

JUDICIAL HEARINGS/TRIALS

A Judge does not serve as an attorney for either of the parties. He **cannot** and **will not** give legal advice. A Judge is a neutral party. He is there to interpret the law and to make the best decisions possible based on all of the facts presented.

The Judge **cannot** grant either party's request until a hearing has been conducted on the matter. Both parties must have notice of the hearing and an opportunity to participate in the hearing. If both parties sign a stipulation/agreement regarding the request of one party a Judge can, of course, enter an order validating the stipulation/agreement.

It is very important to remember that a Judge cannot speak with either party outside of the presence of the other party. Consider how extremely difficult it would be for you to accept a Judge's decision knowing the Judge had spoken to the other party without you being present to clarify things which you may feel were misinterpreted or possibly misrepresented.

It is also important to remember that a copy of all information filed, required by or provided to the Court, including correspondence, **must** be sent to the other party. Also keep a copy for yourself.

All forms may be obtained from the Clerk of Court in Titusville, Merritt Island, Viera, Palm Bay or Melbourne, Florida or through the Clerk's Website at www.brevardclerk.us or from the Law Library in Viera, Florida.

Uncontested divorce hearings are heard before a County Judge:

County Court Judges are assigned to, or will hear ONLY divorce actions in which there is a Marital Settlement Agreement with an Answer and Waiver or in which a default has been entered.

To set the hearing before a County Judge contact the office of the County Judge assigned to your case and ask to speak to his/her Judicial Assistant. Tell the Judicial Assistant you need to set a hearing for an uncontested divorce. The Judicial Assistant will provide you with a date, time and location for the final hearing.

Next, complete the Notice of Hearing [Florida Supreme Court Form 12.923], reflecting the case number, judge's name, date, time and place of the hearing, etc. The original Notice of Hearing must be filed with Clerk of Court. A copy of the notice **must** be sent to the other party. Without notice to the other party a Judge **cannot** hear the matter. Always keep a copy for your records.

At the hearing you must have:

1. A Final Judgment and two (2) copies of that judgment ready for the Judge's signature. If the Judge does not sign the Judgment at the hearing, the signed Order will be conformed and mailed to the parties;
2. Stamped, addressed envelopes for all parties;
3. Vital Statistics Form (HRS 513)
4. Final Disposition Form (Law 122)
5. Each party's current Financial Affidavit [Florida Supreme Court Form 12.902(b) **OR** 12.902(c)] if one was not filed with the Petition or if the Financial Affidavit that was filed with the Petition is incorrect or not current;
6. Certificate of Compliance with Mandatory Disclosure, [Florida Supreme Court Form 12.932], (this is not needed **if** the parties have a notarized statement signed by each of them saying they both agree to waive the mandatory disclosure). However, you each still need a completed Financial Affidavit;
7. Notice of Social Security Number [Florida Supreme Court Form 12.902(j)];
8. A witness who has personally known you for more than **6 months** and will swear you have been a Florida resident for at least **6 months** before you filed your Petition. (This witness does not require a subpoena) – or a notarized affidavit [12.902(l)] from someone (**NOT** a family member) who will swear you have been a Florida resident for at least **6 months** before your filed your Petition;
9. If you want a Court Reporter, you must make those arrangements on your own;
10. The Court file must contain a Certificate of Completion of the "Helping Children Cope with Divorce" seminar if minor children are involved.

Hearings before a Circuit Judge:

Circuit Judges will hear contested family matters and hearings relating to these matters. To set the hearing contact the office of the Circuit Judge assigned to your case and ask to speak to his/her Judicial Assistant. Advise the Judicial Assistant of what type of hearing you need to set and you will be provided with a date, time and location for the hearing.

Next, complete and file with the Clerk of Court a Notice of Hearing [Florida Supreme Court Form 12.923]. The Notice should reflect the case number, judge's name, date, time and place of the hearing. A copy of the Notice and any attached documents **must** be sent to the other party. Always keep a copy for your records. Without Notice to the other party a Judge **cannot** hear the matter. (If the hearing concerns any money matters you **must** also attaché a current Financial Affidavit, Disclosure Certificate, and Notice of Social Security Number, if one was not previously filed).

If the hearing concerns money matters the party receiving the Notice must file their Financial Affidavit [Florida Supreme Court Form 12.902(b) **OR** 12.902(c)], Certificate of Disclosure [Florida Supreme Court Form 12.932] and Notice of Social Security Number [Florida Supreme Court Form 12.902(j)], if one was not previously filed in this case, with the Clerk of Court *no later than 5 p.m. two (2) business days* before the temporary financial hearing. Also, copies of filed documents **must** be provided to the party who scheduled the motion hearing. Keep a copy for your records.

At the hearing you must have:

1. Stamped, addressed envelopes for all parties;
2. Each party's current Financial Affidavit [Florida Supreme Court Form 12.902(b) **OR** 12.902(c)] if this hearing involves money matters and if the Financial Affidavit that was filed with the Petition is incorrect or not current, and a Certificate of Compliance with Mandatory Disclosure [Florida Supreme Court Form 12.932];
3. Notice of Social Security Number, if one was not previously filed in this case [Florida Supreme Court Form 12.902(j)];
4. Witnesses, if appropriate. All witnesses who are not willing to voluntarily appear to testify at a hearing must be subpoenaed [Law 1020 & Law 277], and given adequate notice of the date, time and location of the hearing. If you have witnesses to incidents or conversations it is essential that you have them present at your hearing. You **cannot** testify to what they would have said or witnessed;
5. Witnesses must be in the courthouse ready for trial when it is your turn to present your case;
6. Any evidence you wish to present.

Non-jury trials in a contested divorce or other contested family matter are heard before a Circuit Judge:

When all of the petitions have been answered, all of the motions heard and all of the required/requested paperwork filed, the matter needs to be Noticed it is ready for trial [F.S. 12.924]. The original Notice must be filed the Clerk of Court and ***must state how much time you think you will need for trial.*** A copy of the Notice must be sent to the other party. Without Notice to the other party, a Judge **cannot** hear the matter. Also, keep a copy for your records.

In about three (3) weeks an order for mediation and an order setting the trial, signed by the judge and sent by the Family Court Coordinator, will be mailed to you and the other party. The order will state the date, time and place of the trial. (This mediation is not optional, but is mandatory.)

Before trial:

Check your order setting the trial date for **exactly what** information you must provide the Court ***before*** your trial and **when** you must have it filed with the Court. ***This is not voluntary but required.*** This information must be sent to the other party and always keep a copy of your records.

If your order of trial reflects that your case has been set for a partial hearing, you **must** be in the Judge's chambers on the date and time indicated. Your order will also specify **exactly** what pre-trial information you must provide the Court and when you must have it filed with the Clerk. **This is not voluntary but required.** Again, this information **must** be provided to the other party. Keep a copy for your records. Pre-trial hearings are a means for the Court to determine exactly what the issues are and to possibly help encourage settlement of the case.

At trial you must have:

1. Stamped, addressed envelopes for all parties;
2. Vital Statistics Form (HRS 5'13); (for divorce cases only)
3. Final Disposition Form (Law 122);
4. If you want a Court Reporter you must make those arrangements on your own;
5. Each party's current Financial Affidavit, if one was not filed or if the Financial Affidavit that was filed is incorrect or not current;
6. Certificate of Compliance with Mandatory Disclosure [Florida Supreme Court Form 12.932];
7. Notice of Social Security Number if one was not previously filed [Florida Supreme Court Form 12.902(j)];
8. Witnesses, if appropriate. All witnesses who are not willing to voluntarily appear to testify at a hearing must be subpoenaed [Law 1020 & Law 277], and given adequate notice of the date, time and location of the hearing. If you have witnesses to incidents or conversations it is essential that you have them present at your hearing. You **cannot** testify to what they would have said or witnessed;
9. All witnesses must be in the courthouse ready for trial when it is your turn to present your case;
10. Any evidence you wish to present;
11. The Court file **must** contain a Certificate of Completion of the "Helping Children Cope with Divorce" seminar if minor children are involved.

MAKE SURE YOU KEEP IN CLOSE CONTACT WITH THE APPROPRIATE JUDGE'S JUDICIAL ASSISTANT DURING YOUR TRIAL DOCKET PERIOD. THE JUDICIAL ASSISTANT'S TELEPHONE NUMBER WILL BE ON THE TRIAL DOCKET YOU WILL RECEIVE APPROXIMATELY 30 DAYS BEFORE YOUR TRIAL DATE. TRIAL DOCKETS ARE USUALLY FROM 2 TO 5 DAYS LONG. CASES MAY SETTLE DURING THE TRIAL PERIOD OR RUN OVERTIME. YOUR CASE MAY GO SOONER OR LATER THAN ORIGINALLY EXPECTED. FAILURE TO KEEP IN CONTACT WITH THE JUDICIAL ASSISTANT MAY CAUSE YOUR CASE TO BE CONTINUED FURTHER INTO THE FUTURE OR TO TAKE PLACE IN YOUR ABSENCE.

If you have children, you must arrange for any necessary childcare – except in emergencies children are not permitted to attend hearing without prior Order of the Court, per Fla.Fam.L.R.P. 12.407.

All parties, including witnesses, must always dress appropriately for all Court appearances. Do not wear shorts, cut-off jeans, halter tops, or come to court without shoes, etc.

Forms may be obtained from:

The Clerk of the Courts website at www.brevardclerk.us or one of the following locations:

NORTH BREVARD SERVICE COMPLEX
400 South Street, 2nd Floor
Titusville, Florida

MOORE JUSTICE CENTER
Viera Complex
2825 Judge Fran Jamieson Way
Viera, Florida

MELBOURNE COURTHOUSE
51 S. Nieman Avenue
Melbourne, Florida

MERRITT ISLAND OFFICE
2575 North Courtenay Parkway
Room 129
Merritt Island, FL

PALM BAY OFFICE
450 Cogan Drive S. E.
Palm Bay, FL

NOTE: Both parties have an obligation to notify the Clerk of Courts of any change in their address, in writing at:

Clerk of Courts - Family Division
P. O. Box 219
Titusville, FL 32781-0219

ABOVE ALL ELSE, BE COURTEOUS, ADDRESS YOUR COMMENTS TO THE JUDGE AND DO NOT ARGUE WITH THE OTHER PARTY!

COUNTY JUDGES:

Judge Judith E. Atkin	321-637-5644
Judge Rhonda E. Babb	321-637-5604
Judge Michelle Vitt-Baker	321-264-6996
Judge Cathleen Clarke	321-614-7266
Judge Kenneth Friedland	321-264-6777
Judge Benjamin Garagozlo	321-952-4702
Judge A. B. Majeed	321-617-7270
Judge William T. McCluan	321-617-7268
Judge Kelly J. McKibben	321-637-5594
Judge John C. Murphy	321-637-5641
Judge David E. Silverman	321-952-4703

FAMILY CIRCUIT JUDGES:

Judge Lisa Davidson	321-617-7281
Judge W. David Dugan	321-617-7279
Judge John Dean Moxley, Jr.	321-264-6759
Judge Tonya B. Rainwater	321-617-7283
Judge Charlie Roberts	321-617-7289
Judge George B. Turner	321-617-7284
Judge Robert A. Wohn, Jr.	321-617-7274