

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

**JUVENILE DIVISION 009
DEPENDENCY DIVISION 009
FCJ DIVISION 109**

**STANDING ORDER ESTABLISHING COURTROOM
PROCEDURES**
(Effective December 5, 2022)

In the interest of ensuring the fair, efficient, and proper administration of matters before this Court, it is hereby **ADJUDGED** that it is necessary to implement the following policies and procedures. This Order is effective December 5, 2022. The prior Order Establishing Courtroom Policies and Procedures entered on October 14, 2021 is vacated. Should any party need clarification, or a modification, exception, and/or waiver of the obligations below, a motion for clarification must be filed, served, and noticed for a timely hearing.

A. GENERAL INFORMATION

1. **JUDGE'S NAME & E-MAIL:** Honorable Michelle A. Barakat (mabarakat@jud11.flcourts.org) (please email the Judicial Assistant regarding court business).
2. **JUDICIAL ASSISTANT'S NAME & EMAIL:** Nicole M. Galardi (ngalardi@jud11.flcourts.org) All calendaring requests and courtesy copies should be submitted to the Judicial Assistant.
 - a) If you write the Judge about a case, you **must** copy all counsel and the Judicial Assistant in the same email.
ESPECIALLY IF SENDING AGREED ORDERS FOR SIGNATURE.
 - b) Do NOT put "SERVICE OF COURT DOCUMENTS" in the subject line of any email to the Court - if you do, our email system automatically rejects the email.
3. **BAILIFF'S NAME:** Orlando Pozo (opozo@jud11.flcourts.org)
4. **COURT CASE MANAGER:** Juliette Celestin 305-679-1609 jcelestine@jud11.flcourts.org
5. **CHAMBER INFORMATION:**
 - a) Address: 155 N.W. 3rd Street, Room 14-325, Miami, FL 33128
 - b) Telephone: 305-679-1782

6. **ZOOM HEARING INFORMATION (IF APPLICABLE):**
For hearings that will be conducted via Zoom, Division 009 will utilize a recurring meeting ID. No passcode is required. The recurring **Zoom meeting ID is 974 4050 3277.**
7. **TIME CALENDAR BEGINS EACH DAY:** 9:30 a.m.
8. **DIVISION E-FILE EMAIL ADDRESS:** 11thd09@judl1.flcourts.org
9. **AGENCY DAYS:** Monday (CFCE), Tuesday (FRC), Friday (CHS)
Wednesday 9:30am-12:30pm may be used to calendar all agency cases if needed to remain in compliance.
10. **ELECTRONIC RECORDING OF HEARINGS:** All dependency, delinquency and domestic violence hearings are conducted on the record via audio recording. Transcripts may be ordered at the expense of the requesting party through the court reporter. *Whether the proceeding is conducted in person or virtually, no person is permitted to audio or video record any proceeding or portion thereof without the express permission of the Court confirmed via Order.*

B. GENERAL COURTROOM PROCEDURES APPLICABLE TO ALL HEARINGS, TRIALS, AND AGENCY/15 MIN. MOTION CALENDAR

1. **At this time, based on the recent rule changes by the Florida Supreme Court and Administrative Orders, this Court will conduct the following hearings in the manner specified.**
 - a. Agency/15 Min. Motion Calendar and Calendar Call/First Day of Trial Check-In: will be conducted remotely (Zoom) or in a hybrid format. The courtroom is **open**, and parties are encouraged to attend in person should it be more convenient.
2. **TRIALS/ADJUDICATORY HEARINGS AND SPECIAL SET EVIDENTIARY HEARINGS:** will be conducted in person **unless** the parties agree that the proceeding should be conducted remotely (Zoom) or conducted in a hybrid format, or the Court orders it upon good cause shown. Parties making this request must file and provide to the Court the Unopposed Motion a minimum of 7 business days prior to the set hearing.
 - a. **Trials/Adjudicatory Hearings**

This Division's Standing Order on Pre-Trial and Trial Procedures entered on December 2, 2022 will govern Pre-Trial and Trial Procedures.

The procedure for scheduling of trials/adjudicatory hearings is as follows:

At arraignment or advisory, the trial/adjudicatory hearing for the petition will be set for the following month's Calendar Call/First Day of Trial Check-In (see §§39.507(1)(a) and 39.809(2), Fla. Stat.)

This Calendar Call/First Day of Trial Check-In will typically be set two weeks prior to the commencement of that month's Trial Period (see below). Therefore, all parties and counsel must appear at the Calendar Call/First Day of Trial Check-In. These hearings will be conducted remotely (Zoom) or in a hybrid format. This hearing does not require the filing of the Unopposed Motion to Hold Trial/Evidentiary Hearing Virtually. **Failure to appear at the Calendar Call/First Day of Trial Check-In may result in a default.** At the Calendar Call/First Day of Trial Check-In, any defaults, consents, or surrenders will first be addressed. Thereafter, a trial order with an anticipated date and time (a 9:30AM or 1:30PM session) during the Trial Period will be established for the remaining cases. Therefore, no witnesses should be subpoenaed to appear for the Calendar Call/First Day of Trial Check-In.

During the designated Trial Period, there will be no regular calendar. Wednesdays and Thursdays of each non-trial period will be utilized for special set hearings, emergencies and any overflow days for trials/adjudicatory hearings that could not be concluded during the trial period.

When scheduled, future Calendar Call/First Day of Trial Check-In dates and trial periods will be listed on the Division landing page of the 11th Judicial Circuit and circulated via memorandum. Dates are subject to change, however, 60-day notice will be provided.

b. **Special Sets and Add-Ons:**

Requests for special set or contested hearings outside of Agency/15 Min. Motion Calendar or add-ons to Agency/15 Min. Motion Calendar days must comply with Section C of this Order as set forth below.

3. **Zoom Hearings Generally:**

- a. For Zoom hearings, each attorney, party, witness, or participant should rename his or her display name to his or her name for identification purposes. (Note: Foster parents should utilize only their initials.) Each attorney should advise his or her client of this requirement.
- b. **Zoom hearings are court appearances and proper courtroom decorum is required.** If you are not appearing on a case, it is expected that you will not interject during a proceeding, unless first addressed by the Court.
- c. All parties and witnesses are expected to appear in a timely manner, unless he or she has previously advised the Judicial Assistant, via email, of a conflict and the Judicial Assistant has confirmed that an accommodation can be made. Absent this confirmation, the party must personally appear and address this with the Court.
- d. Each person appearing for the hearing must visibly appear during the hearing unless excused by the Court.
- e. All parties and witnesses must appear properly attired, in a business-like setting.
- f. Driving a vehicle while on zoom is not permitted.
- g. Attorneys must instruct their clients/witnesses on effectively using the simultaneous interpretation feature on the Zoom platform if necessary.

4. To ensure procedural and substantive due process, absent an emergency, Agency/15 Min. Motion Calendar/Specially Set hearings **shall not** be utilized as an opportunity to bring up new issues **without prior notice to every other party**. If objected to, these issues will not be addressed by the Court unless prior notice to the other parties has been provided and, if appropriate, a motion has been filed and noticed. Hearings are not the time for an attorney to speak with a client, GAL, or case manager for the first time on a given issue. Additionally, a court proceeding shall not be utilized to staff a case.
5. Only legal objections will be entertained by the Court. **No speaking objections**.
6. In order to ensure a clear record, only one person may speak at a time when called upon by the Court. Attorneys should not address arguments to each other or to witnesses; arguments should be made to the Court. No person should interrupt another, absent a legal objection.
7. **Continuances: All motions for continuance must comply with Rule 8.240, Florida Rules of Juvenile Procedure and include all information required by the Rule**. Absent a showing of good cause, a motion for continuance must be in writing and filed by the moving party as soon as practicable upon discovery of the basis for the request. Motion for continuance shall be sent to the JA via email. The court must approve all continuances; **the fact that parties agree, does not guarantee the continuance will be granted by the Court**. As time is of the essence in these proceedings, the motion must state if the basis for the request for continuance is for one of the reasons set forth in §39.0136(3)(b), Fla. Stat. The party seeking the continuance **must provide the Court with a proposed order** after the Court's ruling. Requests for continuances must be set for hearing and heard on the record.
8. **Agreed Orders**: Agreed motions should be signed by ALL parties or the parties should be copied on the email to JA with the proposed agreed order. This will serve as acknowledgment of agreement to the proposed agreed order.

Note: All proposed Agreed Orders for Psychotropic Medications must name and specify within the body of the Order all parties that have agreed to the Order and whether or not the parents of the child have been TPR'd and/or consulted if not TPR'd. Any proposed Order submitted that does not comply with these specific instructions will not be entered without a hearing.
9. **Orders Submitted While Judge is on Administrative/Annual Leave**: All Orders that require immediate signature must be sent via email to JA for review and distribution. All parties should be copied on the email.
10. **Motions to Withdraw: A Motion to Withdraw will require a hearing**. If the Motion to Withdraw has been added to a pre-set motion scheduled, counsel requesting the withdrawal must be prepared to represent their client for the pre-set hearing.

11. Requests for incarcerated parents or witnesses (MRT Orders and Zoom inmate appearance request): The responsibility to request the presence of an incarcerated parent or witness (submission of MRT orders) will be as follows:
 - a. Soundings/Arraignments: CLS will submit MRT order
 - b. Agency/15 Min. Motion Calendar hearings (Disposition, JR, Case Plan, Permanency, etc): Counsel for the parent will submit MRT order
 - c. Motions: The moving party will submit MRT order
 - d. Trials/Adjudicatory hearings: Counsel for the parent will submit MRT order. If it is an incarcerated witness, the party calling the witness will submit MRT order
 - e. MRT Order Procedures Generally:
 - i. The attorney will complete the Zoom inmate appearance request or MRT Order, as required. Templates are available on the Division 009 landing page.
 - ii. The Zoom inmate appearance request or MRT Order will be submitted to the Judicial Assistant for submission to the Department of Corrections. In submitting your request, please note the deadlines to submit.
 - iii. **In-Person**: For transportation of an inmate in a local facility (within Miami-Dade), the MRT Order must be submitted to the Judicial Assistant at least 7 business days prior to the hearing. For a non-local facility (outside of Miami-Dade County), the MRT Order must be submitted at least 12 business days prior to the hearing.
 - iv. **Zoom Appearance**: The Zoom Request form must be fully completed and include the Inmate's Cell Number and the Zoom information. These must be submitted to the Judicial Assistant at least 72 hours before the hearing.

C. **HEARING REQUESTS AND FILING MOTIONS**

1. Any motion or hearing that will require more than 15 minutes of testimony or argument, should be accompanied with a request for hearing. This includes, but is not limited to, contested permanency hearings, case plan amendments, modifications of placement, modification of visitation, etc. If the contested hearing is one that is usually heard during Agency/15 Min. Motion Calendar, this should be noted on the Request for Hearing and the Court will determine if it requires a special set or if it will be heard at the end of Agency/15 Min. Motion Calendar. Further, regular calendar should not be utilized to staff a case.
2. When requesting a hearing, a party's motion, if applicable, and request for hearing must be e-filed and served on all parties and the Court. Service on the Court shall be by e-filing to the Division email (11thd09@jud11.flcourts.org). Additionally, the motion and request for hearing must be emailed to the Judicial Assistant ("JA") at (ngalardi@jud11.flcourts.org).
3. Sample Request for Hearing forms are available on the Division 009 landing page for the Eleventh Judicial Circuit and shall be utilized to request a hearing. You may contact the Judicial Assistant for assistance in obtaining this form.

4. The Request for Hearing must contain the following information and certification:
 - a. Case name, complete case number (including letter assigned to each child), and agency.
 - b. Type of Hearing
 - c. Time Requested for the Hearing
 - d. Number of Witnesses & Filing Date of Witness List, if applicable
 - e. Special Accommodation Requests to Court Administration by Parties:
 - Interpreters (Required Language); Child Testimony Witness Room; Experts and their Time Availability (Names & Times)
 - f. All party names must be listed in the Certificate of Service portion or must be included in the last page of the motion in the lower left-hand margin (cc:). A catch-all statement of CLS, or defense attorney, or GAL attorney **is not sufficient**.
 - g. Required certifications for Request for Hearing:
 - 1) The motion to be heard is an EVIDENTIARY matter. (as applicable)
 - 2) The motion to be heard is a NON-EVIDENTIARY matter, requiring only legal argument. (as applicable)
 - 3) A copy of the motion has been served on all parties to the case or their respective counsel and to the Judicial Assistant along with the Request.
 - 4) Unless this is filed as an emergency, I have conferred with **all parties** to determine the amount of time requested for the hearing.
 - 5) Unless this is filed as an emergency, I have conferred with **all parties** in a bona fide good faith effort to resolve the matter without a hearing or to narrow the issues or will do so prior to scheduling the hearing.
 - 6) All exhibits, witness lists, and reports have been/will be served on all parties and provided to the Court **at least four business days** before the Trial/Evidentiary hearing. (as applicable); for any filing that exceeds 25 pages, you must drop off a physical copy to Judge Barakat's mailbox (located on the first floor) to allow clerks and staff to pre-mark exhibits and organize the case in a timely manner.
 - 7) I will ensure that all experts and witnesses are available for the hearing.
 - 8) If needed, I will make any special accommodations requests directly to Court Administration.
 - 9) I understand that once a time and date have been provided, I will contact all parties to ensure their availability and prepare and e-file a Notice of Hearing with a courtesy copy emailed to the Judicial Assistant.
 - 10) I understand that only legal objections (no speaking objections) will be entertained by the Court during the course of the hearing.
 - 11) **I have reviewed Sections B and C of this Court's standing Order Establishing Courtroom Procedures located on this division's webpage and certify that I have or will have complied with its provisions prior to the hearing.**
5. Prior to scheduling the hearing, the movant shall communicate with all parties in an effort to resolve the subject matter of the proposed motion and/or to narrow the issues to be presented to the Court.

6. Once a time and date have been provided, the party filing the motion shall contact all parties to assure their availability and prepare a Notice of Hearing with a courtesy copy provided to the JA. **NOTE:** The Clerk's Office does not provide Judge Barakat with copies of motions which Counsel submits through E-filing, which is why you must make sure to include the division E-file email address when E-filing and email the motion to the JA.
7. The movant shall be responsible for securing the attendance of witnesses (including MRT orders for witnesses and parties), **interpreters and experts and reserving child witness testimony room.** Movant shall also be responsible to comply with additional steps necessary if sign language interpreters are needed.
8. If the **Child Witness Testimony Room** is needed, the movant must email a Child Witness Testimony (CWT) request to AOC; Roy Jimenez at rjimenez@jud11.flcourts.org, Sergio Campos at scampos@jud11.flcourts.org, and Eileen Suero at esuero@jud11.flcourts.org, at least three days in advance. The request shall include the case number, and date and time the child(ren) is/are expected to testify.
9. No party is permitted to "add-on" additional motions to a previously scheduled hearing without the Court's permission. Requests to "add-on" motions must be submitted to the JA and should comply with all requirements of Section B of this Order.
10. **Child Hearsay:** When applicable, the Court expects compliance with §90.803(23), Fla. Stat. (Hearsay Exception; Statement of Child Victim) The proponent of the evidence is responsible for filing the appropriate motion and scheduling any necessary pre-trial hearings. **Child hearsay motions must be scheduled and heard prior to the trial/adjudicatory hearing.**
11. If a motion is not properly noticed, it will not be heard by the Court.

D. AGENCY/15 MIN. MOTION CALENDAR

1. **Agency/15 Min. Motion Calendar Cases:** Our agency/15 min. motion calendar days are **Monday, Tuesday, and Friday**. All cases will be called by the clerk. (Speak to the clerk or bailiff before calendar starts if you need something taken out of order). All parties will announce, State will proceed first with their issues, then GAL, then counsel for the parents. All parties will wait for the court to call on them, and only one party at a time will speak or make their argument to the court. Late filing or failure to file documents and reports which cause reset hearings may result in non-compliance findings for the Department and Agency.

The Court expects that the 3 agencies (CFCE, FRC and CHS) will have a case manager and/or liaison on agency/15 min. motion calendar days.

2. **Agency/15 Min. Motion Calendar Catch All Hearing Day:** In order to accommodate the issues with resets and compliance, Wednesdays from 9:30am-12:30pm on non-trial weeks are to be used for the setting of cases from all agencies.
3. **Termination of Supervision:** If either party (State or defense) is requesting a TOS, Parent or Permanent Guardian and Children, must be present in court. **A TOS report shall be provided to all parties 72 hours in advance of the hearing. Parents shall submit to urinalysis on the TOS date.**
4. **Family Functioning Assessment (FFA):** The Family Functioning Assessment (FFA) must be filed no later than 60 days from the date of removal, pursuant to Florida Statute 39.521. The agencies must comply with this Statute. If the FFA is not timely filed within the 60 days, then this delays permanency for the child. The Statute is very clear; it shall be within 60 days of the date of removal, however this is the longest it should be. The agencies should be striving to have the FFA completed within 30 days, if possible.
5. Contested hearings during regular calendar must comply with Section C of this Order.

E. MODIFICATIONS OF PLACEMENT

Should the Department or any party modify a child's foster placement, it must notify the parents (if their parental rights are intact), the Guardian Ad Litem (if one is appointed), and the Court within two (2) business days of change. However, absent emergency circumstances, the Department and its agents cannot modify, or remove any child from a pre-adoptive placement without first advising the parents (if their parental rights are intact), the Guardian Ad Litem (if one is appointed), and this Court. Within five (5) days of receiving such notification, any interested party may request that the Court review the Department's proposed placement, and the Department may not move the child until the matter is heard.

Motions for Modifications of Placement (MOP) filed in Dependency Cases will be handled by the assigned UCC Division Judge. The moving party must file a copy of the Motion and Affidavit for MOP and a Request for Hearing with the Clerk of Court, **and** e-mail a copy to the UCC Division Judge's Judicial Assistant.

If the UCC Division Judge is unavailable, the MOP will be heard by the UCC Shelter Rotation Judge at MDCC, Courtroom #2-1. The moving party must file a copy of the Motion and Affidavit for MOP and a Request for Hearing with the Clerk of Court, **and** e-mail a copy to the UCC Judge's Judicial Assistant assigned to Shelter Rotation coverage. In order for all parties to have sufficient advance notice of the hearing, the Motion for MOP must be filed no later than 11:00 a.m. for it to be heard on the same day at 2:00 p.m., otherwise it will be calendared for the following day's UCC Shelter Rotation Calendar, at 10:30 a.m.

-The moving party is responsible for preparing a Notice of Hearing once the UCC JA has confirmed the date and time of the hearing.

-Note that filing the Motion for MOP with the Clerk of Court only is not sufficient for purposes of having the case heard on calendar.

F. CASE PLAN & JUDICIAL REVIEW HEARINGS

1. Pursuant to section 39.6011, Florida Statutes, and Florida Juvenile Procedure Rule 8.400, all case plans must be filed with the court and a copy provided to all parties with known whereabouts at least **72 hours *before*** the case plan review/disposition hearing. Case plans must "list the costs associated with any services or treatment that the parent and child are expected to receive which are the [parent's] financial responsibility."§ 39.601 1(4)(d), Fla. Stat. If a parent objects to these costs, the parent(s) must advise the Court, in writing, of the basis for objecting at, or prior to, the case plan approval hearing, and the Court will resolve the dispute at an evidentiary hearing.
2. Pursuant to section 39.701, Florida Statutes, all social study reports for judicial review and guardian ad litem program reports must be filed with the Court, and a courtesy copy provided to all parties with known whereabouts, at least **72 hours *before*** the hearing. So long as the reports are received within the notice periods and proof thereof obtained, they may be sent by any means such as U.S. mail, email, E-file service, or hand delivery as the Court recognizes these reports can be voluminous. All social study reports for judicial review and guardian ad litem program reports that exceed 25 pages must be hand delivered to the Court.
3. **Case Plans and Judicial Reviews filed untimely, and which are objected to by the another party might be reset or might be subject to findings of non-compliance or sanctions.**
4. If a parent is expected to achieve substantial compliance at the next Judicial Review hearing, each party should file a proposed transition plan for reunification that is in the best interests of the child(ren). The proposed transition plan for reunification should be filed **at least 4 business days** prior to the next Judicial Review hearing and served on every party. If the parties are in agreement as to the proposed transition plan for reunification, only one agreed proposed plan need be filed. If there is disagreement as to whether or not the parent will have achieved substantial compliance at the next Judicial Review hearing, this section should still be followed. **The Court will not deem the filing of a proposed transition plan as agreement to a finding of substantial compliance.**
5. Case plans and Judicial Review hearings which are contested, must be special set hearings and cannot be heard during agency/motion calendar.

G. DILIGENT SEARCH AND INQUIRY AFFIDAVIT

- All parties must utilize the form provided in Florida Juvenile Procedure Rule 8.968.

H. STATUS AND INCIDENT REPORTS

Status Reports filed in Dependency Cases will be handled by the assigned UCC Division Judge. The moving party must file a copy of the status report with the Clerk of Court, **and** e-mail a copy to the UCC Division Judge's Judicial Assistant.

If the status report contains any alarming information that requires immediate attention, the moving party must request an immediate hearing and identify the urgency. In order for all parties to have sufficient advance notice of the hearing, the status report must be filed and a copy e-mailed to the UCC Division Judge's Judicial Assistant, within five (5) days of the incident.

Any party that learns of a child's injury or illness that a reasonable person would conclude requires medical assistance must inform the Court by filing a report and noticing all parties within two (2) business days of discovery. For purposes of this Order, "injury" means any trauma resulting in physical harm to, Baker Act or Marchman Act of, a child other than those typically and routinely suffered by children in the ordinary course of adolescence such as bruises, cuts, scratches, and other insignificant events requiring minor medical care. "Illness" shall similarly encompass any chronic or acute ailment or sickness other than those typically encountered in adolescence such as flus and colds that only require routine medical treatment. In addition, the following list requires the same filing of a report: death, missing person, arrest or new incarceration, sibling placement separation, school expulsion/suspension and/or domestic violence incident. However, in the event of uncertainty, the reporting party should err on the side of disclosure to the Court.

I. CHILD SUPPORT

In every case in which a child is placed out of home, child support shall be addressed and ordered by the Court. There are financial affidavits in the Courtroom that can be provided to the parents which are specific for child support and there are guidelines as well for parents that are unemployed. These forms are also available online at <https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Family-Law-Self-Help-Information> under Family Law Forms. DCF and the Defense Bar shall work together on this and discuss this in advance of all Arraignments in our division. The amounts should be calculated and discussed by the parties prior to the Arraignment. The parties can then either submit an Agreed Order as to the child support amounts at Arraignment or, if the amounts are disputed, address it with the Court at that time.

Failure to comply with this Order may result in this Court cancelling motion hearings, entertaining, or initiating contempt proceedings and/or imposing sanctions against the offending party.



MICHELLE A. BARAKAT
CIRCUIT COURT JUDGE

Copies furnished to Division 009:
CLS Attorneys, Regional Counsel Attorneys, Wheel Attorneys, GAL Attorneys