

PROCEDURES AND PREFERENCES

Judge Jason L. Jones
JA – Beth Rissinger

Current Assignments: Leon and Jefferson Counties
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E-mail is the preferred method of contact.

INTRODUCTION:

The Rules of Judicial Administration encourage the speedy, just, and inexpensive resolution of cases. These rules require the trial court to monitor and manage its docket to achieve this goal. In furtherance of this goal, information on the Judge's procedures and preferences is provided for the benefit of attorneys and parties appearing before Judge Jason L. Jones.

SECTION 1 - COMMUNICATION WITH THE JUDGE'S OFFICE

1.1 Communication with Judge Jones

Impartiality is the most basic principle of judicial ethics. This means that all parties to a pending case must be included in all communications with the Court regarding the matter. The Judge is restricted by principles of judicial ethics from communicating about pending cases outside of hearings or documents filed in the court file and served on all parties. These restrictions apply equally to the Judge's Judicial Assistant (the JA). The JA cannot deliver messages about substantive matters from a litigant or any other person to the Judge. However, communication with the JA for scheduling purposes is permitted. See Section 2.3.

1.2 Communication with Judge Jones's Judicial Assistant (JA)

At the risk of stating the obvious, the JA does not consider arguments or decide legal matters; such is the exclusive province of the Judge. Consequently, the practice of arguing the merits of a case to the JA, or including the JA on e-mail exchanges in which disagreements between the parties are aired, serves no purpose and is prohibited. Furthermore, the JA is an extension of the Judge. As such, intemperate communication should be avoided.

SECTION 2 - MOTION PRACTICE:

2.1 Form and Content - In general, all motions and responses, unless made orally during a hearing or trial, should be in writing and should state with particularity the grounds and the relief sought. Motions and responses should include all authorities relied upon, either in the body of the motion or response, or in a separate memorandum of law. However, citation to legal authority is not required for routine motions that do not raise substantive legal issues, e.g., motions for continuance, motions to transport, etc.

2.2 Certificate of Good Faith Conference - Before filing any motion, the movant must confer with opposing counsel in an effort to resolve the issue(s) raised by the motion. This does not envision an exchange of ultimatums but rather a substantive conversation geared toward resolution of the matter in good faith. Additionally, counsel are expected to respond promptly and professionally to inquiries and communication from opposing counsel in this and all matters concerning the litigation.

2.3 Specially Set Motion Hearings - To set a hearing please e-mail Beth Rissinger, JA, Rissingerb@leoncountyfl.gov with the following information. Please include all parties in your e-mail including pro-se.

1. The case number
2. The title of the motion, petition, or matter that will be the subject of the hearing
3. Whether the hearing is evidentiary or not
4. The realistic estimate of how much time is needed for all participants

Counsel will be given potential hearing dates in order to coordinate the hearing with the other side. After potential hearing dates are provided, please **do not** include the JA in e-mail exchanges between the parties involving discussions or coordination of the hearing date. The only e-mail the JA should receive is the agreed-upon hearing date **or** notification that the parties cannot agree on a hearing date, in which case the procedures in Sections 2.3.1 or 2.3.2 shall be followed. The JA will instruct that the hearing has been set and that a notice of hearing will need to be filed and provide a courtesy copy to the JA. **A notice of hearing must be filed within 48-hours and it must indicate if the hearing is evidentiary or not.**

****PLEASE NOTE: Hearing time is not reserved until the JA has received the Notice of Hearing and a Notice of Hearing is filed.****

Motions will NOT be scheduled for hearing unless:

- the motion has been filed with the Clerk;
- **the movant has included a statement in the motion that a “good faith effort” has been made to resolve and/or narrow the issues, but the effort was unsuccessful.** See Section 2.2;
- the movant has consulted with opposing counsel regarding the total amount of time needed for the hearing prior to e-mailing the JA. In this regard, counsel should be realistic in assessing the amount of time needed for the entire hearing (not just one side). Hearings may be recessed and continued if the allotted time expires before the hearing is concluded;
- the movant has consulted with opposing counsel regarding convenient hearing dates after receiving available dates from the JA.

2.3.1 Agreed-Upon Hearing Dates - Once a date is agreed upon, the movant must email the JA for confirmation of hearing date and to have the hearing set on the Judge’s calendar. At that time, the hearing date is reserved. **Movant must then provide an E-filed version of the Notice of Hearing to the JA.**

2.3.2 No Agreement On Hearing Dates - If the parties cannot agree on a hearing date, the movant shall notify the JA, who will bring the matter to the Judge’s attention. The Judge will then schedule the hearing at the convenience of the Court. **Movant must then provide an E-filed version of the Notice of Hearing to the JA.**

2.3.3 Timing of Hearings (Criminal Cases)- Motions, particularly motions to suppress, child hearsay, Williams Rule, etc., must be filed *and* heard prior to trial. The Court considers jurors’ time to be extremely valuable and will make every effort to ensure their time is not wasted. The Court considers it a waste of jurors’ time to have them sitting in the jury room not hearing testimony because there is argument at trial on motions that could have been presented prior to trial. This is highly disfavored. Unless otherwise determined by the Court, motions will not be heard on the day of trial.

2.4 Materials to be Provided to the Court Before Hearings - Please be aware that the Court is not automatically copied with the motions and supporting documents filed by counsel. Because the Judge strongly prefers to read all submitted documents in advance of hearings, it is the responsibility of counsel to provide the Court with a courtesy copy of any and all documents (motions, memoranda, authority, etc.) See Sections 2.4.1 and 2.4.2. Please do not send original motions to the Judge.

2.4.1 Submitting Materials - The Court accepts copies of e-filed motions and notices of hearings via e-mail to the JA in PDF format. However, supporting materials should be submitted directly to the Judge’s office. Materials exceeding 50 pages must be submitted in a three-ring binder. Longer submissions should also

contain a table of contents and section dividers and be Bates-stamped for ease of reference. **Please do not staple any pages in three-ring binders.**

2.4.2 Time to Provide Materials - While no bright-line exists, the more voluminous the materials, the further in advance of the hearing they should be submitted. Submission of any materials within three (3) days of a hearing is discouraged, as doing so will likely result in the Judge having insufficient time to read the material. Likewise, as the Judge prefers to read all legal authority in advance of hearings, handing the Judge case law during a motion hearing is highly disfavored.

2.5 Motions Decided on Papers and Memoranda - Only rarely will the Court decide motions without a hearing. However, routine, unopposed motions may be decided without a hearing, provided the opposing party's position in agreement is noted.

2.6 Proposed Orders After Hearings - The clerk will not accept or forward e-filed orders from attorneys which are attached to motions. **All proposed orders must be e-mailed to the JA in Word format.** Proposed orders need to be submitted in Word format .docx. There should be **no** internal formatting, such as tables or hyperlinks. Those create problems when uploading for a digital signature. Please leave the date and signature blocks blank or substitute DDDD, for date and JJJJ for signature, with no lines as the Judge signs electronically.

Normally, the prevailing party will be asked to submit a proposed order after the Court rules at a hearing. In some instances, the Court may request proposed orders from both sides, after review of which the Court will e-file the signed order of the prevailing party.

2.7 Cancellation of Hearings - If your hearing is cancelled or rescheduled, all attorneys are tasked with notifying the JA as soon as possible so that the Judge may turn his attention to other matters. The Judge has final say on whether a hearing is cancelled and, unless the parties hear otherwise, they should appear at the hearing.

SECTION 3 - EMERGENCY MATTERS

3.1 Emergencies Defined - Emergencies are defined as “non-routine matters which, by their nature, require immediate action by the Court to prevent or stop physical harm to a person, irreparable property damage, or a hardship of such a critical nature that the immediate intervention of the Court is absolutely necessary.”

3.2 Prohibited Practice - The practice of labeling a routine matter as an “emergency” to gain priority on the Court's docket, calendar, or otherwise is

prohibited. Please be aware that the designation of a matter as an “emergency” will normally cause the Judge to abandon other pending matters in order to immediately address the emergency. Often the JA, clerk, bailiff’s unit, court reporter, attorneys, as well other litigants, are also affected by alleged emergencies. In the case of a bona fide emergency this is necessary and proper.

However, non-emergencies which are improperly labeled as emergencies create hardships and unfairly prejudice court personnel and other litigants. Therefore such a motion must state with particularity the reason the matter meets the definition of an emergency as set forth above. **Please Note:** Lack of due diligence by a party or counsel does not create an emergency.

3.3 Emergency Hearings - Requests or motions for an emergency hearing are decided by the Judge.

If the matter is a bona fide emergency, the movant shall file the motion for an emergency hearing with the Clerk of Court. The Clerk will e-mail the motion to the JA and the Judge will then review the motion to determine if it is an actual emergency and if a hearing is warranted. Opposing counsel must be given a copy of the motion with all attachments.

SECTION 4 - PRESENCE OF PARTIES

Criminal Cases

4.1 In General - A defendant’s presence is required at **ALL HEARINGS** unless previously waived by the Court or by Court order. **However, a defendant may authorize his or her attorney to waive their appearance for routine case management conferences by submitting a written waiver.** No Court order or approval is required. See Section 4.3.

4.2 Defendants in Custody (in Jefferson County Jail) - Defendants are not automatically transported for routine matters. If counsel wants a defendant transported, a request must be made to the clerk’s office not later than 3:00 p.m. the day before the proceeding. Defendants are automatically transported for trials; no request of the clerk is required for these proceedings. See Section 4.4 for important information.

4.2.1 Defendants in Custody (in other than Jefferson County Jail) - Defendants who are not being held in the Jefferson County Jail will require a transport order to

secure their appearance in court. The bailiff's unit requires a minimum of ten (10) business days' notice in order to ensure the transport of out-of-county defendants.

It is the responsibility of counsel to make certain the bailiff's unit receives two certified copies of transport orders no fewer than ten (10) business days prior to the defendant's scheduled court appearance. Counsel should make every endeavor not to cause the unnecessary transport of out-of-county defendants as this is not an efficient use of county resources.

4.3 Defendants Not in Custody - As noted in Section 4.1, a defendant is authorized to waive their appearance at routine case management conferences. **However, counsel are expected and required to alert the Court if any client is not keeping appropriate contact with counsel.**

4.4 Plea Hearings – The practice of having inmates transported from the jail for a plea hearing when there is not an agreed-upon disposition (unless the inmate will be entering an “open” or “straight up” plea) is **prohibited**. Often, plea hearings are set while plea negotiations are still ongoing. This is expected and proper. However, counsel are required to cancel the transport of inmates if a plea agreement has not been reached (unless the inmate will be entering an “open” or “straight up” plea). Inmates are **not** to be transported so counsel can “talk to them” about a plea. While the Court understands that plea agreements can disintegrate unexpectedly, this should be a rare occurrence. The unnecessary transport of inmates will be very closely monitored.

Non-Criminal Cases

4.5 In General - All parties' presence is required at **ALL HEARINGS** unless previously waived by the Court or by Court order. However, counsel is authorized to waive the appearance of their clients for routine case management conferences.

4.6 Litigants in Custody– Litigants being held in the County Detention Center or other Detention Facilities will be present via zoom.

SECTION 5 – CONTINUANCES

5.1 Motions to Continue - Motions to continue a trial, violation of probation (VOP) hearing, sentencing, and any specially set hearings should be in writing and scheduled for a hearing before the date of the matter sought to be continued, if at all possible. Motions to continue a trial after the Pretrial-Case Management conference or Docket Sounding (see Section 6.4), or to continue a VOP hearing on the date of the hearing, are **strongly discouraged** and will be carefully reviewed.

5.2 Motions to Continue Other Hearings - Motions to continue other hearings must be in writing, must identify the reason(s) for continuance, must state the position of opposing counsel, must state the status of speedy trial in criminal cases, and must be scheduled for hearing before the date of the matter sought to be continued. An agreed-upon order along with the motion may be presented, which the Court may enter without a hearing. Additionally, the Court, in its discretion, may rule on opposed motions to continue without a hearing.

SECTION 6 - TRIALS

6.1 In General – Jury selection and trials start at 8:30 a.m. All counsel and their clients are expected to be present in the courtroom at this time. Jurors are sacrificing their time to perform an important civic duty. Again, the Court intends to make every effort to ensure that jurors’ time is not wasted. See Section 2.3.3. Counsel should be personally aware of, and impress upon their clients, witnesses, etc., the importance of timeliness. This applies equally to breaks and recesses.

6.2 Witnesses - All witnesses that are present should be in the courtroom at 8:30 a.m. to receive any instructions from the Court. Counsel are permitted, in their discretion, to have reliable witnesses arrive at a later time. While the Court recognizes that the pace of trial is impossible to predict with surgical precision, counsel are cautioned to be judicious in the exercise of this discretion. If the Rule of Sequestration has been invoked and a witness is not present to hear the Court’s instruction it is the counsel’s responsibility to instruct the witness. Furthermore, during the trial, it is counsel’s obligation to have the next witness immediately available when court resumes from a break or recess. The Court considers it a waste of jurors’ time to be waiting on witnesses to appear and/or for counsel to be searching for witnesses throughout the courthouse when court reconvenes.

6.2.1 Witness List - Counsel shall provide the Court with a list of probable witnesses prior to the beginning of jury selection. The list may be legibly handwritten, and the witnesses need not be listed in the order they will be called to testify.

6.3 Evidence – Counsel must provide the Court and opposing counsel with a list of probable evidence prior to the start of the trial. All exhibits should be marked and numbered as listed. All evidence will be shown to opposing counsel after it is marked. It is opposing counsel’s obligation to carefully examine the evidence before the trial begins.

During trial, the party offering the evidence is obligated to make opposing counsel aware of any changes in the numbering of the exhibits or the intent to offer of any evidence not previously numbered or displayed. Opposing counsel may rely on this

numbering; therefore, it is unnecessary to further present exhibits to opposing counsel before offering the item in evidence.

Counsel are responsible for arranging to have evidence in the courtroom in time for inspection and marking prior to the start of the trial.

6.4 Docket Sounding (Criminal Cases) - “Docket Sounding” refers to the last proceeding at which the Court will accept a negotiated plea and is the proceeding at which the final trial calendar is set. Defendants must appear in person for Docket Sounding unless otherwise ordered by the Court.

6.5 Plea Acceptance (Criminal Cases) - “Straight up” or “open” pleas (no agreement) will be accepted on the day of jury selection and trial. The Court, in its discretion, may accept a negotiated plea after Docket Sounding. However, this is highly disfavored, and counsel should be prepared to justify why there should be a deviation from normal practice.

Please note: Despite all expectations that a case may be resolved with a plea, counsel are strongly cautioned not to cancel witnesses or cease trial preparation in expectation that a defendant will enter a plea, as the failure of an expected plea to occur will not be grounds for a continuance.

6.6 Conduct at Trial - There will be no speaking objections. Counsel should object and state the legal basis for their objection. If further explanation or argument is required it will be done at side-bar. Counsel are not free to move around the court without the Court’s permission. Counsel should stay within arm’s length of the podium unless permitted by the Court.

SECTION 7 - PROBATE

7.1 Probate filing instructions:

1. In all cases, you must file with the Clerk’s office the Original “Authenticated Copy” of the Death Certificate. See Fla. Statute 731.103 (1)
2. Required forms:
 - a. Affidavit of Heirs in all cases
 - b. Summary Administration Checklist
 - c. Formal Administration Opening Checklist
 - d. Formal Administration Closing Checklist

Forms may be found at: cvweb.leonclerk.com/public/index.html

3. When filing the Petition to Determine Homestead Status please include the following: The only way the Court can determine whether the property submitted to the Court for Determination of Homestead is, in fact, Homestead, is if we know several things: (1) relation to the petitioner to the owner and (2) if the property is inside or outside of a municipality because where the property (in or outside a city limit) is located makes a difference as to whether based on the legal description (1/2 acre v 160 acres) will support a finding of Homestead by the Court.

SECTION 8 - GUARDIANSHIP

8.1 Guardianship filing instructions:

When a petition to appoint emergency temporary guardianship is filed, it should queue the clerk to open an “MH” case as well as a “GA” case. Many times, an attorney doesn’t know that two case numbers should be filed for a ward, especially if they’re filing through the Portal. In some instances, petitions and orders will be filed in both cases.

Incapacity (MH) cases should include:

- Petition to Determine Incapacity (confidential)
- Petition to appoint attorney and Elisor
- Order Appointing attorney and Elisor
- Petition to Appoint Examining Committee
- Order to appoint Examining Committee
- Reports of the examining Committee
- Petition for order compensating Examining Committee
- Notice of hearing for Incapacity Hearing
- Order for compensation of Examining Committee
- Order Determining Total/Limited Incapacity

****This case closes upon the Order Determining Incapacity****

Guardianship cases (GA) should include:

- Petition for appointment of Guardian
- Petition to appoint attorney and Elisor
- Order Appointing Attorney and Elisor

- Application for appointment as Guardian
- Applicants must complete a credit history investigation and a level 2 background screening as required under 435.04 prior to appointment
- Notice of hearing for Appointing Guardian
- Order Appointing Guardian
- Letters of Guardianship
- Orders Specifying Time Requirements (filed after Letters are issued by the Court)
- Initial report/ Inventory by Guardians
- Accountings and Plans by Guardians
- Reports and Recommendations by the Clerk to Accountings and Plans by Guardians
- Orders Approving / Disapproving Accountings and Plans by Guardians after reviewing the Reports and Recommendations by the Clerk.

**These cases don't close unless a ward dies, has been mentally restored (or the incapacity was only due to the ward's age, a minor, and they've reached the age of 18, or there is a change of venue.

To receive the next Attorney / Elisor available, you must contact the Clerk at the following:

Leon County: Clerk_guardianship@leoncountyfl.gov

Jefferson County: clerk@jeffersonclerk.com

Once you receive the next Attorney you must contact that attorney and see if he/she is available. The attorney must agree to see the Ward within five (5) days. If not, proceed to the next attorney on the list.

The Attorney/Elisor needs to meet with the AIP before the examining committee arrives.

The Examining Committee Members list is located at <https://2ndcircuit.leoncountyfl.gov>. Please clear each examining committee member's availability to serve on a particular case and tell the examining committee whether the case is private pay or indigent. Inform the Examining Committee member of the Attorney/Elisor contact information as well as the Applicant.

Submit the Order to pay Examining Committee along with a proposed Order in Word format to the JA. You must send a copy of the Order to the Examining Committee. In a private pay case, please include in your order that the Guardian has thirty days to pay the examining committee.

SECTION 9 – REMOTE HEARINGS/APPEARANCES

9.1 Remote Hearings- Hearings set for two hours or less will typically be held via Zoom.

9.2 Remote Appearance by Counsel – If a hearing is scheduled to occur in person, counsel may request to appear via Zoom by filing a motion and emailing a proposed order no fewer than 48 hours prior to the proceeding. The motion shall set forth the reason(s) remote appearance is necessary and shall include the most recent date Counsel has had *personal contact* with opposing counsel (not email or legal staff contact, etc.). Motions to appear via Zoom for in-person hearings are frowned upon and will only be granted upon a showing of good cause.

9.3 Remote Appearance by Party or Witness - If a hearing is scheduled to occur in person, counsel may request to have their client or witness appear via Zoom by filing a motion and emailing a proposed order no fewer than 48 hours prior to the proceeding. The motion shall set forth the reason(s) remote appearance is necessary and shall include the opposing party's position on the motion. Motions to appear via Zoom for in-person hearings are frowned upon and will only be granted upon a showing of good cause.

9.4 Zoom Information- The Court will provide the Zoom information to be used in the Notice of Hearing at the time the hearing is confirmed.

SECTION 10 – USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

10.1 Generative Artificial Intelligence (AI) - Generative AI are “deep-learning models” that compile data “to generate statistically probable outputs when prompted.” IBM, What is generative AI?, (April 20, 2023), <https://research.ibm.com/blog/what-is-generative-AI>

10.2 Review of Work Product- Lawyers and pro se litigants must review the work product of a generative AI. Parties are ultimately responsible for the work product they create, regardless of whether that work product was originally drafted or researched by generative AI. Failure to verify the accuracy of work product drafted or researched by generative AI may result in sanctions.