tradition, rule, statute, and administrative order. This includes :

A. Paying attention in the courtroom, directing your attention to the Court at all times, and promptly responding to the Court when addressed or entering an appearance

B. Knowing where your case appears on the docket, being aware of any adjustments to the order of call, and being in the courtroom, at counsel table with your client and witnesses, and fully prepared to proceed when your case is called

C. Maintaining a tone and demeanor in the courtroom that is respectful, responsive, attentive, courteous, and professional with all court personnel, parties, witnesses, counsel and the Court.

D. Refraining from carousing, "joking around", or demonstrating special familiarity with the court clerks, deputies or other court personnel or counsel, before or after court is in session or during recesses

E. Rising to one's feet and coming to attention when the Court takes or leaves the bench

F. Rising to one's feet whenever addressing the Court, opposing counsel, parties or witnesses

G. Rising to one's feet for all objections and responses thereto

H. Addressing all comments, questions, and argument to the Court and never directly to another participant in the proceedings except during examination of a witness on the stand after obtaining leave of Court.

I. Limiting objections to the legal basis therefore
No speaking objections will be permitted

J. Making all argument and establishing any important facts for the record before the Court begins its ruling

K. Never interrupting while the Court or opposing counsel is speaking

L. Standing **silent** while the Court renders its ruling and not registering any overt displeasure, disagreement with, or dissatisfaction through any behavior, facial expression, audible or visual gesture

M. **Never** arguing with the Court's ruling ("exceptions" are not recognized in Florida, and "making the record" should always occur BEFORE the Court begins to rule, not after)

N. Asking for leave to approach the bench, clerk or witnesses

O. Asking for leave to publish documents and items received in evidence

P. Instructing and maintaining control over counsel's clients and witnesses regarding courtroom decorum (**absolutely no** : raising of hands, speaking out of turn, shaking or nodding of heads, sighs, emotional outbursts, gestures, making facial gestures, audible reactions, and the like)

Q. Never using acronyms or jargon in the courtroom or referring to any party, participant or witness as a "paramour"

II. PUNCTUALITY

Doors to the courtroom will be opened **15 minutes before the start** of any proceeding to allow counsel to get in place, organize their file, survey for the presence of clients, parties, participants and witnesses and have last minute discussions. Once the Court's deputy calls the courtroom to order, the Court will not indulge requests from counsel for time to locate documents, review their file, call the office, consult with counsel, parties or witnesses, or to leave the courtroom to determine whether some needed person is present.

All counsel shall arrive on time and be in place, inside the courtroom, for any matter scheduled before the Court which involves them.

Regularly appearing counsel (DCF, RCC, GAL, Appointed Counsel) shall arrive and be in the courtroom **15 minutes before the first matter** in which they appear for both the morning and afternoon dockets. They shall use that time to consult with their clients, organize their counsel table, files, documents, survey the courtroom and halls outside the courtroom and make a written list of the presence of any parties, participants or witnesses related to the cases on which they appear. That list shall be provided to the clerk before the call of their case.

In the event of an unforeseeable circumstance that will cause counsel to be delayed (eg. personal or family emergency, appearance on another matter in another court that runs long, traffic accident, etc.) it is counsel's responsibility to notify the Court's J.A. **(407) 742-2499** and the **court's clerk (407) 742- 2507** of the unforeseeable circumstance **BEFORE** the time scheduled for that matter.

Requests for telephonic appearances must be made at least one week **BEFORE** the scheduled appearance by proper motion indicating the agreement of all other counsel and the detailing the arrangements that have been made with the clerk. In general, the Court will make every effort to accommodate any counsel's request to appear telephonically if the requesting counsel provides adequate notice to the Court so that proceedings are not held up or interrupted.

The Court will call each docketed matter one time only. If any counsel is not in place, **at counsel's table**, and completely prepared to proceed when that matter is called, the offending counsel's/party's name will be noted on the record and the matter may be summarily denied if proposed by the absent or unprepared counsel/party, granted if opposed by the absent or unprepared counsel, passed to the end of the docket for the day, time permitting, or rescheduled without consideration for the convenience of the absent or unprepared counsel. Any resulting delay will be charged to the offending counsel/party. Repeated violations of the Court's rule on punctuality will subject the offending counsel/party to sanctions.

III. BEING READY AND ADVANCING THE DOCKET

Lead Counsel for DCF and The GAL on each proceeding before the court shall be seated in the first chair nearest the aisle at their respective tables.

When one case is called, ALL counsel, parties, and witnesses who are part of the next case on the docket shall be seated in the on deck position on the front row immediately behind counsel table so that transition between cases is effected swiftly and with minimal noise and distraction.

All discussions, negotiations and conversations between counsel, parties and witnesses shall take place OUTSIDE the courtroom before entering or during a recess. No conversations are permitted in the courtroom.

IV. THE ORDER OF APPEARANCES

The order of appearances for all matters before the Court shall be as follows :

1. Counsel For The State
2. Department Case Worker
3. Child Protective Investigator
4. Department Case Supervisor
5. Adoption/Independent Living Specialist
6. Counsel For The Guardian Ad Litem For The Child(ren)
7. Guardian Ad Litem For The Child(ren)
8. Attorney Ad Litem For The Child(ren)
9. Counsel For The Mother
10. Mother
11. Counsel For The Father
12. Father

IF ANY OF THE ABOVE ARE NOT PRESENT WHEN THE CASE IS CALLED, THE COURT MAY PASS THAT CASE TO THE END OF THE DOCKET FOR THE DAY OR PROCEED IN THE MATTER WITHOUT THEIR PRESENCE AT THE COURT'S DISCRETION.

V. ORDER OF CALL

All cases on the Court's docket will be called in the following order :

A. Cases that are individually set for a unique and specific time (eg. motions, judicial reviews) will be called at that time

B. Cases that are all set for a group time (eg. shelters, arraignments, advisory hearings, pre-trials, add-ons for 1:30) will be called in the following order oldest pending case first :

1. Private attorney cases without interpreters
2. Private attorney cases with interpreters
3. Inmate interpreter cases
4. Other interpreter cases
5. Other inmate cases
6. Regularly docketed cases in alpha order
7. In camera child request cases

C. Cases that are set for trial will be called generally in the following order :

1. Expedited Termination Of Parental Rights (oldest first)
2. Termination Of Parental Rights (oldest first)
3. Dependency (oldest first)
4. Prima Facie/ Manifest Best Interests (oldest first)

The trial docket, however, will be organized to maximize and make the best use of the Court's time

VI. PRIVATE COUNSEL

All private counsel shall check in with the clerk upon their arrival in the courtroom and advise what case they are present for and whether that case requires an interpreter and for whom such interpreter is required. They shall also advise the clerk of the names of any witnesses or participants they have, who those witnesses or participants are in relation to the case and whether those witnesses or participants are present. To avoid congestion at the clerk's desk and distracting whispering during proceedings, this **check-in shall be by written note** passed to the clerk.

If one of counsel's witnesses or participants arrives after counsel's initial check-in, counsel shall further advise the clerk via written note.

Counsel shall make every effort to have all their witnesses and participants sit together in the courtroom, unless there is a restrictive injunction or no contact order, and shall instruct them about the requirement of being present in the courtroom when the case is called.

When the clerk is advised that all of counsel's witnesses are present, they shall advise the Court who shall attempt to expedite their case on the docket in accordance with the order of call outlined above.

VI. PLEADINGS, MOTIONS & ORDERS

No pleading, motion or order drafted for this division shall utilize acronyms or refer to any unmarried, romantic partner of any party, participant or witness as a "paramour", nor shall any attorney refer to such person in that way in any oral representations to the Court. Such person and their relationship shall be described with particularity in non-derogatory words that nevertheless describe the person referred to and the particular relationship between the party, participant or witness and that person (e.g. long term boyfriend/girlfriend, domestic partner, live-in lover or live-in domestic partner, boyfriend of six months, girlfriend of ten years, or other similar words).

All motions shall be **in writing** and a courtesy hard copy of the motion and proposed order shall be delivered to the Court **at least three business days before hearing** on the motion. Every motion **shall**: **1)** be specifically titled identifying the moving party, the sequence of the motion, and the nature of the motion (eg. Father Smith's First Motion For Change Of Placement) **2)** cite the rule(s) of evidence, procedure or statute that authorizes the motion and **3)** detail the case specific facts and circumstances that support the motion, **4)** state the specific relief requested, **5)** state the amount of time requested for hearing on the motion, if any, as well as **6)** state the position of each party regarding the motion including any objections and the legal basis therefore.

The proponent of any motion shall serve on all other parties a copy of the motion together with a proposed order on that motion at least **three business days** before hearing on the motion.

All proposed orders **shall** : **1)** be specifically titled identifying the moving party, the sequence of the motion, the nature of the motion, and whether the order grants or denies the relief sought (eg. "Order Granting/Denying Father Smith's First/Second Motion To Continue") **2)** state with particularity all considerations required by rule or statute and **3)** detail the proposed specific findings of the Court as to each consideration, **4)** detail the specific relief ordered and **5)** indicate whether the relief requested was granted or denied **6) not** contain any language stating the Court's order was granted or denied over a party's objection

Hearing time on motions may be reserved using the on-line calendaring system utilized by the ninth circuit, "J.A.C.S.", (Judicial Automated Calendaring System) via the Ninth Judicial Circuit Court website which can be found at (http://www.ninthcircuit.org/), before submitting the motion and proposed order to the Court. Go to the home page, find the "Services" block, click on JACS or find the "JACS" button at the bottom of the home page click on it and follow the links. However, no hearing will be scheduled (ie. docketed) on any motion until a hard copy of a conforming motion and proposed order are received by the Court.

All non-conforming motions and proposed orders will be returned to the sender and the hearing time canceled. Both the motion and the proposed order must conform to the requirements above to avoid cancellation of reserved hearing time. Counsel should proof read both the motion and proposed order to avoid any unnecessary delay.

VIII. CONDUCT DURING TRIAL OR HEARING

All electronic devices, cell phones, lap tops, tablets, and other mobile devices, shall be turned off or placed on silent or vibrate **BEFORE** entering the courtroom. Violation of this policy will result in the confiscation of the offending device until the close of court business for the day.

No electronic devices shall be permitted on counsel table during any court proceeding without the express prior authorization from the court.

No purses, bags, briefcases or the like shall be permitted on counsel table during any court proceeding.

Lead Counsel for DCF, GAL, RCC on each proceeding before the Court shall be seated in the first chair nearest the aisle at their respective tables.

Only counsel and parties who are part of the immediate matter before the court should be seated at counsel table when the case is called.

When each case is called, counsel for DCF shall promptly enter their appearance on the record and identify any witnesses, caregivers, relatives or others present in the courtroom related to the case called.

When each case is called, all other counsel shall promptly enter their appearance on the record and identify any witness, caregiver, relative or other interested party present in the courtroom and not otherwise previously identified to the court by counsel for the state.

Counsel shall consistently announce themselves and the party they represent for the record before addressing any comment, argument or beginning the questioning of a witness, during a proceeding.

Counsel shall question all witnesses from the lectern and all witnesses shall testify from the witness box. No witness will be permitted to bring any file, paper, note, book, report, exhibit or other material of any kind with them to the witness stand.

Counsel shall not interrupt opposing counsel, parties or witnesses except to interpose an appropriate objection during oral examination. Counsel and witnesses shall direct all responses to the Court.

There will be no cross talk between counsel, witnesses or parties. Repeated violation of this rule during a hearing will cause the matter under consideration to be suspended and passed to the end of the docket and counsel will not be excused until all matters are heard for the day. Violation of the rule during trial will subject the offending party to appropriate sanction.

All counsel shall instruct their witnesses and participants regarding the process of objections, the requirement to testify from present knowledge, conduct, decorum and the basic rules of the courtroom prior to their appearance in court. There will be **absolutely no :** raising of hands, nodding or shaking of heads, speaking out of turn, making facial gestures, audible reactions, and the like. Counsel will be held responsible for the conduct of their client and witnesses before the Court and **should be paying attention** to their behaviors in the courtroom.

No side conversations with witnesses or parties will be permitted during an examination of a witness or party on the stand. Any communication between counsel and a party or witness during the course of a hearing or trial shall be solely by written note between them. Counsel shall instruct all witnesses and their clients accordingly.

All counsel are to come to the courtroom with a pad and pen to facilitate communication with their client or witness during hearing or trial.

IX. HEARINGS

Routine hearings will be set in **15 minute increments** and the vast majority of motions requiring hearing should be able to be heard by the Court in that time. Counsel is advised to organize, prepare and narrowly tailor their presentation of evidence, argument and any expected objections to fit within that time frame. Proponent shall have ten minutes to argue their motion, objections shall be limited to three minutes. Counsel should reserve two minutes for the Court's ruling.

More complex evidentiary hearings that require more than one witness may be afforded 30 minutes. Counsel is advised to organize, prepare and narrowly tailor their presentation of evidence, argument and any expected objections to fit within that time frame. Counsel should reserve two minutes of that time for the Court's ruling.

Any proponent requiring more than 30 minutes for a hearing must have leave of Court before scheduling the matter and demonstrate the need for the additional time.

Hearing time will be strictly enforced by the Court. Any motion that is not concluded by the expiration of the requested hearing time will be suspended and must be rescheduled. Only one reset will be permitted per motion. Accordingly, all counsel are advised to be succinct, organized, and to the point in the presentation of, or objection to, any motion.

X. PRESENTATION OF TRIAL

Generally, counsel is encouraged to present their case according to their own professional judgment, assessments and inclinations.

However, in order to keep the record clear and unambiguous, in cases where there is more than one party against whom allegations are pending, counsel should question each witness as to all matters concerning a specific party (including grounds, manifest best interest and least restrictive means inquiries) before moving on to questions concerning another parent or child.

Then counsel should **make a clear statement** of demarcation before questioning the same witness regarding another party. For example : "Good morning Ms./Mr. Smith I'd like to talk to you about Father A's relationship with X child", "Now, I'd like to talk to you about Father A's relationship with Y child", "Now Ms./Mr. Smith, I'd like to talk to you about Father B's relationship with X child" , "Let's talk now, about Father B's relationship with Y child", "I'd like to turn to Father B's relationship with Y child" and so on.

All questions of a witness related to a particular relationship between a specific parent and a specific child should be clearly delineated on the record and all matters related to that pairing should be concluded before moving on to questions of the same witness about a different parent-child relationship. Each particular parent-child relationship to be addressed by counsel should be fully explored with each subsequent witness in the same sequence as established through counsel's first witness. Cross and redirect examination should likewise clearly delineate for the record which particular parent and which particular child is referenced.

XI. TESTIMONY

In any hearing or trial, all witnesses will testify from the witness stand. All witnesses will testify from their present knowledge of the facts. No witness will be allowed to bring any object with them to the witness stand. No books, files, reports, folders, notes, or papers of any kind will be permitted on the witness stand. Accordingly, it is incumbent on counsel to adequately prepare their witnesses to offer proper testimony at hearing or trial, including reviewing their file or notes before appearing in court.

In a proper case, counsel may refresh a witness's recollection pursuant to the rules of evidence. However, any item used to refresh must be retrieved by counsel before the witness's testimony will be permitted to continue. No witness will be permitted to read from their notes, files books or papers while testifying. Nor shall counsel coach or consult with a testifying witness while their testimony is ongoing. This includes during any period of recess. Counsel is not precluded, however, from consulting with or preparing a witness before that witness testifies or after that witness's testimony is ultimately concluded, including any rebuttal.

XII. EVIDENCE & PROCEDURE

Chapter 39, Florida Statutes, The Florida Rules Of Evidence and The Florida Rules Of Juvenile Procedure govern all actions brought or defended in Division 41 (C). Counsel shall review and be well versed in the statute and rules before appearing in the Division.

All exhibits, whether demonstrative or evidentiary, must be pre-marked with the appropriate alpha character in the intended order of introduction at trial.

This will require counsel to think through the organization and order of presentation of their case in chief and to consider what, if any, items should be reserved for introduction on cross-exam or rebuttal. Counsel shall also present all exhibits for objection or stipulation to all other parties before the commencement of any trial or hearing at which they will be utilized, and obtain the legible signatures of those parties not objecting on the back of the exhibit.

XIII. BENCH CONFERENCES

Bench conferences initiated by counsel should be kept to a minimum. When they are initiated by the Court, counsel shall immediately and **promptly** get up to the bench to address the matter of concern. Sauntering or strolling up to the bench is unprofessional and will not be tolerated. Discussions at the bench will be conducted in a whisper and shall be short and to the point.

XIV. PREPARATION OF ORDER AFTER HEARING OR TRIAL IN COURT

DCF shall be responsible for the preparation of all routine orders after hearing before the court, including orders after shelter, arraignment, advisory hearing, judicial review, permanency review, closing of the case, etc. The proponent of any non-routine motion, (eg. change of placement, change in visitation, reunification, travel requests, medical treatment, etc.) shall prepare the proposed order relative to that motion and shall include in it all indicated statutory and rule references, the specific considerations required of the court and the specific findings of the court related thereto.

The attorney preparing the order is certifying, as an officer of the Court, that the proposed order contains all of the specific details and important findings of the court's ruling (including deadlines), contains no extraneous matters not specifically addressed by the ruling of the court and does not incorporate any other verbiage that does not reflect an accurate recitation of the matters actually presented by the attorneys for consideration in open court or otherwise required by law.

DCF shall insure that sufficient personnel are available and **in the courtroom** to accurately prepare the routine orders at the conclusion of each hearing for their attorney's review and submission to the Court. All such routine orders should generally be submitted before the close of court each day, and **in no event, later than 24 hours following the hearing** to which the order is addressed. In no case will the Court allow DCF to submit routine orders days after the actual hearing on the matter took place.

The attorney for DCF shall circulate every order they are responsible for to all parties and counsel and obtain their initials approving the proposed order as written or amended before submitting it to the Court for approval. Any other attorney submitting an order to the Court for approval shall likewise obtain the approvals and initials of all other counsel and parties before submitting such order to the Court.

The attorney for DCF and any other proponent attorney submitting an order after a complex motion hearing, trial, adjudicatory hearing, or other lengthy matter shall be responsible for obtaining a CD of that proceeding or otherwise insuring that the proposed order accurately reflects the actual findings and judgment of the Court.

The attorney responsible for submitting such order shall certify under oath that they have personally proof read any order they submit to the Court for signature and that such order has been reviewed for subject/verb agreement, proper tense, the correct gender references, correct names of parties and witnesses, correct dates, coherent sentence structure, punctuation, spelling, grammar, and contextual cogency. This certification shall accompany every order submitted to the Court.

XV. CLERKS

The Court's clerks are not the personal support staff for counsel appearing in the Division. The clerks take their direction from the Court, **not** from counsel. Requests for the clerks' assistance shall be channeled through the Court. All counsel are expected to come to court with sufficient copies for all parties, counsel and the Court. **NO** copies will be made during any arraignment, advisory, hearing, trial, review, disposition, or permanency proceeding. Copies may be made with the permission of the Court before or after court or during periods of recess.

Likewise, clerks are not to directly address any party, participant or witness, nor make any comments or direct any questions to anyone during any hearing, trial or other proceeding except to swear in witnesses, advise the Court when a telephonic appearance has been connected to the courtroom

unless directly requested by the Court. Should the clerk need clarification, have a question, or need any other matter addressed, they shall direct a written note to the Court and the Court will address the matter. Clerks shall not allow any counsel, party, participant or witness to cultivate a special familiarity with them, to fraternize with them, or otherwise distract them from the professional performance of their duties. This does not preclude the clerks from any necessary professional communication with attorneys regarding any matter before the court either before or after court or during recesses. While court is in session, however such communication shall be **by written note only.**

Any necessary communication between the Court's clerks and the Court while the court is in session shall be **by written note only.**

XVI. COURT DEPUTIES

The Court's deputies are present for the security of the courtroom and the safety of all participants. They shall remain alert, attentive and in control of the courtroom at all times. They are not available to counsel for any reason without the express permission of the Court. Counsel shall not fraternize, attempt to cultivate a special familiarity or otherwise distract them from their professional duties.

In any emergency situation, counsel shall follow all directives of the deputies in the courtroom and instruct their clients, witnesses, and participants to do the same.

Deputies shall open the courtroom **15 minutes prior to any scheduled proceeding** to admit counsel in order to provide counsel time to set up their respective tables and prepare their cases.

Court deputies will have all inmates that need to be present for shelter hearings, in the courtroom **at least 15 minutes prior to the scheduled shelter hearing** so they may consult with their prospective attorney(s) prior to the case being called.

For arraignments or advisory hearings, court deputies should have **inmates available in the courtroom 15 minutes before their appearance** on the docket, or as soon as practicable, to facilitate their review of the petition and consultation with their attorney before the case is called.

XVII. INTERPRETERS

Court interpreters are available for Spanish, Creole and French. Counsel shall notify the clerk of the need for an interpreter for any party or witness at least **48 hours in advance** of any court proceeding. Should there be a need for an interpreter in **any other language** for a scheduled hearing or trial, counsel shall notify the clerk **at least one week prior** to the scheduled hearing or trial.

XVIII. AMENDMENTS TO THIS ORDER

The Court may from time to time, on its own initiative, amend this order without further notice. All counsel are advised to check http://www.ninthcircuit.org/judges/circuit_judges/kim_shepard.shtml for updates before undertaking any case in this division to see if any provisions or conditions have been amended or added to this order.

DONE and **ORDERED** this ___ day of _____, 2015.

The Honorable Kim Shepard
Judge Of The Circuit Court
Ninth Judicial Circuit
Osceola County, Florida
Division 41 (C)