JUDICIAL PRACTICES AND PROCEDURES
VOLUSIA COUNTY – DIVISION 10 and FLAGLER COUNTY – DIVISION 48
(Last Modified October 26, 2026)

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A. **Communications with the Judge's Office**

- **Method of Communication:**

  - **Proposed Orders:**

    - VOLUSIA COUNTY – DIVISION 10 = division10@circuit7.org
    - FLAGLER COUNTY – DIVISION 48 = division48@circuit7.org

  - The subject line must contain the case number & case name ONLY (e.g., Volusia County = 2026 11111 PRDL or Flagler County = 2026 CP/GA 000111 – In Re Estate of Doe) all other information should be within the body of the email. The proposed Order ***MUST*** be in MS Word format (.docx) format.

- **Administrative Communications:** Administrative communication with the Court's Judicial Assistant may be sent to csutton@circuit7.org.

- **Ex parte Communications:** All communications with the Judge's office must comply with Canon 3 of the Code of Judicial Conduct. Canon 3 prohibits a Judge from initiating, permitting, or considering ex-parte communications and from considering other communications outside the presence of the parties concerning a pending or impending proceeding, unless authorized by law. All parties must be copied on any e-mail directed to the judicial office, ***unless*** an ex parte communication is authorized by law.

- **Unsolicited Communications:** Unsolicited communications from non-parties will not be considered by the Court. Parties may only contact the Judge's office in accordance with these practices and procedures.

- **E-Filing Portal Contact Information:** All attorneys and self-represented litigants must provide an e-mail address to receive signed orders electronically, unless excused. See Fla. R. Gen. Prac. & Jud. Admin. 2.516. It is the responsibility of attorneys and self-represented litigants to update their contact information using Form 2.603 any time there is a change in the e-mail account registered for electronic service.

- **Response to Inquiries:** The Judge's Judicial Assistant coordinates the Court's calendar with the parties and the Clerk, screens phone communications, processes motions and proposed orders, and performs other tasks as directed by the Judge. The Judicial Assistant is not an attorney and cannot give any legal advice. E-mail is the preferred means of communicating with the Court's Judicial Assistant, to avoid ex-parte communication. All inquires requiring a ruling from the Court should be done by way of a proper Motion.

B. **Scheduling Procedures**

- **Scheduling Hearings:** The Court's Judicial Assistant schedules hearings by e-mailing csutton@circuit7.org. The requesting party should provide the case number (e.g., Volusia County = 2026 11111 PRDL or Flagler County = 2026 CP/GA 000111 – In Re Estate of Doe), motion(s) and docket number to be heard along with the amount of time being requested. All hearings must be coordinated with all counsel. When there are a number of related smaller hearings that require an aggregate of more than 1 hour, this will be considered the equivalent of one hearing needing more than 1 hour.

    - The notable exceptions are genuine emergency hearings. Labelling a motion as "Emergency" or "Urgent" does not move the hearing up in priority unless the motion itself recites facts giving rise to genuine emergency or urgent action. If the matter requires such attention, the Judicial Assistant will contact the parties and attempt to set the hearing.

- **Emergencies:** If emergency action is needed and the Court issues an Emergency Ex Parte Order, it will also set a review hearing on that order, typically within fifteen (15) days. The Court does not coordinate such hearing. Continuance is available only by motion.

- **Emergency Temporary Guardianship (ETG):** If an ETG is filed, the filing party must simultaneously transmit two proposed orders to the Court Filing party must also immediately contact the Court's assistant to schedule an initial hearing. The Court will schedule the required 14-day hearing in the companion Incapacity Case. It is the responsibility of the filing party to reach out and coordinate the Emergency Hearing. Parties are reminded that not every Guardianship requires appointment of an ETG.

    - **Appointment of Attorney and Ellisor for an Alleged Incapacitated Person**

    - **Appointment of Examining Committee**

- **Notice of Hearing:** A notice of hearing must be filed and served within five (5) days of reserving hearing time. The party filing the motion is responsible for notice. A notice of hearing involving any remote appearance must list the judicial Zoom credentials. All notices of hearing must contain the ADA notification required by Florida Rule of General Practice and Judicial Administration 2.540. Here is a sample template for such Notice.

- **Submission Deadlines:** The Court must receive all materials for the hearing no later than three (3) business days before the hearing. At a minimum each

party must serve and file a witness list and proposed exhibit list not later than three (3) days before any contested evidentiary hearing. Failure to prepare and to file such list may be grounds for excluding evidence which should have been noticed. Trial by surprise benefits no one.

- **Order of Proceedings:** In Order to Show Cause or Status Hearing (set by the Court), the Court uses a mass docket. Parties should sign in zoom and mute device until case called. A motion and order is required to cancel said hearings.

- **Continuance Procedure:** Continuances are disfavored and will be granted only upon good cause shown. Continuing a special set hearing wastes judicial resources and contributes to case backlog.

    - A request for continuance must be submitted at least ***five (5) days*** prior to the scheduled court date!

    - Except for good cause shown, the motion must be signed ***by the party*** requesting the continuance, as required by Florida Rule of General Practice and Judicial Administration 2.545(e).

    - ALL motions for a continuance MUST state the position of the opposing party. If you have not conferred with the other party about the motion, you are not prepared to file the motion. The sole exception is a valid emergency motion.

    - Failure to Comply with all requirements of this paragraph will result in the Motion for Continuance to be DENIED.

- **Cancelling Hearings:** You must cancel hearings by notifying the judicial assistant immediately. You may ***ONLY*** cancel a hearing if there has been a ***complete settlement*** of all issues set for hearing. That settlement must be placed in the Court file ***before*** the Notice of Cancellation. Notices filed less than 48 hours before the hearing time will be insufficient. The Court will go forward with the hearing, inter alia, to determine why these procedures were not followed. Cancelling a hearing is ultimately up to the Court. Upon good cause or a complete resolution, a request may be made.

C. **Remote Appearance**

- **Remote Appearance Procedure:** The default for ALL hearings greater than 1 hour in length is in-person. However, the Court maintains a hybrid virtual courtroom, allowing parties to appear either in person or remotely, as provided by Florida Rule of General Practice and Judicial Administration 2.530. Requests to use communication technology for an appearance must be made by motion unless specifically authorized by the

Court when scheduling.

- **Platform Used:** The Court uses Zoom for remote appearances. If you are unfamiliar with Zoom, there is a tutorial video on the www.Circuit7.org website.

- **Platform Meeting ID#:** Unless otherwise specified on the Notice of Hearing, the Meeting ID# is 3947540782. The password is 697044.

- **Requirements:** The deadline to request Zoom appearance by any party or witness is close of Court business three (3) days before the hearing.

- **Technology Needs:** A party presenting a witness by Zoom must communicate with the witness in advance to ensure they know how to manipulate the controls of the software including, if needed, the presentation of documents on the share screen. The Court expects counsel to practice any such presentation to ensure an orderly flow of the presentation of the case.

- **Other Remote Appearance Procedures:** All parties appearing by Zoom must show their real name as their screen name. The system will often default to the name of your phone, computer or other device. Select "rename" and type in your name such as "Martha Washington" or Dr. Samuel Adams.

D. **Submission of Orders and Judgments**

- **Format:** All proposed orders must be submitted in Word format. All proposed orders must be accompanied by a cover letter (email is sufficient) either (1) certifying that all parties agree to the order or (2) containing a statement identifying any disagreement of the parties as to the proposed order. An order requested by the Court MUST be in Word (.docx) format. An order containing parties' signatures must be submitted in PDF/a format.

- **Terminology:**

    - **A <u>Consent</u> Order** is one which is agreed to by the parties and signed by the parties. It indicates full consent of the parties to be bound by the terms of the order.

    - **An <u>Agreed</u> Order** is an agreement by counsel. This is usually on procedural matters only. It does not bind the parties to any facts stated therein.

- **Submission Method:** Email all proposed orders
  - VOLUSIA COUNTY – DIVISION 10 = division10@circuit7.org
  - FLAGLER COUNTY – DIVISION 48 = division48@circuit7.org

- **Deadline for Submissions:** Proposed orders MUST be submitted within ten (10) days after any hearing, including Order to Show Cause Hearings. Proposed Orders in Probate and Guardianship for matters which do not involve a hearing should be submitted simultaneously with the filing of the appropriate motion or petition.

- **Court's Signature Block:** Counsel and Parties MUST ensure that the "Done and Ordered" paragraph and the Court's signature block are NOT the only item on a page. If necessary, create white space on the previous page and include at least one line of substantive text on the page with the signature block. There have been incidents when people engaged in fraud have used a signature page with no text as a means to forge a judge's signature on favorable orders. While the electronic signature that the Court uses on most documents ***reduces*** that opportunity, placement of the signature block as described here further reduces the opportunity for fraudulent use of your party's document.

E. Probate and Guardianship Special Procedures

- **Will Deposit:** If you have deposited the will separately from the filing of the Petition for any form of administration, please ensure that the clerk has moved a copy of the will into the Probate case.

- **Petition for Guardianship/Incapacity:** If you file for incapacity and Guardianship, you should **immediately** email:

  - VOLUSIA COUNTY – DIVISION 10 = division10@circuit7.org
  - FLAGLER COUNTY – DIVISION 48 = division48@circuit7.org

  With your proposed Order Appointing Attorney for the AIP **AND** Proposed Order Appointing the Examining Committee. In accordance with Seventh Circuit Administrative Order, the filing party MUST coordinate with the three proposed members of the committee (one (1) must be a Doctor of Medicine (MD)) to ensure their availability ***before*** submitting your proposed order. Leave a blank for the name of the appointed attorney. The Court prefers submission of these orders in MS Word format to allow editing.

  - Within five (5) days of filing the report: A motion and proposed order for compensation of the Examining Committee Member or a Notice of Filing a receipt showing payment, shall be submitted in "Word" format to:
    - VOLUSIA COUNTY – DIVISION 10 = division10@circuit7.org
    - FLAGLER COUNTY – DIVISION 48 = division48@circuit7.org

- **Petition for Homestead – Without Administration of the estate**. The Court will permit filing a Petition to Determine Homestead Status of Real Property without a filing for administration. However, to ensure that all the rules and statute requirements are met, this Division requires that the filing party email a worksheet/checklist from my webpage is simultaneously with your filing of the petition. Ensure you have filled in all applicable blanks and filed corresponding documents.

F. Courtesy Copies of Case Law and Other Documents

- **When Required:** The Court does not require courtesy copies of materials in advance. If a party plans to present case law, the party may submit it not later than close of business three (3) days before the hearing. The caselaw should be presented with a cover letter also certifying that an IDENTICAL copy to the opposing party. If areas in the caselaw are highlighted on the Court's copy, they MUST be highlighted in an identical fashion on the copy given to opposing party. No notations should be on the caselaw.

- **Format:** The Court prefers electronic copies of case law or any courtesy copies. They may be submitted by email if the total attachment size is less than 8 MB. If the documents are larger, submit hard copies to the Court.

G. Exhibits for Evidentiary Proceedings

- **Submission Method:** All physical exhibits must be brought to hearing or trial. The parties may contact the Clerk of Court's Office for additional information.

- **Format:** Exhibits must be submitted to the Clerk of Court in paper format or on a removable media drive such as DVD or flash drive. All attorneys and self-represented litigants must bring sufficient copies of each exhibit for the Clerk, the Court, and each party to review during the hearing or trial. Exhibits must be labeled in the following format: "Petitioner/Plaintiff 1" or "Respondent/Defendant A as appropriate. If a party seeks to introduce a video or audio file, that exhibit must be placed on a USB flash drive or other removable media such as DVD or CD ROM that contains ONLY the exhibits intended for trial. Parties seeking to publish such exhibits ***MUST bring their own computer*** to the Courtroom capable of transmitting over an HDMI connection. The Court highly encourages parties to test their automation in the Courtroom several days before trial. Contact the Court's assistant who will in turn coordinate with the bailiff to make the courtroom available for such test. You may obtain additional information by reviewing the 7th Circuit Court's website at www.circuit7.org under Court Technology.

H. **Pretrial Procedures and Conferences**

- **Case Management / Status Conference:** Any party may request a Case Management or Status Conference when a case requires by filing a motion.

I. **Setting Case for Trial**

- **Procedure:** When the parties announce they are ready for trial, they must state:
    - **All discovery is complete.**
    - **All Special evaluations are complete.**
    - **Expert analysis is completed.**
    - **All depositions are completed**.
    - **The case could be tried tomorrow if there was time available!**

- **Notice:** When the parties announce that the case is ready for trial, the Court will inform the parties of the dates for pretrial and docket sounding. The Court does not set date-certain trials until docket sounding. At Docket Sounding the Court will assign cases to specific days during the trial period and may assign back-up cases. Attorneys, self- represented litigants, parties, and witnesses are expected to be available during the entire trial period. The Trial Order issued after final CMC will notify the parties of the available dates.

- **Pretrial Conference**:
    - The parties MUST file their FINAL Witness List and FINAL Exhibit List not later than close of business three (3) days before pretrial conference. This is not your tentative list, or your wish list – this is the honest-to-goodness witness list you will use at trial. If either party fails to file, sanctions may be assessed. An exhibit list which simply states "everything that was received in discovery" is ***wholly*** inadequate. Parties must have analyzed their case and determined which exhibits they must introduce.
    - At Pretrial, the parties MUST inform the Court of any trial days on which they or expert witnesses are unavailable.

- **Docket Sounding:** All parties and counsel MUST attend docket sounding in person. The Court considers it as the first day of the trial.

    - **Parties must have filed their JOINT Pretrial Stipulation not later than close of Court business two (2) days before Docket Sounding. The Court does not recognize and will not accept a purported pre-trial stipulation that is <u>not a joint effort</u>.** "Stipulation" means agreement. You cannot agree with yourself in the ordinary course.

    - The Court will schedule the trial for a date certain at Docket Sounding, if not previously set.

J. **Forms**

- **Access:** Division forms are available at the 7th Circuit Court's website at www.circuit7.org under Judges, Judge Linda L. Gaustad. These include Probate and Guardianship worksheets / checklists. Note these are being developed continuously and are currently for informational purposes. You currently do not need to file them. Check the website regularly for updates.

K. **Other Division Procedures**

- **Americans with Disabilities Act (ADA) Accommodations:** If you need an ADA accommodation, please contact Court Administration – ADA Coordinator, 1769 E. Moody Blvd., Bldg. 1, 2nd floor, Bunnell FL 32110 - (386) 257-6096, ADARequest@circuit7.org, at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the appearance is less than seven (7) days; if you are hearing or voice impaired, call 711. There is additional information at the 7th Circuit Court's website at www.circuit7.org under ADA.

- **Interpreter Requests:** If an interpreter is needed for a hearing or trial, the attorney or self-represented party must submit a request for an interpreter by contacting Court Administration via the webpage at the 7th Circuit Court's website at www.circuit7.org under Court Interpreter.