IN THE CIRCUIT COURT OF THE

NINTH JUDICIAL CIRCUIT, IN AND

FOR ORANGE COUNTY, FLORIDA

CASE NO: #

DIVISION: 38

name,

Petitioner,

-vs-

name,

Respondent.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**ORDER AHEAD OF HEARING ON TEMPORARY RELIEF**

**THIS CAUSE** having come for consideration in Chambers and the Court having reviewed the pleadings and the court file:

1. The Parties are scheduling a 30-minute hearing on the Motion for

Temporary Relief filed in this case. The Notice for this hearing should also include a Case Management Conference pursuant to Florida Family Law Rule of Procedure 12.200 (please specify the rule). The Court will be entering an Order after Case Management as to stipulations, deadlines for discovery, etc. per Rule 12.200.

1. This Order is entered to inform the Parties of the Court’s expectations prior

to the temporary hearing and what the parties may expect at the temporary hearing.

1. The Court does not have the resources to provide for a lengthy temporary

hearing when the resulting decisions are inherently retroactively “fixable” at final trial. [[1]](#footnote-1) The most organized and prepared presentation will be required. The Parties are encouraged to come to their own, retroactively “fixable” temporary agreement, in order to reduce the cost to the parties overall, remembering “fees for fees” are authorized. [[2]](#footnote-2)

1. The Parties are on notice that the Court will be taking judicial notice of all

verified pleadings, Orders and all Financial Affidavits in the file.

1. A reminder that the Court will be looking to ensure that litigants in this

family case have a similar ability to prosecute their case. [[3]](#footnote-3)

1. The Court will expect the Standing Administrative Order to be followed, and will

consider expenses paid by one party for the other party to be support or otherwise categorized.

It is hereby ORDERED,

**At least ten (10) days prior to the temporary hearing the Parties shall:**

a. Exchange all exhibits for hearing (send digitally to the Court in individual PDFs. Tagged exhibits should be brought to hearing.)

b. Exchange 2020, 2021 and 2022 Tax returns and 2021 W-2s, and current income documents for the year 2023.

c. Exchange ALL outstanding discovery due as of that date. Any motion related to discovery must include specifically what is missing and efforts made to obtain the item and a detailed response should be filed within 15 days.

d. Ensure the file contains a correct and fully completed and current Financial Affidavits.

**At least three (3) business days prior to the temporary hearing the Parties**

**shall file, and provide to the Court, a Joint Pre-hearing Statement to include:**

a. A statement of all outstanding pleadings, and any pleadings that either Party is withdrawing at this time. ANY pleading not referenced will be deemed denied as waived.

b. ALL reasonable stipulations as to knowable W-2, 1099, Social Security, retirement or any other income of the Parties over the last 2 years and the current balances of all marital and non-marital bank accounts and retirement accounts. A party should include proposed stipulations if there is no agreement and fees will be assessed for failure to reasonably agree to knowable facts.

c. Any court ordered payments being made by either Party, including amount, case number and date of entry. Any arrears should be noted.

d. A statement of any additional discovery outstanding on both sides, and a statement as to all intended future discovery efforts; including depositions yet to be conducted, evaluations needed, etc.

e A statement as to what has historically been paid by either party related to overhead and monthly necessities.

f. If either party is unemployed, they will file a statement as to all attempts to obtain employment since filing. All parties post-divorce that are able bodied are expected to seek out employment to enable them to fulfil any financial obligations under the law.

e. If there are children, and there is not an agreed Parenting Plan, the Parties will create a joint “redline” Parenting Plan and provide to the Court prior to hearing in Word.

The Parties shall each include in the Joint Statement their positions as to the data points for Child Support and any stipulations as to those numbers. They should include any agreement or positions as to what child support, or other support, has been paid since date of filing. The Parties should assume that a temporary Child Support Order may be entered after this hearing.

g. A statement as to what fees or costs have been paid by date by or on behalf of both parties (including source) and what, if any, fees are outstanding.

h. The Party requesting fees shall include a breakdown of the fees and costs being requested, including hourly fees charged. This should include their position on which marital asset is invaded in the event the Court does not find income available for fees purposes but awards temporary fees to come from assets. Party requesting fee should provide proposed Order on Temporary Fees in Word to the Court, including a breakdown as to amounts suggested to be awarded for prior work and anticipated work, and proposed findings of reasonableness.[[4]](#footnote-4)

i. The Party opposing the fees request will include a statement as to their position on temporary fees and costs and any case law they believe supports their position. This will include any objections they have to the proposed affidavit of fees based on “reasonableness”. This should include their position on which marital asset is invaded in the event the Court does not find income available for fees purposes but awards temporary fees to come from assets.

At this Temporary Hearing / Case Management Conference the Court will provide each party with similar time, and will begin by entering into evidence all relevant and necessary exhibits that are not the subject of objections. The Court will then ask questions for clarification of the Joint Statement and then provide the Parties any additional time in equal parts.

At the final trial in this case, the Court may completely and retroactively reassess the fee award and may use equitable distribution of marital assets and debts to offset same.

The Final Judgment after trial will include more complete findings as to the Rosen [[5]](#footnote-5) factors, including the relative legal positions taken by the parties, and the cause of unnecessary litigation, if any. The Court will consider those factors as well as any pre-trial offers of settlement at the fees hearing post-trial.

**The shall file a verified response to the Motion to Compel within 15 days unless it is withdrawn.**

**The shall file a verified response to the Motion within 15 days.**

**DONE AND ORDERED** at Orlando, Florida on this date created.

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Judge Diana M. Tennis

Circuit Judge

CERTIFICATE OF SERVICE

This Order has been provided as set out below, on this date created.

Party Add

Party Add

Lawyer Via E Portal

Lawyer Via E Portal

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Elizabeth Diaz, Judicial Assistant to Diana Tennis

1. See Ghay v. Ghay 954 So.2d 1186 (Fla. 2d DCA 2007) [↑](#footnote-ref-1)
2. Schneider v. Schneider 32 So.3d 151 (Fla. 4th DCA 2010) [↑](#footnote-ref-2)
3. See Palmateer v. Palmateer 313 So.3d 200 (Fla. 2d DCA 2021) [↑](#footnote-ref-3)
4. See Rotunda v. Rotunda 259 So.3d 216 (Fla. 5th DCA 2018) [↑](#footnote-ref-4)
5. Rosen v. Rosen 696 So.2d 697 (Fla. 1997) [↑](#footnote-ref-5)