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GENERAL OFFICE PROCEDURES

1. ***Professionalism***:

It is expected that attorneys and their legal staff as well as self-represented parties will be polite and courteous in their contact with the Judicial Assistant (JA) and the Judge, opposing parties and counsel. It is also expected that all attorneys and self-represented parties will adhere to Sixth Judicial Circuit's *"Professionalism Expectations and Professionalism Implementation Procedures,"* available at www.jud6.org (or we have them available here in our office) and the Florida Supreme Court's Expectations for Professionalism.

2. ***Contacting the Judge's Office*:**

This Judge's office communicates primarily via e-mail for scheduling. Please make sure Section4@jud6.org is added as a contact to guarantee receipt of messages. **Do not email the Judge directly.**

Emails are only to be sent to the Section 4 email. Email is the preferred method of communication and typically responded to more quickly than a voice message.

FORMAT: Emails should include the case number, case name and brief reason for the email in the subject line. Ex: 15-001234-ES Smith – request for hearing times.

The JA cannot answer your legal questions or provide legal advice. Sometimes a legal assistant or attorney will ask the JA how she thinks the Judge will rule or what the Judge's "policy" is regarding certain legal issues. Judge Campbell's judicial preferences are addressed in this document. **The only "policy" of the Judge is to follow the law. Other than as set out in this document, your opportunity to speak to the Judge happens in court only, not through a message delivered by the JA.**

If you are inquiring as the status of the case or the entry of an order, first check the Clerk of Court's online docket to make sure it has not already been entered. Next, contact the Clerk's office to determine the status. The clerk may not yet have reviewed the relevant documents or may have the case pended before it can sent to the Judge's office for review (usually because of missing documents). Once the case is electronically sent to the Judge, the turn-around time is typically very quick, usually no more than a day. If the order(s) cannot be signed at that time, the Judge will either forward the case to the JA for further action or return the case to the Clerk for preparation of an Order Checklist. ***Please do not call the Judge's office to inquire about the status of orders unless you have confirmed with the Clerk that the case has been sent to the Judge.***

3. ***E-FILING***:

Please review **Administrative Order 2023-038 PI-CIR** ("AO"). Pursuant to the AO, all pleadings including proposed orders must be electronically submitted through the Florida Courts E-Filing Portal. **Numbered paragraph 2 of the AO lists the original documents which must be filed with the Clerk of Court** (primarily for purposes of the division, that would be the original Will, codicils and separate writings, original Pre-need guardian declarations, original Commissions to take Oath of witness to Will and Certificates of Commissioner.) **DO NOT SEND TO THE JUDGE'S OFFICE. Also of note: JAWS IS NOT COMPATIBLE WITH THE ODYSSEY SOFTWARE, so, if you upload to JAWS, the Judge will never see it.**

> ***The Judge's office cannot accept any documents for filing with the Pinellas County Clerk of the Circuit Court or checks for certified copies of orders. You must send those documents directly to the Clerk of Court.***
>
> ***ALL Responses and documents in response to the Order Checklist. must be filed with the Clerk. Please do not send any response or document directly to the judge's office, electronic filing is required.***

In all but the most exceptional circumstances, documents must be e-filed and posted on the docket before the court will take any action.
Notifications that e-filings are "accepted" are not the same as documents being processed, reviewed and posted on the docket by the Clerk's office.

Please also note that even though you have e-filed a pleading, it does not mean that the pleading will be automatically forwarded to the Judge. There are several essential processes the Clerk's office performs before documents are forwarded to the Judge.

It is also the responsibility of the attorneys to make sure their filings have been properly e-filed and posted on the docket, and not rejected at any point. If you do not see your filings posted after a few days, please check your email for notification of rejection or follow up with the Clerk's office (and have your e-filing reference number available).

4. ***JUDICIAL REVIEW OF MATTERS FORWARDED BY THE CLERK - GETTING YOUR ORDERS SIGNED QUICKLY*:**

The Judge normally receives 100+ cases per day from the Clerk requiring review. These cases must be addressed by the Judge in between hearings, trials and emergencies. Many matters can be handled quickly but some require extensive review of the court file by the Judge. **In most circumstances, lengthy review by the Judge would not have been necessary had the attorney supplied the information needed either in the**

petition itself or by writing a letter (and uploaded through the E-Portal) to the Judge explaining why the order being sought to be entered is ready to be signed. Either the petition for the relief or the cover letter should act as a "roadmap" for the Judge which shows why the proposed order is ready to be entered.

Information for which the court typically has to conduct a time-consuming search includes whether the creditor period has passed, whether claims have been filed, and whether interested parties have been formally noticed or have consented to the order being entered. Providing this information, as well references to other important information in the court file, either in the petition itself or by separate letter, will result in your proposed orders being signed quickly and is greatly appreciated by the Judge.

5. ***EX PARTE*:**

"Ex parte" time with the probate Judge has been a practice in this circuit for many years. Traditionally, it has been used as a time for attorneys to expedite **uncontested** cases. With electronic filing and no "paper" Orders being signed, Judge Campbell has found ex-parte time to be unnecessary, and does not have a designated block on the calendar. If an attorney wants to have a designated time with the Court, simply follow the instructions on requesting hearing time.

If you are requesting an ex parte appointment to discuss an Order Checklist you received, you must **first e-file a written response** to the checklist for the Judge to review. The Judge may be able to resolve the problem upon review of your written response.

6. ***EXTENSIONS OF TIME*:**

Florida Rule of Judicial Administration 2.250 requires the Court resolve uncontested probate cases within 12 months. The court reviews and rules on many Petitions for Extension of Time every day. Every Petition for Extension of Time must include the reason(s) the extension is needed. Petitions which simply state that "more time is needed" are insufficient and will be DENIED. The Petitions must allege **why** more time is needed.

Attorneys should e-file proposed orders for extension of time containing no blanks; i.e., **the proposed date of extension must be included in the proposed order**, If the Judge does not agree with the relief sought, the Judge may change the language of the order, ask that a new order be submitted, or deny the order but the attorney must e-file the order contained the proposed extension sought.

Petitions which seek a reasonable extension and provide a facially legitimate reason are granted without hearing. Because of this process, occasionally an objection is not docketed until after the order is entered. In these

circumstances, the Judge may rescind the order of extension or may treat the objection as a motion for rehearing.

7. ***MOTIONS FOR REHEARING***:
Such Motions are not set for hearing without review by the Judge. You must electronically file the motion with the Clerk **and provide a copy of the motion to the Judge via US Mail, to ensure that it comes to the Judge's attention.** If the Judge determines a hearing is required, the JA will contact the moving party to schedule the hearing.

8. **ORDERS TO FILE REQUIRED DOCUMENTS ("ORDER CHECKLISTS" for ESTATES), ORDERS TO SHOW CAUSE AND ORDERS DISAPPROVING (GUARDIANSHIP) REPORTS – WRITTEN RESPONSE REQUIRED**:
Attorneys often have legitimate reasons to disagree with various orders setting out requirements or can demonstrate they have already complied with the requirements. In all of these circumstances, the attorney must electronically file a written **"Response to Order Checklist"** to the particular order stating why the attorney should be excused from, or has complied with, the requirement. It is highly recommended to title the document "**Response to Order Checklist**" to make it obvious what you are e-filing, otherwise it will simply be filed as "Correspondence." **All responses and documents must be filed with the Clerk, do not send anything directly to the Judge.**

Neither the attorney nor any member of his or her staff should contact the Judge's office by telephone or email to "explain" the circumstances or ask the Judge for reconsideration. The court will have the opportunity to consider any explanation or request for reconsideration in its review of the electronically filed written response. The Clerk's office will forward the written response to the court for its consideration as well as any "Priority Request" that has been made.

Order Checklists are prepared following the probate statutes and rules. You must fully comply with the Order Checklist, either by filing the checklist documents and/or e-filing a response (as directed above). Once you have addressed each item listed on the checklist, the Clerk will forward the case to the judge for review. However, if all items on the Checklist have **not** been fully addressed (either by providing the documents and/or in your written response), the Clerk will continue to **pend** the case until the order checklist has been fully complied with by filing the documents and/or addressed in your response.

9. ***NOTICE (DUE PROCESS REQUIREMENTS) & CERTIFICATES OF SERVICE:***
Attorneys should be familiar with applicable notice requirements including, but not limited to, Fla. Prob. R. 5.040 and 5.041. Generally, interested persons are required to receive appropriate notice of relief sought. **Thus, every petition or**

motion should contain a certificate of service stating who has been served and the date and manner of service. If there are no interested persons, it must be so stated in the petition or motion.

In most cases, a hearing will be required when interested persons have been noticed. However, if formal notice is served on all interested persons, and proof of service is filed, in accordance with Fla. Prob. R. 5.040 and no objections have been filed, a hearing is typically not necessary.

10. ***PRE-TRIALS, JURY TRIALS AND NON-JURY TRIALS***:
A Case Management Conference (CMC) will be scheduled for a minimum of 30 minutes, prior to scheduling a Pre-Trial Conference (PTC), Jury Trial and Non-Jury Trial (NJT). At the CMC, the Judge will schedule the PTC and NJT, if necessary, and the attorneys should have their calendars available at the CMC. The Judge does require a mediation prior to the Trial. Please send an email to Section4@jud6.org to request hearing time for a CMC.

11. ***PRIORITY MATTERS***:
When a Priority Request is e-filed, it will be forwarded to the Judge for review. If the Judge approves the request, the case will be reviewed by the Clerk on a priority basis. If the Judge does not approve the request, the case will be reviewed in the order of the filing of all cases. **Keep in mind there are over 3,000 tasks pending in any given day in this division.**

The Priority Request is good for only **one** trip to the judge. If your request is granted but you still have to e-file additional documents for the order to be signed, you must e-file another Priority Request with those documents. That is the only way the Clerk's office is made aware that those documents are in response to a previously granted Priority Request. If a second Priority Request is not e-filed, the documents will be reviewed in the order of the filing of all cases.

Priority Requests shall include the following information:

CASE STYLE/NUMBER

TITLE: Title of document shall be "PRIORITY REQUEST"

CONTENTS:

The document shall contain a detailed and specific explanation of why the case should be given priority over all other cases accepted for filing. Brief statements such as "real estate closing" are insufficient and will not be approved. If the basis for the priority request involves the sale of real estate, the reason for any alleged urgency must be set out in detail. Delay on the part of a real estate agent, beneficiary or attorney in preparing documents is

not a sufficient basis for a priority request. There must be circumstances that cannot be addressed by an extension of a sales contract.

If, for example, the request involves the need for documents to be signed because a proposed Personal Representative is traveling from out of state to Florida, explain why the trip must occur at a specific time and why documents could not have been prepared earlier thereby avoiding the need for a priority. Proposed Personal Representatives should be routinely advised by counsel at the earliest opportunity of the amount of time it takes for cases to be processed and their need to wait to plan a trip to Florida until the Order Appointing Personal Representative and Letters of Administration have been signed. There may be a valid priority for cases involving travel by a Personal Representative to tend to property which is perishable or rapidly deteriorating. If so, the nature of the property and the circumstances requiring urgency must be described in detail.

If a Priority Request is being made because the Judge is awaiting the documents, the specific date and manner of communication of this circumstance must be stated; e.g., "Judge told attorney during hearing on [state type and date of hearing] to e-file a Priority Request when these documents were filed." Or, e.g., "Judge's Judicial Assistant instructed me on [date] [in person at the court house or in a telephone conversation or by email, etc.] to e-file a priority request regarding [explain]."

12. ***PROPOSED ORDERS AND PROPOSED AMENDED ORDERS***:

A. **PROPOSED ORDERS** should be electronically submitted via the Florida Courts E-Filing Portal. The Pinellas Clerk utilizes a system called Odyssey, which is NOT compatible with JAWS or other systems. Therefore, if you upload a proposed Order to JAWS, the probate/guardianship division will not see it or respond.

Proposed orders should be filled out as completely as possible. Only in exceptional circumstances should there be any blanks in the body of the order for the Judge to fill in. Attorneys should submit proposed orders containing the relief that is sought. For example, when seeking an extension of time, the proposed order should include the date of extension; and be sure to include the amount of the bond in a new estate according to the bond scheduled. If the Judge does not agree with the relief sought, the Judge may change the language of the order, ask that a new order be submitted, or deny the order.

With regard to the placement of the date and signature, the electronic signing system includes the full date as well as the Judge's name and status as a circuit court Judge. Thus, your proposed order should NOT contain multiple blanks for the date to be entered nor should it contain any reference to the name of the Judge. The following format should be used:

____

ORDERED

B. **PROPOSED ORDERS FROM A HEARING** – Unless otherwise specifically instructed by the Judge, the proposed order from a hearing must be electronically submitted along with a cover letter to the Judge to advise the proposed order is from a hearing on "X" date and that the proposed order has been approved by opposing counsel, if any. If you need the order on an expedited basis, you must also e-file a Priority Request along with the proposed order. If opposing counsel does not agree to the proposed order, please also e-file a cover letter so indicating and stating that opposing counsel will e-file an alternative proposed order within five days if desired. Of course, your cover letter should also be sent to opposing counsel. Sadly, the court has seen too often "Agreed Upon" order, where the attorney represents that the attorney and the client are the ones that have "Agreed", not opposing counsel – so the correspondence needs to be specific as to who agrees.

C. **PROPOSED AMENDED ORDERS** must normally be submitted with a properly e-filed Petition to Amend Order. However, in cases involving an amendment to correct a scrivener's or other technical error, a short letter of explanation for the need of an amended order is acceptable. **Proposed amended orders submitted without any written explanation in either motion or letter form will not be signed**.

13. ***SCHEDULING AND CANCELLING HEARINGS***:
All scheduling is done via email. Motions must be e-filed with the Clerk of the Court and **posted on the docket *prior*** to requesting hearing time. Notifications that documents are "accepted" does not mean the documents have been processed and posted on the docket.

Please note that when new cases are e-filed, unless there is a Priority Request, the thorough review and audit process performed by the Clerk's office can take several weeks. When documents are missing, the Clerk's office will prepare an Order to File Required Documents ("Order Checklist") and it may not be appropriate to schedule a hearing until all of the required documents have been filed. When the Order Checklist has been fully complied with, the Clerk will forward the case to the judge. If a hearing is required, the JA will contact you via email to schedule a hearing and hearing dates, times and instructions will be provided.

To schedule a hearing, please send an email to Section4@jud6.org. The Subject Line of the email should include the Case Number, Case Name and reason for the email (ex: 15001234ES Smith – request hearing times).

The JA will reply to your email with the procedure and will provide multiple hearing dates. These dates are not held pending your response so please provide multiple dates back to the JA. (Of course, if there is an opposing party, these dates must be coordinated.) The JA will then reply with confirming email as to the date and time of the hearing.

Do not send out the Notice of Hearing until the hearing time has been confirmed by the JA. Once hearing time has been confirmed, e-file the Notice of Hearing and send a copy to the Judge's office via email.

You must seek permission of the Judge's office to add a motion/petition to a scheduled hearing and the motion/petition must be cleared to add with any other counsel as well. **Motions/petitions that are added and noticed *without* permission of the court will likely not be heard.**

Please do not cancel a hearing without notification to and by agreement of the parties. A Notice of Cancellation must be e-filed with the Clerk of Court. Please notify the JA of the cancellation by sending an email to Section4@jud6.org with "CANCELLATION" in the subject line.

14. ***SUBSTITUTION AND WITHDRAWAL OF COUNSEL***:
Fla. R. Jud. Admin. 2.505(e)(2) requires that the client agree **in writing** to substitution or withdrawal of counsel. **Proposed Orders Approving Stipulations for Substitution of Counsel submitted *without* the written consent of the client will not be signed by the Judge.**

The court will consider proposed orders for withdrawal of counsel if accompanied by a consent from the client. Otherwise a motion and hearing will be required. Also, a hearing will be required in circumstances where the attorney is seeking to withdraw from representing either a PR or a guardian unless a substitution of counsel has been e-filed. When the withdrawal of counsel will result in a party being without counsel, the proposed order must contain the complete contact information for the party (i.e. address, phone number, e-mail address.)

15. ***MOTIONS TO COMPEL DISCOVERY*:**
This division utilizes Administrative Order 20-011 Motions to Compel Discovery in order to avoid unnecessary hearings. Attorneys should be aware of this tool to facilitate discovery matters.

16. ***MOTIONS DECIDED ON WRITTEN SUBMISSIONS*:**
This division utilizes Administrative Order 20-012 Motions Decided on Written Submissions. While many of the Petitions in this division are non-adversarial and this would not be applicable, this is a good tool for moving cases on those that are adversarial. If this tool is used, please be sure to send notice to

section4@jud6.org to let the JA know that the motion/petition is ripe for the court's decision following the instructions and forms in the A.O.

ADMINISTRATION OF ESTATES

17. ***TIME STANDARDS***:

Pursuant to Rule 2.250 (1)(d) Rules of Judicial Administration Uncontested, with or without a federal estate tax return, should be completed within 12 months, from the issuance of Letters of Administration to Final Discharge. Contested administrations are to be completed within 24 months from the filing to final discharge. Please note that these time standards are strictly enforced and automatically calculated by the Clerk's program. Attorneys are responsible for calculating and calendaring these time periods, otherwise, there will be an Order to Show Cause why the case should not be dismissed for lack of prosecution. If the administration requires additional time to complete the estate, file a Petition to Extend, with the specific reasons and a proposed Order. (See paragraph 6 above)

18. ***BONDS - ESTATES***:

In setting an appropriate bond, the Judge evaluates the circumstances of each case and considers the unofficial bond schedule developed many years ago by Judge Thomas E. Penick. Typically, the minimum bond set is $18,000 as that is the highest bond available for the minimum bond premium; i.e., it costs the same for a bond of $18,000 as it does for a bond of a lesser amount. The bond schedule has been adjusted to reflect that minimum and is set out below.

A. **Bond Schedule**:

Estate Gross Value:	$0 – $75,000 *	$75,001 – $100,000	$100,001 – $175,000	$175,001 – $250,000	$250,001 - $500,000	$500,001 - Unlimited
Bond:	$18,000	$25,000	$35,000	$50,000	$75,000	$100,000 minimum**

* Every wrongful death estate will have a minimum bond of $18,000.
** Do multipliers of $100,000 for each $500,000 of estate (i.e. $1,100,000 estate calls for a bond of $225,000).

Typically, the value of exempt assets and homestead property is excluded from the total amount of assets in determining the bond. **It is recommended that you propose a bond amount in accordance with the bond schedule AND include the bond amount in the proposed Order appointing the Personal Representative.**

B. **Waiver of Bond:**

The bond exists to insure the performance of the Personal Representative (PR) to both beneficiaries and creditors and only in exceptional circumstances will it be waived. Examples of those circumstances include cases in which the decedent has been dead for more than two years.

If you wish to seek that bond be waived, e-file a petition setting out the specific facts of your case that merit consideration for waiver of bond. Petitions to Waive Bond are routinely denied which merely state "boilerplate" language that doesn't explain the facts and circumstances of the case.

19. ***"HOMESTEAD" OR "EXEMPT" PROPERTY SALES PRIOR TO THE EXPIRATION OF CREDITOR'S PERIOD***:

Creditors of the estate have the right to object to petitions that may result in a determination that property is exempt from their claims. Nevertheless, the court recognizes that there may be an emergent need to conduct a sale prior to the end of the creditor period. Therefore, the court will consider petitions to sell property which PRs will eventually seek to determine to be "homestead" or "exempt" as long as the proceeds are held in escrow or trust until such time as the creditors have been ascertained and are noticed of the petitions to determine property to be protected from their claims. Additionally, the sale of the property requires the consent of every beneficiary. Failure to obtain and e-file consent with the petition will seriously delay the signing of the order.

The proposed orders authorizing any sales prior to the expiration of the creditor period must not contain any language stating that the court finds the property to be exempt or to be the homestead of the decedent or otherwise protected from claims of creditors.

20. ***SUMMARY ADMINISTRATION***:

Summary Administrations do not contemplate hearings. If there are issues beyond the limited relief provided in a summary administration, the estate must be converted to a formal administration. There are no provisions for OBJECTIONS to claims in a Summary Administration. If there is an order checklist, you must fully comply with each item and once you have filed everything, the Clerk will do a final audit and forward the case to the Judge to sign the order(s).

GUARDIANSHIP AND MENTAL HEALTH

21. ***GUARDIANSHIP PETITIONS FOR AUTHORITY TO ACT AND WAIVER OF REQUIREMENTS***:

A. CERTIFICATE OF SERVICE FOR PETITIONS FOR AUTHORIZATION TO ACT

It is essential to comply with the requirements of 744.447 including Section (2). Except for petitions to authorize sale of perishable or rapidly deteriorating property, notice of petitions for authorization to act "shall be given to the ward, the next of kin, if any," and to interested persons. Notice need not be given to a ward who is under 14 years of age or who has been determined to be totally incapacitated. If the guardian has consulted with the next of kin and they agree with the Petition, so stating would be helpful. If the next-of-kin disagree, perhaps setting an expedited hearing with notice to the next-of-kin would be the most expeditious method to accomplish the goal.

In order to comply with this Statute, the Certificate of Service shall either show that the required people were served or, if appropriate, should indicate that there are no known next of kin, or the basis why the next of kin should not receive a copy of the Petition, or that the ward is under 14 or is totally incapacitated.

TYPES OF PETITIONS

Contents of petitions seeking the court to authorize or approve of actions of PRs or guardians should be as thorough and specific as possible. It is difficult for the Judge to take the time to search through the court file to find information which should have been included in the petition. **Examples** are set out below:

A. ***Sale of Real Property***:

In guardianship cases, sufficient evidence of the market value of real property is required. In most circumstances, mere reference to records of the Pinellas County Property Appraiser is insufficient. An appraisal or a market analysis by a real estate professional is necessary unless there are exceptional circumstances. In estate cases, if all interested parties consent to the sale of the property at a particular price, typically the court will not require evidence of value.

B. ***Sale of Vehicles***:

In guardianship cases, a petition to sell a vehicle should include reference to the market value of the vehicle by some generally recognized source such as Kelley Blue Book or Edmunds. If the vehicle is being sold by the guardian through a bidding process, the petition should include an explanation of how it was advertised for bid or how bidders were chosen. In addition, in most cases, either a bid or written statement declining to bid must be included from a generally recognized dealer such as CarMax. Be sure to include the VIN number for any vehicles in the Petition.

C. ***Approval for Medicaid Planning***:

Petitions seeking authority to act related to Medicaid planning should contain as much information as possible including, but not limited to, the amount of the ward's assets and monthly income, whether or not any

known beneficiaries of the ward's estate have been made aware of, and agree with, the plan, and the types of actions that will be taken in the process including whether a personal services contract is included and, if so, the general terms of the contract.

D. ***Payment of Certain Expenses in Minor Guardianships**:*

"Support" Expenses: In many minor guardianship cases, authority is being sought to pay expenses of the minor from guardianship funds. Parents have a legal obligation to support their minor children. Thus, in circumstances in which the expenses sought to be paid involve such things as clothing, tuition, medical, dental and orthodontic care, the petition must be supported by information demonstrating to the court why the expenses should be paid by the guardianship rather than the parent. In most of these cases, the parent(s) having the support obligation are also the guardian(s) seeking the expense payment. If the reason that guardianship funds are sought is that the parent(s) cannot afford the expense, detailed information must be provided demonstrating that allegation. Specifically, information regarding the income and expenses of the parent(s) must be included by either affidavit or verified petition. One means of providing this information is for the parent(s) to complete and file a simplified family law financial affidavit.

E. ***Purchase of Vehicles for Minors***:

Authority is often sought to purchase vehicles for children. Unfortunately, many parent/guardians make the decision to purchase a vehicle in advance and then ask the court to approve it after the fact. In some cases, these retroactive petitions are denied. In representing clients, it is important for attorneys to make it clear to guardians that automobile purchases, like most other expenses, require advance approval. The court takes many factors into consideration in weighing the decision to approve purchase of a vehicle but, of course, the cost of the vehicle in relationship to the total amount of assets is important. In addition, the court considers whether the proposed vehicle appears to be a reasonable choice for the child. In some cases, the court is willing to consider authorizing a maximum purchase price in advance and then allowing the guardian the discretion to select a vehicle that does not exceed that price.

F. ***Waiver of Educational Requirement in Guardianships***:

The court will rarely consider waiving the educational requirements for guardians. If all funds are to be held in a designated depository throughout the existence of the guardianship, the court may waive the requirement. However, if, at any point, the guardian seeks release of any of the depository funds during the course of the guardianship, the court may withdraw the waiver of the educational requirement. When seeking a waiver of the educational requirement, the guardian should submit an affidavit which sets out his or her understanding of basic guardianship principles relating to inventory, accountings and court approval of expenditures of funds.

G. ***Petition seeking Authorization for a Do Not Resuscitate Order (DNR) or to withhold life-prolonging procedures F.S. 744.4431(2) and Rule 5.631:***

File a Petition and proposed Order which includes the following:

1) Information as to any advanced directives the Ward may have executed in the past (Living Will, Health Care Surrogate, Organ Donation intent, previous DNR;
2) Medical condition of the Ward, including any physician recommendations; is Hospice involved;
3) Family or friend input or consents;
4) Any knowledge of the Ward's preferences considering the Ward's values, culture, religious preference and a statement as to how the Guardian has complied with Rule 58M-2.009(10):

   Professional Guardians shall determine the extent to which Wards under guardianship identify with particular ethnic, religious, and cultural values. To determine these values, Professional Guardians shall consider the following:

   (a) The Ward's attitudes regarding illness, pain, and suffering;
   (b) The Ward's attitudes regarding death and dying;
   (c) The Ward's views regarding quality of life issues;
   (d) The Ward's views regarding societal roles and relationships; and,
   (e) The Ward's attitudes regarding funeral and burial customs.

5) If the request for DNR is an emergency, file a Priority Request and be sure to include "DNR" in the title of your Petition.
6) If the Petition or attachments include the Ward's medical records, consider filing a "**Motion to Determine Confidentiality of Court Records**" (See Rule 2.420 (e)) and proposed Order. A person's medical records enjoy a confidential status. First the right to privacy contained in Art. I § 23, Fla. Const., second, § 456.057(7)(a), Fla. Stat. and third § 90.503(2), Fla. Stat. all provide a basis for medical records to remain confidential. And, also consider Judicial Administration Rule 2.420 records pertaining to Baker Act, substance abuse services, tuberculosis, specific Guardianship reports, if applicable.

22. REQUIREMENTS FOR APPROVAL OF A MINOR'S SETTLEMENT

Multiple issues need to be addressed prior to the Court considering the potential approval of a proposed settlement. Florida law requires that the Court act as a "final check" before an attorney, guardian, or parent settles a claim and discharges a child's rights. The claim and the distribution of the proceeds must be examined as well as what protections are afforded to the corpus of the funds.

A. REQUIREMENT OF COURT APPROVAL

Florida Statute 768.25 requires Court approval of any settlement of a minor or incompetent which an action is pending. This statute also requires the Court to approval "apportionment among the beneficiaries … ". "The Court is also specifically charged with "provid(ing) protection for any amount awarded for the benefit of a minor child or incompetent … ," *See also, Fla. Stat.* 744.387.

B. APPOINTMENT AND REPORT OF GUARDIAN AD LITEM

In performing its duties with regard to evaluation of, and possible approval of, a settlement for a minor, the Court may appoint a Guardian ad litem before approving settlement if " … the gross settlement of the claim exceeds $15,000. *Fla. Stat.* 744.3025 (1)(a). [Underlining supplied] However, " … before approving a settlement of the minor's claim in any case in which the gross settlement involving a minor equals or exceeds $50,000", the Court must appoint a guardian ad litem. *Fla. Stat.* 744.3025 (1) (b) [Underlining supplied] A guardian ad litem need not be appointed if "the guardian has no potential adverse interest to the minor." *Fla. Stat.* 744.3025(e)

C. ITEMS REQUIRED BY THE COURT

The Court requires the following information in most cases, in addition to if not specifically set forth in Rule 5.636, Florida Rules of Probate Procedure as to the Settlement of Minors' Claims:

1. Amount of Settlement: The specific amount of gross settlement in this proposed offer and Motion for Approval.

2. Distribution of Net Proceeds: The itemized proposed distribution amongst the beneficiaries and/or survivors, the Estate, or other entities with claims and costs and attorney's fees.

3. Guardian Ad Litem Report: The appointment of, and report from, a Guardian Ad Litem regarding the proposed settlement. The dollar amount, as noted above may require the appointment of a GAL. Special attention will be necessary where the Personal Representative is representing the entire Estate and all the survivors and appears to have "potential adverse interest(s) to the minor(s)." The GAL should present the position of the natural parent or guardian as to the settlement and distribution and whether it comports with the GAL's recommendation or that it does not.

4. Closing Statement: A copy of a detailed closing statement showing the attorney's fees and the recipients, costs expended or to be expended, anticipated distribution of funds and to whom, liens resolved and unresolved, outstanding balances owed, as require by The Rules Regulating the Florida Bar and specifically Rule 4-1.5, and

unresolved claims against the Estate, as well as any other claims being compensated from these proceeds. *The closing statement should be filed with the Court under seal or be emailed to Section4@jud6.org prior to any hearing.*

5. Protection of Minor's Net Proceeds: The Court will need to know how the funds will be invested or protected and in what institution(s) or through which vehicle(s). This would include the rating or stability or the institution(s) or fund(s). A designated financial institution can be used under Florida Statute 69.031 to protect the assets of the minor until he or she reaches the age of majority. Disbursement of the funds deposited to the account can only occur with an Order from the Court.

6. Annuity: If an annuity is to be purchased, the Court will need a copy of the information setting forth the cost, present value, payment schedule, the name of the company that will be used, the name of the owner of the annuity and its relationship to those companies being released, as well as the rating of the company.

7. Medical Records: Copies of the initial medical records including the history and physical showing the present condition, if hospitalized the admission and discharge summary will be necessary. A final report from each primary treating physician with an indication of the need for, or the lack of need for, future care, and if possible, the approximate costs. A medical summary is also required.

8. Scarring/Disfigurement: If the injury or treatment involves resulting scarring or disfigurement, photographs of the child after the incident and photographs of the present condition will be required. *The Court may require that the child appear at the hearing in order to allow the Court to observe the condition(s).* The above mentioned medical reports should contain an estimate of the cost of an explanation of the treatment plan for these injuries.

9. Insurance: The existence of medical insurance, Medicaid, Medicare or other sources of payment, or lack thereof, for future treatment that has been projected.

10. Life Care Plan: In cases involving a catastrophic injury or chronic health care need for a minor, a projection of the anticipated medical, rehabilitative and/or vocational needs and associated expenses for the minor child. The Life Care Plan should be based upon published standards of practice, comprehensive assessment, data analysis and research, which provides an organized concise plan reflecting current and future needs with associated costs.

D. EFFECT OF RELEASE AND/OR SETTLEMENT AGREEMENT

11. Release: A copy of the release, and any settlement agreements to which the minor, or his guardian on behalf of the minor, will need to sign and assurances that it has been reviewed by counsel and that all parties agree, in writing, that it is only intended to release the settling party and their insurers as insurers of this particular settling party, and is not intended to release any other defendant or non-party.

12. Indemnification: If the release and/or settlement agreement contain a duty to defend, indemnify and hold harmless, is such agreement intended to bind and apply to the minor child or just the guardian. If it is intended to apply to the minor child, by what legal authority can the minor child be bound to defend, indemnify and hold harmless this party.

13. Confidentiality. If the release and/or settlement agreement require a confidentiality agreement, is the minor child meant to be bound by such agreement and by what authority? What is the anticipated consequence to the minor child for violation of this confidentiality agreement? Which party will take responsibility to seek, and obtain, the appropriate measure to seal the limited documentation in the Court file pursuant to *Florida Rules of Judicial Administration,* Rule 2.420(d)

23. **GUARDIANSHIP AND TRUST/GUARDIANSHIP FEE PETITIONS:**
All fee petitions in guardianship cases are reviewed by the Magistrate's office. Once the fee petition has been e-filed and processed by the Clerk's office, it will be forwarded to the Magistrate's office for review. If there are any questions or problems with the petition, the Magistrate's office will contact you. **Please note that fee petitions are held up to 15 days for an objection period.** Fee petitions are not routinely set for hearing. When the order is ready for signature, the Magistrate's office will forward the proposed order to the Judge. If there is an objection, and the attorneys can not resolve the issue, the fee petition and objection can be set on the Judge's calendar for a hearing.

It is the policy of this court to require that the guardianship fee petition process be followed in cases where the court has established a trust within a guardianship (typically for Medicaid planning purposes) and guardianship assets have been transferred to that trust, subject to the Court's jurisdiction. In these cases, the fees of the trustee and the attorney for the trustee must be reviewed by the Magistrate's office and approved by the court in the same manner as guardianship fee petitions.

To assist in the review process, there is a sample fee petition form and checklist on the 6th Judicial Circuit website.

24. **BAKER ACT/MARCHMAN ACT & EXPEDITED MEDICAL INTERVENTION:**

All Baker Act Petitions and Marchman Petitions are designated automatically by the Clerk as a priority and are expeditiously sent to the Judge's electronic queue for review. The hearings are scheduled with the General Magistrates, unless there is an objection.

For Expedited Medical Intervention Petitions, they are to be uploaded through the E-Portal, the Clerk will also designate them as a priority; however, it is recommended that the attorney for the Petitioner also send a copy by email to section4@jud6.org so the process of scheduling and coordinating a hearing can begin.

25. **Helpful Resources**:

www.jud6.org/general public/guardianship forms
(or under 6th Judicial Circuit, Court Programs, Guardianship information and forms)
www.mypinellasclerk.org -Probate and Mental health – excellent resource with forms, rules, checklists and Frequently Asked Questions (FAQ)
also includes a 2 hour YouTube video by Jill Cicero on how to do guardianship accountings