



ADMINISTRATIVE MEMORANDUM

TO: All Probate Division Judges

FROM: Yvonne Colodny, Administrative Judge - Probate Division

DATE: April 15, 2020

SUBJECT: EVIDENTIARY HEARINGS DURING THE PANDEMIC

The Eleventh Judicial Circuit and the Circuit Probate Division and our staff and partners have worked tirelessly to resume all hearings electronically utilizing the Zoom platform. In addition to allowing such remote testimony and swearing in of witnesses as described in Supreme Court and Eleventh Judicial Circuit Administrative orders, as amended, it is necessary that courts and the parties have clear guidance as to how such evidence is presented to the court, the clerk and the parties.

This memorandum shall set forth procedures for introduction and use of documentary evidence through remote means in Circuit Probate Court evidentiary hearings (including non-jury trials):

1. This procedure applies only to the electronic use and entry of documentary, photographic, audiovisual and other evidence reasonably able to be provided and shared electronically; and
2. This procedure does not apply to physical evidence not stipulated or agreed by the parties (if applicable, parties should seek guidance from the Court, before the hearing, regarding physical evidence,); and
3. All Counsel or self-represented parties must meet and confer prior to an evidentiary hearing during which they should endeavor to stipulate to as much as practicable regarding authenticity and admissibility; and
4. At least five business days before an evidentiary hearing conducted by remote means, counsel shall file and serve as separate docket entries all evidence sought to be introduced. Such evidence shall be filed in the E-filing portal entitled "evidentiary hearing request." All exhibits should be pre-marked for identification. In addition, counsel shall file an index listing all proposed exhibits. Where an exhibit is stipulated to be admitted, counsel shall so indicate in the manner the exhibit is marked both on the exhibit and on the index; and
5. Nothing in this procedure limits the trial court's ability to designate supplemental procedures (for example, requiring copies to the Court in advance of the hearing); and

6. Similarly, nothing in this procedure limits the trial court's discretion to admit, admit for a limited purpose, or deny entry or use of such evidence, or fashion whatever relief is appropriate under the circumstances, based on lack of compliance with these procedures; and

7. After the hearing, counsel must work promptly to prepare a corrected index of exhibits which have been introduced in evidence marked in the manner designated by the Court or the Clerk at the hearing (unless the Clerk prepared an index during the hearing); and

8. To the extent exhibits were not filed before the hearing and were considered by the Court, counsel shall file such exhibits forthwith; and

9. In settings where the Court must review a document, but it is not being admitted as evidence (for example, showing a driver's license to verify identity) the party need not file the document in advance but may present the document to the camera for the Court's review during the hearing; and

10. If the parties comply in good faith with this procedure but technological issues prevent a meaningful review of the evidence through remote means, the Court may reset the matter.

THIS ADMINISTRATIVE MEMORANDUM SHALL TAKE EFFECT IMMEDIATELY AND SHALL REMAIN IN EFFECT UNTIL FURTHER ORDER OF THE COURT.

DONE AND ORDERED IN CHAMBERS AT MIAMI-DADE, FLORIDA, THIS 15TH DAY OF APRIL, 2020.

/s/ Yvonne Colodny
YVONNE COLODNY, ADMINISTRATIVE JUDGE
PROBATE DIVISION