

General Probate & Guardianship Procedures

1. Causes of action arising during the lifetime of the decedent, unrelated to the creation of a will or codicil, are to be filed in the appropriate general circuit or county court civil division. Examples of causes of action that must be filed in the general civil division, notwithstanding the existence of an open probate case, include claims of fraudulent deed transfers to or from the decedent, challenges to inter vivos gifts made by the decedent, claims of breach of fiduciary duty by the decedent's power of attorney, and claims for tortious interference with an expectancy.
2. Petitions or motions must be e-filed with the clerk before a hearing will be scheduled. State in your petition or motion the position of opposing counsel – whether they object or not to the relief requested.
3. All hearings must be coordinated with opposing counsel. Please see the judge's website regarding scheduling procedures. "Emergency" hearings are rarely granted, and must be requested in writing, citing the reason.
4. Notice of Hearing: the location must be in the notice of hearing (courthouse and hearing room/courtroom number); name of the motion you are calling up for hearing and the clerk's docket number. Please e-mail a courtesy copy of the Notice of Hearing to the Judicial Assistant at mwolfe@circuit7.org. Do not notice additional matter(s) for hearing at the time reserved by another party, unless consent has been obtained from the other party and the Judicial Assistant is notified.
5. Remote appearances may be permitted in accordance with Rule of General Practice and Judicial Administration 2.530.

6. Cancellation of hearings. The Judicial Assistant should be advised of any hearing cancellations immediately; if advised in advance, the Judicial Assistant can make the time available to other parties.
7. Proposed Orders:
 - a) All proposed orders should be filed through E-portal unless otherwise directed by the Court. The subject line should state the case number and case style, and should be properly circulated between the parties before submission to the Court.
 - b) Place a title on all proposed order, such as “Order Dismissing Complaint,” or “Order Extending Time,” not simply “Order.”
 - c) An order granting a motion should grant the relief requested rather than merely reciting that a motion is granted. For example, if a Motion to Dismiss is granted, the proposed order should both grant the motion and dismiss the case.
 - d) Please format proposed orders so that the date of signing and the judge’s name are not a page separate from the substantive text. The judge’s name should be right aligned. No signature line is required.
8. Withdrawal/substitution of Counsel: Withdrawal can only be accomplished by order, which will be entered only upon a stipulation signed by the client(s), or after a hearing with notice to the client. Fla. R. Jud. Admin. 2.505(f)(1). The address where the client can be served in the future should be in the motion and included in the proposed order. Similarly, a substitution of counsel requires an order of court, upon either a written consent of the client(s) which shall be filed with the court or a hearing. Fla. R. Jud. Admin. 2.505(e)(2).

9. When a case is settled: Any party who sought affirmative relief in the case has a duty to notify the Court's Judicial Assistant of the settlement as soon as practicable. This is independent of and in addition to any report to the court by a mediator. Similarly, any party who has requested and received hearing time has a duty to notify the Court's Judicial Assistant that the hearing(s) is cancelled (our computers do not automatically cancel hearings when a case is settled). Stipulations and proposed orders of dismissal should be sent as soon as practicable (a mediation report does not close the file).
10. To avoid delays, proposed orders should not be e-filed until the petitioner believes that all required accompanying documents have been filed.
11. If any of the required documents or information is missing, incomplete, or inaccurate, you will be notified. Please ensure that all noted deficiencies are promptly rectified to avoid further delay.
12. If you intend to dispute any aspect of the Court's order requiring correction of deficiencies, please set your case for hearing. Neither the Clerk's Office nor the Judicial Assistant can offer legal advice.