

**IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA
FAMILY LAW DIVISION
ADMINISTRATIVE DIRECTIVE ECFLAD 2007-01**

**IN RE: POLICIES AND PROCEDURES OF THE FAMILY LAW DIVISION
 OF THE CIRCUIT COURT, ESCAMBIA COUNTY, FLORIDA**

WHEREAS, the Circuit Court for Escambia County, Florida, has established a Family Law Division effective April 1, 1992; and

WHEREAS, a primary purpose of the Family Law Division is to coordinate services to one family so that multiple cases involving one child will be consolidated and heard by one judge except with respect to delinquency cases; and

WHEREAS, a proposed local rule has been submitted to the Florida Supreme Court for approval; and

WHEREAS, that local rule specifies the Family Law Division shall have jurisdiction over the following matters: dissolution of marriage, simplified dissolution of marriage, paternity, support with dissolution, any matter related to child support, custody and visitation, UIFSA, adoptions, repeat violence, domestic violence, name changes, modification of family judgments, juvenile dependency, and juvenile delinquency; and

WHEREAS, the judges assigned to the Family Law Division agree to establish these uniform procedures and policies relative to family law cases, it is, therefore,

ORDERED AND ADJUDGED:

1. EFFECTIVE DATE: These administrative policies and procedures shall be effective **May 1, 2007**.

2. APPLICABILITY: The administrative directive shall apply to all proceedings filed in the Family Law Division of the Circuit Court, First Judicial Circuit, Escambia County, Florida. Parties representing themselves and counsel of record for parties shall abide by these policies and procedures. Whenever the term "counsel" appears in this directive, it shall be defined to include parties representing themselves.

3. CIVIL COVER SHEETS: The Civil Cover Sheet required by *Florida Rule of Civil Procedure* Form 1.997 is modified to require additional information. In any domestic relations case, counsel is requested to identify any related domestic litigation, including juvenile dependency.

4. MEDIATION: It is the policy of the Court to make maximum use of mediation proceedings as authorized by §44.102, *Florida Statutes*, and *Florida Family Law Rules of Procedure* 12.740 - 12.741. The Notice of Non-Jury Trial should recite if the parties have attempted resolution through mediation. If the parties have not, the Court may require mediation before scheduling the case for final hearing. If a party desires mediation at an earlier time and the other party does not agree, the desiring party may address this issue to the Court by motion. When a written agreement is reached through mediation, it will be the responsibility of counsel for the Petitioner to submit the original agreement to the Court.

5. TEMPORARY INJUNCTIONS WITHOUT NOTICE: Applications for temporary injunctions without notice shall be in compliance with *Florida Family Law Rules of Procedure* Rule 12.610 and may follow substantially the form provided in that rule. Further, counsel should be familiar with the case of *Hathcock v. Hathcock*, 533 So.2d 802 (Fla. 1st DCA 1988). Proceedings requesting an injunction against domestic violence shall be in a separately filed action under Chapter 741.

6. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT STATEMENTS AND ALLEGATIONS: §61.502 et seq., *Florida Statutes*, requires that the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act be complied with by the filing of a verified affidavit simultaneously with any pleading requesting child custody or visitation or by making the necessary allegations in the verified pleading. This requirement applies to all dissolution of marriage cases, whether contested or uncontested, and other custody or visitation proceedings addressed by the Act.

7. FINANCIAL AFFIDAVITS: When required by *Florida Family Law Rules of Procedure* Rule 12.285, financial affidavits must be timely filed by the parties. If a party fails or refuses to file a financial affidavit when required, opposing counsel may move for an order requiring the party to do so without a hearing (see Paragraph 11 below). Financial affidavits shall be filed in uncontested dissolutions whether represented by counsel or appearing *pro se*, even though child support or alimony has been agreed upon in a Marital Settlement Agreement. If there is a material change in the parties' financial circumstances during the pendency of the proceedings, amended updated financial affidavits shall be filed no later than 5:00 p.m. three business days prior to the hearing or trial. The financial affidavit must be consistent with Form 12.902(b) or 12.902(c) of the Family Law Forms. The filing of financial affidavits may be waived if there are no minor or dependent children and neither party seeks financial relief from the Court. See *Salczman v. Joquiell*, 776 So.2d 986 (Fla. 3rd DCA 2001).

8. MANDATORY DISCLOSURE: Unless it is waived by the parties, each party shall file a verified Certificate of Compliance with the Court pursuant to *Florida Family Law Rule of Procedure* 12.295 indicating that the party has exchanged certain financial information with the other party. If a party fails or refuses to file a Certificate of Compliance when required, opposing counsel may move for an order requiring the party to do so without a hearing (see Paragraph 11 below).

9. PARENTING COURSE: All parties involved in family law cases involving minor children will be required to attend an approved parenting course prior to the final judgment being issued in the case. A party may attend the “TransParenting” course at Pensacola Junior College or any other live course approved by the Department of Children & Families. Completion of an online parenting course will not satisfy this requirement unless prior permission from the Court has been granted. If a party fails to complete the parenting course within sixty (60) days of the date of the order to attend, the other party or counsel may move for an order of contempt requiring the party to do so without a hearing (see Paragraph 11 below).

10. CHILD SUPPORT GUIDELINES WORKSHEETS: A child support guidelines worksheet must be prepared and presented to the Court by counsel for the party requesting an award of child support whether at a temporary hearing, contested trial, modification of child support hearing or uncontested final hearing where a Marital Settlement Agreement has been reached. If opposing counsel does not stipulate to the correctness of the worksheet submitted, he or she must present a separate worksheet on behalf of the client.

11. MOTIONS TO COMPEL WITHOUT A HEARING: Motions to compel discovery and motions to compel another party to comply with certain requirements under the *Florida Family Law Rules of Procedure* (i.e., filing a financial affidavit, Mandatory Disclosure) or an order of the court (i.e., for completion of an approved parenting course) will not be set for a hearing or addressed without a hearing unless the motion states that the moving party or attorney has contacted opposing counsel in writing and attempted to resolve the matter without a hearing, but that the matter could not be resolved informally. The letter to the opposing party shall give him or her ten (10) days to respond to the discovery request or to comply with certain requirements under the *Florida Family Law Rules of Procedure* or an order of the court, or to request an extension of time within which to comply. The ten day letter shall refer to the rule or order in which the opposing party is non-compliant.

If no response is received within ten (10) days of the date of the letter, the moving counsel may file a motion to compel alleging a complete failure to respond to the discovery request or to comply with a requirement under the *Florida Family Law Rules of Procedure* or an order of the court and there has been no request for an extension.

If the above procedures are followed, an order may be entered without a hearing requiring compliance with the original discovery request or requiring the offending party to comply with a requirement under the *Florida Family Law Rules of Procedure* or order of the court within the time frame stated in the Order to Compel. The moving counsel shall submit the proposed order to the court with a copy to the opposing party, and the order shall state that the court will reserve jurisdiction to assess attorney’s fees and costs to the non-complying party.

12. MOTIONS FOR CONTINUANCE: *Florida Rules of Judicial Administration* Rule 1.085(e) requires that any motion for continuance be in writing and signed by the party requesting such continuance, unless good cause can be shown as to why a party cannot sign the motion for continuance, as well as the attorney for the party. A stipulation of continuance does not automatically continue a case. A court order is necessary to continue any case with or

without a stipulation. Continuances will not be granted without a hearing if the opposing party or attorney objects.

13. MOTIONS TO WITHDRAW: When an attorney files a Motion to Withdraw, no hearing is necessary if the client signs a Consent to Withdrawal and the opposing party does not object. The original Consent to Withdrawal must be attached to the Motion to Withdraw and a proposed order shall be submitted to the Court for signature. The proposed order shall include the client's current or last known mailing address for service of future pleadings, notices or court orders. If the client does not sign a Consent to Withdrawal, a hearing is necessary and notice shall be given to the client of the hearing. If requested, counsel may contact the judge's office to obtain permission to appear at the hearing telephonically.

14. CROSS-NOTICING MOTIONS: There will be no cross-noticing of motions or "piggybacking" of one or more motions upon a previously scheduled motion unless counsel first contacts the judge's judicial assistant to confirm that the calendar will accommodate the hearing of such additional matters at the scheduled time. This proscription against cross-noticing is inapplicable when the parties have both pled for and seek the same relief, such as temporary primary responsibility and temporary child support. Each party must file a notice on their issues. The time reserved should be sufficient to address both parties' positions. The time listed on each notice shall be the time set for the entire hearing.

15. WRITTEN CALCULATION OF ARREARAGE: Whenever enforcement of delinquent child support, alimony or other monetary payment arrearage is sought, moving counsel must present to the Court, with a copy provided to opposing counsel or party, a written calculation sheet showing how the arrearage was calculated. If payments were required to be made through the Clerk of the Court or the State of Florida Disbursement Unit, a clerk's certificate current as of the date of the last payment due prior to the hearing shall be obtained and presented to the Court, with a copy provided to opposing counsel or party. If interest on the arrearage is requested, its amount and method of computation must likewise be shown on the written calculation sheet.

16. COPIES OF PROPOSED ORDERS: Copies of all proposed orders which are being sent to the Court for signature must first be mailed or faxed to the opposing counsel and opposing counsel shall attempt to agree upon the form and content of the proposed order within five days of receipt, unless an extension is requested. If opposing counsel consents to the form and content of the proposed order, the attorney who prepared the proposed order shall submit same to the Court with a transmittal letter indicating that opposing counsel consents to the entry of the order. If opposing counsel objects to the proposed order and counsel cannot work out the discrepancies, then each attorney shall submit his/her own proposed order to the Court for resolution. If the opposing party is *pro se*, counsel shall submit the proposed order to the Court, with a copy being provided to the *pro se* party and requesting that the opposing party notify counsel and the Court immediately if he or she has any objections to the form or content of the order. The attorney preparing the proposed order or judgment shall furnish the Court with a sufficient number of copies for distribution along with stamped envelopes. If certified copies are sought from the clerk, the transmittal letter to the clerk should so indicate that only the original is being sent for signature and certified copies are being requested from the clerk.

17. TELEPHONIC PARTICIPATION / TESTIMONY: All parties should be familiar with *Florida Judicial Administration* Rule 2.071 and its distinction between telephone participation and telephonic testimony. Specifically, the Court may only allow telephonic testimony upon the consent of all parties.

18. INDIVIDUAL JUDGE'S MISCELLANEOUS POLICIES AND PROCEDURES: Each judge has his or her own policies and procedures regarding such miscellaneous matters as telephone hearings, *in-camera* interviews of child witnesses, motions for rehearing, etc. Counsel desiring to ascertain the judge's policy or procedure on such a matter may make inquiry of the judge or the judicial assistant.

DONE AND ORDERED at Pensacola, Escambia County, Florida, this 20th day of April, 2007.

Signed by: Jan Shackelford, Administrative Judge
Family Law Division