

Orange County
Guardianship/Mental Health – Division 9
Judge Alicia L Latimore

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Courtroom 2

***** As guardianship/mental health cases are confidential, you will not see an On-line Docket for this division. *****

In Order to assist counsel, the litigants and the Court, the following guidelines¹, procedures, practices and expectations are hereby adopted for Guardianship/Mental Health Division 9 in Orange County, Florida when practicing before Judge Latimore.² **These procedures have been separated into sections to help counsel and litigants efficiently find information.**

SECTION ONE – Is the hearing Virtual or In-Person:

Hearings are conducted both in person and remotely. Specific matters require in person appearance and others the Court will permit hearing to be conducted virtually. Please refer to the breakdown below of types of hearings that are permitted to be set virtually and those that require in person appearance:

Permitted Virtual Hearings: Telephone hearings are not permitted. The parties must appear virtually through the Webex link and turn on their cameras so that the Court can identify the speaker.

¹ 1The above standards, procedures, practices and guidelines are minimum standards. All counsel are presumed to be familiar with and are expected to abide by the Rules Regulating The Florida Bar, and the Guidelines for Professional Conduct promulgated by the Trial Lawyers Section of The Florida Bar and adopted by the Conference of Circuit Judges. Copies of each of these documents may be obtained from The Florida Bar and/or are available on-line on its website <http://www.floridabar.org>. In addition, counsel must be aware of the Ninth Judicial Circuit Courtroom Decorum Policy promulgated on February 11, 2003 and Amended September 2014. (See <http://www.ninthcircuit.org> for Attorneys/Information/Rules & Policies/Courtroom Decorum Policy) as well as the local administrative rules.

² 2This Court is held to the additional standards set forth in Code of Judicial Conduct and the Principles of Professionalism for Judges.

1. Short matters (**matters that are uncontested and 10 minutes or less** such as requests to approve minor settlement, requests to withdraw, petitions to sell property, petitions to authorize funds, etc). These matters may also be set during regular hearing time if available.
2. Uncontested petitions to appoint guardian/determine incapacity.
3. Request for DNR orders with medical testimony from the treating physician.
4. Annual review hearings under Florida Statutes 393.11(8)(b) unless a trial is required.
5. Uncontested petitions for appointment of emergency temporary guardian.
6. Petitions for medical intervention if uncontested and require medical testimony.
7. Uncontested suggestion/restoration of capacity.
8. Petitions for Pooled Trust.
9. Virtual testimony is permitted for doctors in most cases, absent a valid objection.

***** IF YOU ARE UNSURE IF YOUR PETITION IS A MATTER THAT CAN BE SET VIRTUALLY, PLEASE EMAIL 9ORANGE@NINTHCIRCUIT.ORG*****

Hearings where in-person appearance is required:

1. Compliance hearings for Risk Protection Orders.
2. Return hearings for Adult Protective Services (appearance of the AIP may be excused).
3. TB cases (the affected patient is excused).
4. Return hearings for Injunction for Protection Against Exploitation of a Vulnerable Adult.
5. Petitions for Habeas Corpus.
6. Orders to Show Cause or Rules to Show Cause hearings.
7. Case management hearings, unless otherwise indicated when scheduled.
8. Petitions for Attorney or Guardian fees (if the Court orders a hearing is to be set or there is an objection).
9. Petitions for medical intervention that are contested.
10. Petitions for Appointment of Guardian/Determination of Incapacity or Appointment of Emergency Temporary Guardian if contested or involve lengthy testimony.
11. Contested suggestions/restoration of capacity.

12. Trial or evidentiary hearings (anything that is contested, involves testimony or argument from counsel). Short evidentiary hearings may be held virtually if all parties agree and no physical evidence will be introduced.

***** IF YOU ARE UNSURE IF YOUR PETITION IS A MATTER THAT MUST BE HELD IN PERSON, PLEASE EMAIL 9ORANGE@NINTHCIRCUIT.ORG *****

SECTION TWO – Instructions for Setting Hearings

SETTING OF HEARINGS:

1. To request hearing time, email the judicial assistant (copying opposing counsel/self-represented litigants), at 9Orange@ninthcircuit.org with the following information:

- 1-Date and time being requested for the hearing
- 2-Case number and style of the case
- 3-Names of the attorneys (or self-represented if applicable)
- 4-Title of the petition(s)/motion(s) to be heard
- 5-Amount of time requested for the hearing
- 6-Evidentiary or Non-Evidentiary
- 7-Virtual or In Person

The judicial assistant will provide a list of potential dates/times for hearing. It is requesting party's responsibility to coordinate hearing time with opposing counsel/self-represented litigants. **Do not include the judicial assistant on coordination emails.**

2. Once a date/time has been selected and coordinated, email 9Orange@ninthcircuit.org copying opposing counsel with the date/time selected. A confirmation email will be sent. **Hearings are not set on the docket unless a confirmation email has been sent.** Hearings are only coordinated via email and voicemails will not be honored.
2. Any hearing requests for longer than one (1) hour must be approved by Judge Higbee, by email to the 2Orange email, detailing the reasons for the excessive time. After the Court reviews your request, you will receive a response.

- After requesting dates/times from the judicial assistant, coordinate the date and time with opposing counsel/self-represented party, as required by the Ninth Circuit's Administration Meet-and-Confer Order. Hearing times must be cleared with opposing counsel and/or self-represented parties. Be aware other attorneys are also coordinating hearing time, so you should coordinate up to three (3) alternate times, in case the time you request is booked.

4. If any of the above information is not included in your email, the Judicial Assistant will email you back to inquire, which may result in a delay and your hearing time being taken by another case, so please be sure to include all information in order Page 3 of 10 to assist us in getting your requested hearing time promptly scheduled.
5. If set in person, the courtroom or hearing room location must be included in the Notice of Hearing. If set virtually, the video hearing information must be included in the Notice of Hearing. Hearing time is assigned on a first-come, first-served basis. Please include the filing date of each motion to be heard on your Notice of Hearing. Your notice of hearing shall be filed within three (3) business days of the Judicial Assistant confirming your hearing time or your hearing will be removed from the docket.

SETTING OF SHORT MATTERS HEARINGS:

Short Matters are uncontested hearings held on Tuesday, Wednesday and Thursday from 9:30a.m. - 10:30 a.m. The Court will not hear contested or evidentiary hearings at short matters.

Because of the confidential nature of many proceedings in guardianships, these short matters hearings are scheduled with the Judicial Assistant so the Court can admit those parties who are not attorneys into the hearing. All short matters hearings must be coordinated with opposing counsel. The Court does not arrange for coverage by other judges on dates that the Court is unavailable.

The attorney noticing the hearing must provide, at least, three (3) days notice of the hearing to all parties, including pro se litigants.

Courtesy Copies Required: An electronic courtesy copy of the motion, notice of hearing (with the video link information or court/hearing room location), and proposed order (must be provided to the Judge at least 3 business days before the hearing. **Failure to do so shall result in the hearing not being held.** Courtesy copies in .pdf or Word of the motion and **the proposed order in Word only**, may be provided by email to 9Orange@ninthcircuit.org. The body of the email shall include the case number, style and date/time of the hearing. Courtesy copies should not be sent any sooner than 10 days prior to the hearing. **If a party is not on the service list for e-filing, it is the attorney's responsibility to include language in the certificate of service of submitted orders that the attorney will send a copy of the entered Order(s) to the party via U.S. Mail and then shall file a certificate of service afterwards in the court file. The Court does not mail copies of Orders to parties.**

SETTING LONGER HEARINGS:

As set forth above, all hearings will be scheduled with the Judicial Assistant, whether they are in-person appearance or a virtual appearance. Longer hearings are those that are 15 minutes or more, include either virtual or in-person appearance, involve attorney argument or testimony, or are evidentiary. Notices Page 4 of 10 of hearing must be provided to all parties, at least three (3) days prior to the hearing. All steps, under "Courtesy Copies Required" section above, must be followed, along with the following additional requirement: copies provided by email should be sent in .pdf or Word, (not in a zip folder or share folder as they are moved to a queue for the Judge to review, and the zip folder or share folder format cannot be moved properly). Courtesy copies over 50 pages should be provided electronically on a flash drive or email. Cases should be highlighted. Counsel must ensure that the electronic copy is indexed and that the index contains a hyperlink to the document/exhibit/case indexed. The body of the email shall include the case number, style and date/time of the hearing. Courtesy copies shall not be sent any sooner than 10 days prior to the hearing. Failure to provide courtesy copies may result in the hearing being cancelled. The Judge prefers electronic copies.

INSTRUCTIONS FOR VIRTUAL APPEARANCE:

Video Conference Instructions: Five minutes before the hearing, all participants should connect to the video conference. At the time the case is called, the Judge will connect to the video conference.

Judge Latimore' video link: The following link will be used for all Guardianship Ex-Parte/Short Matters, and any other virtual Guardianship hearing:

<https://ninthcircuit.webex.com/meet/9orange>

It is the responsibility of the attorneys to provide the link to the necessary parties. All parties must have their name clearly displayed to be allowed into the hearing. **Individuals who do not list their full names, nick names, or telephone numbers showing in the lobby will NOT be admitted into the virtual courtroom.**

Behavior in Virtual Hearings:

1. All participants must be able to properly log in, manage the virtual process and be in a quiet physical space consistent with the formality of a court hearing.
2. Participants must sign in using their full name so that the Court knows what hearing they belong to and can properly admit them.
3. Individuals with a first name, nickname, phone number, or other unidentified presence will not be admitted and will be removed from the lobby.
4. Participants must also have a good connection and be familiar with the technology.

MISCELLANEOUS:

Please do not cross-notice motions without prior approval of opposing counsel and the Judicial Assistant. Only the party setting the hearing may cancel the hearing. The party cancelling the hearing must email the Judicial Assistant to notify the Court of the cancelled hearing. The party cancelling the hearing must also file a Notice of Cancellation and email a copy of the notice of cancellation to the Judicial Assistant (filing the Notice of Cancellation with the Clerk is not sufficient as the Clerk does not notify the Court). If the hearing is cancelled less than four (4) hours beforehand, and counsel cancelling the hearing has not been able to

confirm the Judge has been informed, counsel shall appear or have someone appear on counsel's behalf to so inform the Judge.

EMERGENCY HEARINGS:

If an emergency arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be hand delivered or e-mailed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. Opposing counsel **must** be copied on any email to the Court.

COOPERATION OF COUNSEL TO COORDINATE HEARINGS:

Good faith cooperation is expected both from counsel, their support staff and pro se litigants. If after three (3) attempts on separate days, to coordinate a hearing, opposing counsel does not cooperate or respond, the requesting party may unilaterally set a hearing giving at least two (2) weeks' notice to the opposing counsel who failed to cooperate or respond. Efforts to coordinate the hearing should be noted on the Notice of Hearing.

SECTION THREE: Helpful Division Information

ORDERS AND RULINGS:

This division receives hundreds of orders per week, and they are addressed as rapidly as possible in date order received. It is requested that you do not contact the Judicial Assistant to follow up on submitted orders unless 14 days have elapsed, OR your submitted order was time-sensitive. If time-sensitive, at the time it was submitted, your communication to the Court should indicate this. If your matter has not been timely addressed however, please do not hesitate to contact us. Occasionally messages can be lost or misfiled; do not worry about advising us if more than two weeks have passed and you do not have a response. We are here to help.

If counsel is asked to prepare an order, the order should be drafted and circulated within three (3) working days and must be submitted to the Court within seven (7) days of the hearing, with a copy to opposing

counsel. All Orders must describe, in the caption, the subject and ruling of the Court, i.e. "Order Granting Plaintiff's Motion for Partial Summary Judgment on Liability." Do not simply title the document Order. Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order when the order is submitted.

SUBMITTING ORDERS TO CHAMBERS:

Proposed agreed orders should be emailed to 9Orange@ninthcircuit.org in Word format. Along with the proposed order, an e-filed cover letter indicating opposing counsel agrees to the content and form of the order must be included. If the parties are unable to agree on the form of the order, both sides shall email their proposed Order in Word to the Court for consideration within the seven (7) days. All parties must be copied on all email submissions.

If there are parties not receiving service through the Florida Courts e-filing Portal, the proposed order should state in the certificate of service that counsel will serve a copy of the order via U.S. mail to the non-efiling parties and file a certificate of service in the court file no later than three days from the date of the order.

The Court does not hold orders waiting for approval or objection. Please do not send proposed Orders to the Court until you have approval as to the form by opposing counsel.

E-filed cover letter: All proposed orders must be accompanied by an e-filed cover letter (the cover letter must have the filing stamp across the top) and must indicate that opposing counsel has reviewed and approved the form of the order when Page 7 of 10 submitting to the Court for review. The cover letter (but not the proposed order) must be e-filed by the attorney with the Clerk.

Certificate of Service: Please be sure that the certificate of service on the proposed Order complies with the Rules of Civil Procedure.

If you want to know if a specific Order has been signed by the Judge, you should first check your e-service email as the Order may have been e-served. If not received by e-service, then check the Clerk's system to see if it has been docketed before contacting the Judicial Assistant, as she

may not be able to track the signing of a specific Order due to the high volume of Orders received by the Court.

If the Judge rejects an Order and directs the setting of a hearing or a change to the order, the proposed order will be deleted and will need to be resubmitted upon resolution of the issue.

WITHDRAWAL OF COUNSEL:

If you do not have signed consent of the client, Motions to Withdraw as counsel should be set for hearing (not during short matters) with notice to all parties. If you have written client consent (attached to the motion) you may submit a copy of the motion along with a proposed order to chambers. The body of the proposed order and certificate of service must include the name, address, telephone number and e-mail address of the client to whom the pleadings will be sent. If the client is a guardian, allow no more than thirty (30) days to obtain substitute counsel. The case will be stayed for 30 days while the guardian obtains counsel.

MOTIONS FOR ATTORNEYS FEES:

There must be either a filed written consent of the guardian, or proper service of notice to the appropriate parties. If fees are contested an Order Preliminary to Fee Hearing may be required, please consult with the Judicial Assistant for issuance of this Order prior to your hearing date.

MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL:

Upon filing said Motion, you must send a copy directly to chambers for review as the Clerk does not provide them to the Court. The Court will either (i) rule without a hearing, (ii) direct that a written response be filed by opposing counsel, or (iii) direct the Judicial Assistant to contact the moving counsel to schedule a hearing.

EVIDENTIARY HEARING/NON-JURY TRIAL PROCEDURES:

a. Preparing Evidence:

After the substantive, good faith telephone conference and no later than five (5) business days before the hearing, the parties are to pre-mark the bates-stamped exhibits that they intend to use during the hearing and provide a set Page 8 of 10 of the exhibits to the other

party. The Court will not review exhibits prior to the hearing unless both sides stipulate to their entry and this agreement is clearly conveyed to the Court.

b. Virtual Witnesses:

If your case involves witness testimony, and the witness cannot appear in person, or it would be hardship for in person appearance, unless agreed upon by all parties, you must file a notification of the issue and file the appropriate motion to request Court permission for virtual appearance. This notice must be provided to all counsel of record and counsel be given sufficient time to object. Failure to provide notice will result in a denial of the virtual appearance.

INFORMATION NOT COVERED:

If any matters concerning the conduct of the hearing procedures of Orange Guardianship/Mental Health Division 09 are not covered herein, counsel is free to contact the Court by email at 9Orange@ninthcircuit.org. A status hearing can be set during short matters at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

SECTION 4: APPROVAL OF MINOR SETTLEMENTS

1. Under Section 744.387, the proposed settlement amount determines whether guardianship must be established to settle the minor's claims. "[T]he natural guardian or guardian of a minor may settle any claim by or on behalf of a minor that does not exceed \$15,000 without bond. **A legal guardianship shall be required when the amount of the net settlement to the ward exceeds \$15,000.**" § 744.387(2), Fla. Stat. (2024) (emphasis added).
2. If you have a minor settlement case and you wish to obtain Court approval, if the net sum to the minor is less than 15,000.00, submit the settlement documentation, and proposed order to the Court and if the Court has sufficient information from that submission to make a ruling the Order may be signed in chambers without the need for a hearing. If the Court has questions, the Judicial Assistant will reach out to you and ask that a hearing be set.

3. If you have a minor settlement case and you wish to obtain Court approval and the net sum to the minor is **MORE** than \$15,000.00 there are two options:
 - a. The net settlement will be placed in a binding annuity that cannot be accessed or touched by anyone other than the minor upon reaching the age of majority or beyond.
 - b. The net settlement proceeds will be deposited into a financial institution/depository pursuant to section 69.031 Florida Statutes, and subject to release only upon order of the Court.
4. If your settlement is going to be placed in an annuity and the money will pass directly from the settlement funds held by counsel into the annuity without the parent having any access to same, a guardianship is not required. Please set a hearing after filing the relevant pleadings and submit a proposed Order to the Court for review prior to the hearing. You are also welcome to email the settlement amounts if you do not wish to place them in the public court file if you want the Court to review them prior to the hearing.
5. If your settlement proceeds will be deposited into a financial institution/depository pursuant to section 69.031, Florida Statutes, a Guardian of the Property must be appointed when the amount of the net settlement to the ward exceeds \$15,000.00 pursuant to Florida Statutes 744.387(2). Please file all the appropriate pleadings for a Guardianship of the Property and make sure that prior to any hearing the proposed Guardian has had a livescan background and credit check and same are filed and viewable in the Court file. Proposed Guardians who have poor credit, or if the funds are significant, a bond may be required by the Court.
6. In either event, if the net settlement proceeds exceed \$50,000.00 a Guardian Ad Litem shall be appointed and render a report viewable in the Court file prior to hearing as to what is in the best interest of the minor