

Magistrate Bocelli's Motion Guidelines

MAGISTRATE BOCELLI WILL HEAR ANY CIVIL, GUARDIANSHIP, OR PROBATE MOTION/NON-JURY TRIAL THAT IS REFERRED BY THE ASSIGNED JUDGE EXCEPT AS NOTED BELOW. WITH RESPECT TO HURRICANE IRMA CASES, REFERRALS WILL BE LIMITED TO DISCOVERY MOTIONS LONGER THAN TEN (10) MINUTES, AND ALL OTHER MATTERS SHOULD BE SCHEDULED WITH THE ASSIGNED JUDGE'S JUDICIAL ASSISTANT.

Please review these Guidelines in full prior to scheduling a hearing with the Magistrate.

Scheduling Hearings:

The original Motion must be filed with the Clerk of Court and the time and date of the hearing must be coordinated with all counsel or parties in conformance with the Local Rules and Standards of Professional Courtesy and Conduct, which shall be strictly enforced. Any motion or hearing not in compliance with these rules may not be heard.

All hearings will be scheduled in 15-minute increments. The time reserved for hearing is the total time allowed for the hearing divided evenly between or among the parties. Counsel shall realistically evaluate the time necessary for the hearing, as the parties will be limited thereto. Failure to reserve the appropriate time for a hearing may result in the hearing being continued or cancelled by the Magistrate.

You may consult the JACS Calendar for available hearing times. In order to see all available time slots, do not enter a duration. Once dates have been coordinated with all parties, to schedule a hearing on the Magistrate's calendar, you must contact the Magistrate's assistant, Adela Tomas at atomas@ca.cjis20.org or (239) 533-2583. E-mail is preferred and will likely result in a faster response. The Magistrate's assistant will confirm the hearing time and schedule the hearing in JACS. Attorneys of record will receive a confirmation e-mail directly from JACS. The attorney or party scheduling the hearing shall promptly file and serve a notice of hearing, and e-mail a courtesy copy to the Magistrate's assistant. The notice of hearing must include the Zoom meeting information and instructions provided by the Magistrate's assistant.

Contact hours (by telephone) are 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday.

Once a motion is scheduled, subsequent motions may not be "piggy-backed" or "cross-noticed" onto the time reserved for the first motion absent prior approval of the Magistrate and the original scheduling attorney. Any changes to the matters set during a hearing, even by agreement of the parties, must be coordinated with the Magistrate's assistant to ensure that an order of referral exists for each matter to be heard. This applies equally to "amended" motions seeking additional or different relief or asserting additional or different arguments.

NOTE: The 2nd and 4th Thursdays of each month between 9:00 a.m. and 11:00 a.m. are reserved for routine Guardianship hearings (except when rescheduled to avoid conflicts with legal holidays). If Guardianship matters are contested or otherwise expected to take more than 15 minutes, please contact the Magistrate's assistant to re-schedule the matter for a special-set hearing. Guardianship matters also may be set during any other available hearing time if necessary to accommodate counsels' or the parties' schedules.

IN THE SPIRIT of the Florida Rules of Civil Procedure and the Rules of Professional Courtesy and Conduct governing members of the Florida Bar, prior to filing a motion, attorneys *must first talk directly to opposing counsel in person or by telephone* in a good faith effort to mutually resolve any outstanding issues. If counsel has conferred directly in such a good faith effort to resolve an issue or issues and resolution cannot be reached, the moving party shall include in the motion, or in a separately filed certification, a certification that such direct attorney-to-attorney conference has been conducted and reporting the result of such conference. If partial resolution of the issues has been

achieved or the issues have been narrowed as a result of the conference, that information shall also be reported.

Notice:In compliance with the Twentieth Circuit Standards of Professionalism, all notices of hearing shall reflect whether the date and time of the hearing have been coordinated with opposing counsel. If the attorney has been unable to coordinate the hearing with opposing counsel, the notice shall state the specific good faith efforts the attorney undertook to coordinate and why the coordination was not obtained.

NO MOTION WILL BE SET FOR HEARING unless, and until, the above requirements have been met.

Orders of Referral:

Orders of Referral will be prepared by the Magistrate's assistant or the presiding judge's judicial assistant, depending on the nature of the matter referred and the reason for the referral. Counsel should not submit proposed orders of referral to the Court unless specifically requested by the judge or the judge's judicial assistant. If so requested, the proposed order of referral should be directed to the presiding judge for entry in the manner specified or otherwise permitted by that judge.

Documents Submitted to the Court:

All submissions shall be made by hand-delivery, U.S. mail, or other delivery service, and will not be accepted via e-mail or facsimile unless specifically directed by the Magistrate.

The movant shall provide a courtesy copy of the Motion scheduled to be heard, the Notice of Hearing, and any other **pleadings relevant to the Motion** to the Court ***at least five (5) calendar days prior to*** (not including) the date of the hearing, together with any legal authority or memoranda of law to be considered by the Magistrate at the scheduled hearing.

Memoranda of law shall be double-spaced, and shall otherwise comply with Florida Rule of Appellate Procedure 9.100(l). When legal authority is provided, the important points thereof should be highlighted. String cites should be used sparingly and any conflict among the District Courts of Appeals should be noted.

When submitting documents or proposed reports for the Magistrate's consideration, counsel also shall submit contemporaneously a cover letter or e-mail outlining the materials being directed to the Magistrate and stating the reasons for such submissions. All counsel and/or *pro se* parties shall be copied on the cover letter or e-mail and provided a set of the documents being submitted to the Magistrate. The cover letter or e-mail must list the names of all counsel or *pro se* parties to whom copies were sent. If submitting a proposed report or order, the cover letter or e-mail must indicate that all counsel or *pro se* parties have reviewed the proposed submission and whether they have any objection to the same. If there is an objection, both parties should submit their proposed submissions in the same envelope or e-mail to the Magistrate, outlining the objections and copying all parties with the enclosures. Unless otherwise specified when requested by the Magistrate, all proposed reports and orders must be submitted to the Magistrate within seven (7) calendar days of the date of the hearing. Failure to timely provide proposed reports and orders may result in the matter being referred to the presiding judge for appropriate action.

Telephonic Appearances:

- Telephonic appearances shall be limited to hearings scheduled for 15 minutes or less, except as provided by Administrative Order of the Florida Supreme Court or Twentieth Judicial Circuit Court or as otherwise permitted by order, rule, or statute.
- Except when applicable rules are suspended by Administrative Order as noted above and no motion is required, attorneys or parties wishing to appear by videoconference or telephone **shall file a Motion to Appear by Videoconference or Telephone at least one**

(1) week prior to the scheduled hearing on a pending Motion. Pursuant to the provisions of Fla. R. Jud. Admin. 2.530(c), the request for videoconference or telephonic participation shall be granted absent a showing of good cause to deny the same. The party seeking videoconference or telephonic appearance shall confer with opposing counsel regarding the request and shall state in the Motion whether it is opposed. Any party opposing videoconference or telephonic appearance shall file an objection and showing of good cause to deny the request within (2) days of the Motion for the Magistrate to consider pursuant to Fla. R. Jud. Admin. 2.530(c).

- Except when applicable rules are suspended by Administrative Order as noted above and remote proceedings are set up by the Court through Zoom or other video conference platform, the party requesting to appear by videoconference or telephone shall make all necessary arrangements for any required videoconference or telephone call in advance and shall have the call placed to the Magistrate's Office at (239) 533-2583, three (3) minutes prior to the time scheduled for the hearing on the matter set before the Court. If multiple parties have been permitted to appear by telephone, all parties shall be conferenced onto one call prior to calling the Magistrate's Office.
- Except when applicable rules are suspended by Administrative Order as noted above and the Magistrate may swear in a witness she can see, hear, and positively identify, in the event any testimony is to be presented via videoconference or telephone, a certified notary of the State where the witness is located shall be present with the witness to properly administer the oath.

Cancellations:

Hearings with the Magistrate may not be cancelled by counsel through JACS, but rather must be cancelled by the Magistrate's assistant. To cancel a hearing, you must file and serve a Notice of Cancellation and immediately notify the Magistrate's assistant by e-mail (atomas@ca.cjis20.org) or fax (239-485-2999). Said Notice should be filed with the Clerk of Court as soon as counsel becomes aware that the hearing is to be cancelled, and shall serve a copy thereof upon all counsel of record, *pro se* parties, and the Magistrate's assistant. The Notice should indicate that the opposing party either agreed to the cancellation or otherwise has been given reasonable notice of the cancellation.

Stipulations:

If the parties reach a stipulation as to a motion or other matter set before the Magistrate, the parties shall submit their stipulation and agreed order to the presiding Judge for entry and shall promptly cancel the hearing set before the Magistrate as discussed above.

Exceptions:

If you elect to file an exception pursuant to the applicable rule of procedure, promptly send a courtesy copy to the Magistrate's Assistant, Adela Tomas, at atomas@ca.cjis20.org in order to ensure that a proposed order adopting the Report is not sent to the presiding judge in error. Please bear in mind that court personnel cannot view recently-filed documents until they are approved by the Clerk, which usually takes 48 to 72 hours.