

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
NASSAU COUNTY, FLORIDA

CASE NO.:
DIVISION: A

IN RE: THE MARRIAGE/MATTER OF

Petitioner,

and

Respondent,

_____ /

**ORDER SETTING CASE FOR NON-JURY FAMILY LAW
TRIAL AND FOR PRE-TRIAL CONFERENCE¹
AND REQUIRING MATTERS TO BE COMPLETED PRIOR
TO PRE-TRIAL CONFERENCE**

It appearing that this cause is at issue and should be tried in the near future, it
is therefore,

ORDERED AND ADJUDGED:

1. **TRIAL DATE.** This cause is hereby set for a Non-Jury Trial on _____
beginning at _____ a.m. before the **Honorable Steven M. Fahlgren, Circuit Judge**, in Chambers, Nassau County Historic Courthouse, 416 Centre Street, Fernandina Beach, Florida via Zoom². Time allocated for trial is _____
hours.

2. **PRE-TRIAL CONFERENCE DATE.** A Pre-Trial Conference will be held in this matter on _____
at _____ a.m. before the **Honorable Steven M. Fahlgren, Circuit Judge**, in Chambers, Nassau County Historic Courthouse, 416 Centre Street, Fernandina Beach, Florida. Each party and all counsel shall comply with the Pre-Trial Procedures listed herein. The Pre-Trial Conference should be attended by an attorney who will participate in the Trial on the case, and all admissions and stipulations of fact made at those times shall be binding on the parties. Time allocated for the Pre-Trial Conference is _____ minutes. **Counsel for the parties may appear by Zoom at the Pre-Trial Conference, so long as the Joint Pre-Trial Statement has been filed with the Clerk of Court and provided to the Court by email at least twenty-four (24) hours prior to the Pre-Trial Conference.** If there is a pending motion to withdraw at the time of the Pretrial Conference, then both the

¹ Form Updated April 19, 2021. The parties may stipulate in writing to disregard all or part of the following paragraphs of this order: 5(a), 5(b), 5(c), 6(a), 6(b), 6(c), 7, 9(a), 9(b), 9(c), 9(d), and 12.

² See attached addendum.

attorney seeking to withdraw and his or her client(s) shall attend the Pretrial Conference. Counsel seeking to withdraw shall provide a separate notice of some form to his or her client(s) of this requirement. Any order on a motion to withdraw shall refer to any scheduled mediation, the anticipated costs of the mediation, and any trial dates that are set.

3. **PARENTING EDUCATION CLASSES FOR PARENTS OF MINOR CHILDREN IN COMMON TO THE PARTIES.** It has been found to be beneficial to parents who are separating or divorcing to attend an educational program that will provide general information regarding: (a) the issues and legal procedures for resolving custody and child support disputes; (b) the emotional experiences and problems of divorcing adults; (c) the family problems and emotional concerns and needs of the children; and (d) the availability of community services and resources. Accordingly, § 61.21, Florida Statutes (2011) requires that all parties to a dissolution of marriage proceeding with minor children or modification of a final judgment involving custody or time-sharing are required to attend a four-hour Parent Education and Family Stabilization Course. A course that meets this requirement is the "Putting Children First" course (formerly known as the "Children First In Divorce" course) offered by Hope Haven Children's Clinic, 4600 Beach Boulevard, Jacksonville, Florida 32207, 904-346-5100. In Nassau County, two of the approved providers of the similar qualified program, the Parent Education and Family Stabilization course, are Clearview Concepts and McPherson Counseling Services, Inc. Clearview Concepts is located at 1411 S. 14th St., Fernandina Beach, Florida 32097, and may be contacted at 904-335-0333. McPherson Counseling Services, Inc., is located at 850310 US HWY 17, Yulee, Florida 32097, and may be contacted at 904-548-0160. A Final Judgment may not be entered by the court until a certificate of completion is filed with the clerk. The Clerk of Court shall advise the parties of the requirements of this Order by providing a copy of court-approved instructions and a list of approved providers to the parties upon request. Generally, the Court will not accept courses taken online or courses taken with unapproved providers. Parents of minor children in common to the parties are required to enroll in an approved course before the Pre-Trial Conference and file proof of such enrollment or a completion certificate prior to the Pre-Trial Conference.

4. **MEDIATION.** Mediation should occur as soon as reasonably possible to minimize the expense and uncertainty of litigation. An exception to the general rule that a prompt mediation is useful involves matters in which a time sharing evaluator will likely be appointed. Under those circumstances, the Court prefers that mediation take place after a report is submitted by a time sharing evaluator. The Report on

Mediation shall be prepared in accordance with Rule 12.740(f), Fla. Fam. L. R. P., and filed with the court prior to the Pre-Trial Conference. The requirement to mediate this case cannot be waived by agreement of the parties. If the parties have not mediated prior to the Pre-Trial Conference, the Court will continue the Trial pending the mediation unless good cause is shown. Unless otherwise agreed upon by the parties or ordered by the Court, the parties shall be equally responsible for payment of all costs of mediation.

_____ This matter is being referred to a Mediator by separate order, and the Mediator appointed is copied on this order as recipient on the last page. If necessary, it is the responsibility of the Mediator to confer with counsel and the Office of the Court Administrator, telephone number 904-255-1001, for scheduling a Mediation Conference and submitting the appropriate Order for signature.

_____ It is ORDERED that this case is hereby referred to family mediation in accordance with Rule 12.740, Florida Family Law Rules of Procedure ("Fla. Fam. L. R. P."). If necessary, the Court will enter a separate order to this effect. If neither party is represented, then Petitioner shall call the Office of the Family Mediation Unit at (904) 255-1120 to schedule a mediation.

_____ The parties have already attended mediation. However, the Court encourages the parties to attend mediation again if there is any reasonable chance of progress.

_____ This section is not applicable. Mediation is not required.

5. WITNESS LISTS.

(a) **EXPERT WITNESSES.** No later than sixty (60) days before the Pre-Trial Conference or within ten (10) days of the entry of this Order, whichever is later, each party shall file with the Court and serve on the other party a notice containing the names, addresses and telephone numbers of each expert witness whom the noticing party in good faith expects to call as a witness at trial. For each expert witness listed, the noticing party shall also designate the witness' area of expertise, the subject matter about which the witness will testify, the substance of the facts and opinions about which the witness is expected to testify, and a summary of the grounds on which each of the opinions of the witnesses will be based. Notwithstanding the foregoing, the Court expects the parties to truthfully and thoroughly answer interrogatories and other discovery. If interrogatories seeking information regarding expert witnesses have been served, the party answering such discovery shall do so in good faith and shall not delay furnishing the information regarding expert witnesses until the time such disclosure is required by this order.

(b) **NON-EXPERT WITNESSES.** No less than forty-five (45) days prior to the Pre-Trial Conference or within ten (10) days of the entry of this Order, whichever is later, each party will file with the Court, and serve on the other party, a notice containing the names and addresses of each non-expert witness whom the noticing party in good faith expects to call as a witness at trial.

(c) Absent good cause, no witness shall be permitted to testify unless the party calling that witness has complied with this Order.

(d) If any party seeks to introduce a child hearsay statement under Section 90.803(23), Florida Statutes, such party shall provide written notice ten (10) days in advance of the trial setting forth in detail the statements sought to be admitted and the basis for their reliability

6. **DISCOVERY.**

(a) Except as otherwise provided herein or agreed to by the parties in writing, discovery shall remain open until ten (10) days prior to the Pre-Trial Conference.

(b) No interrogatories, requests to produce or requests for admissions shall be served later than forty-five (45) days prior to the Pre-Trial Conference. Exceptions shall be permitted only by written stipulation of the parties or by Court order. However, the deadlines in this section shall not apply to service of a subpoena duces tecum to a witness for trial or service of a Notice To Produce at trial upon a party which are otherwise in accordance with the Rules of Civil Procedure and Family Law Rules of Procedure.

(c) The parties shall supplemental their mandatory disclosures, discovery responses and amend their financial affidavits pursuant to Rule 12.285(f), Florida Family Law Rules of Procedure.

7. **WAIVER OF CUSTODIAN DEPOSITIONS.** The Court encourages the parties to stipulate to the authenticity and business records foundations for exhibits whenever possible. In furtherance of that goal, the Court adopts the following optional procedures:

(a) Any party may file a Request for Stipulation of Records Custodian Foundation and separately and specifically identify and attach each document, defined broadly to include paper and electronic evidence, that such party believes, in good faith, that there is a basis for admission of such document into evidence subject to the possible need for testimony by a records custodian as to authenticity of the document and the business records foundation of such document.

(b) The party filing such Request shall include in bold type the following paragraph on the first page of such request:

NOTICE PURSUANT TO PRE-TRIAL ORDER PARAGRAPH 7(B): This Request for Stipulation of Records Custodian Foundation is being filed pursuant to the paragraph 7 of the Order Setting Case for Non-Jury Trial, etc. In accordance with the Order, any party desiring to preserve objections based on 1) authenticity, or 2) hearsay absent the business records foundation, shall file an objection within twenty (20) days and separately identify by document numbers referenced in this Request to which an objection is raised to such waiver, e.g., Respondent objects to the authenticity of documents 5, 7 and 9 and Respondent objects to the business records foundation for documents 5, 7, 10 and 11. If a party fails to file such an objection timely, the Court may deem such objections waived. Please refer to the Order Setting Case for Non-Jury Trial, etc.

(c) The Court adopts the rules set forth in paragraph 7(b) above absent a written agreement by the parties to the contrary.

8. **CONTINUANCES.** Motions for continuance must be in writing and specifically set forth: (a) the reason for the requested continuance; (b) if the other party objects to the requested continuance and; (c) when it is anticipated the case will be ready for trial, and (d) except for good cause shown, all motions for continuance shall be signed by the party requesting the continuance. If the requested continuance is based on the unavailability of a witness, the Court must be advised of when it is believed the witness will be available. The inability to require the attendance of a witness at trial shall not be the basis for continuance of the trial unless a witness subpoena was issued and served on the witness (or was attempted to be served on the witness) at least ten (10) days prior to the trial date. Rule 1.460, Rules of Civil Procedure and Rule 2.085(c), Rules of Judicial Administration.

9. **PRE-TRIAL MOTIONS.**

(a) **DEADLINES FOR MOTIONS.** Motions filed within thirty (30) days of the trial date will not be considered if predicated on matters the movant knew or should have known with the exercise of reasonable diligence at least thirty (30) days prior to the trial date. Because of busy court calendars, hearing time may not be available to consider motions filed close to the deadline. The inability of a party to obtain hearing time will generally not constitute grounds for a continuance of the trial.

(b) **DAUBERT ISSUES.** All *Daubert* related motions or objections shall be filed and served at least thirty (30) days prior to the first day the case is set for trial. A copy of all such motions shall be delivered to the Court at the same time they are filed and

served. The party filing *Daubert* related motions or objections shall be responsible to do that which is necessary so that hearings regarding *Daubert* related evidence shall be noticed and heard or agreed to by the parties no later than fifteen (15) days prior to the first day of the date the case is set for trial. Any *Daubert* related motions or objections shall state with particularity the grounds upon which they are based and the substantial matters of law to be argued and shall identify any evidence or supporting material on which the movant relies. Any *Daubert* related motions or objections not filed or noticed for hearing within the time referenced in this paragraph maybe denied and such objections are overruled. The Court may summarily rule on any *Daubert* related motion not written with particularity as described above.

(c) **MOTIONS IN LIMINE.** All case specific Motions in Limine shall be filed, served, noticed and heard or agreed to by the parties no later than ten (10) days prior to the first day the case is set for trial. A copy of all such motions shall be delivered to the Court at the same time they are filed and served. The Motion shall state with particularity the grounds upon which it is based and the substantial matters of law to be argued and shall identify any evidence or supporting material on which the movant relies. The Court may summarily rule on any Motions in Limine not written with particularity as described above.

(d) **MOTIONS GENERALLY.** The failure of a party to call up for hearing any timely filed motion at least ten (10) days prior to the trial date may constitute a waiver thereof unless the grounds therefor did not exist or the party was not aware of the grounds for the motion(s) prior to the filing of such motion(s) after the exercise of reasonable diligence. However, pre-trial Motions For Contempt may be heard during the trial even though not previously scheduled provided timely notice is furnished to the opposing counsel or unrepresented party.

(e) **CERTIFICATE OF GOOD FAITH.** Before any motion is filed, the moving party shall contact the opposing party and attempt, in good faith, to amicably resolve the issues raised by the motion(s). Each motion shall contain a certificate of the movant's attorney if represented (or the moving party if unrepresented) certifying his/her compliance with this requirement.

10. **COURT REPORTER.** The parties shall coordinate the scheduling of a court reporter if a court reporter is desired.

11. **SETTLEMENT OR DISMISSAL.** If this case is dismissed or settled prior to the trial date, the parties shall promptly notify the Court by telephone (904-548-4940) and then confirm the settlement in writing or furnish the Court with a courtesy copy of the dismissal by email to astrickland@nassauclerk.com. Counsel shall also notify the

Court of any pending hearings that will be canceled as a result of the settlement or dismissal.

12. PRE-TRIAL MEETING OF ATTORNEYS AND UNREPRESENTED PARTIES.

No later than ten (10) days prior to the Pre-Trial Conference, trial counsel and all unrepresented parties shall meet together. This meeting may take place over the telephone if both parties agree in writing. Attendance at this meeting is mandatory. Petitioner's attorney (or if Petitioner is unrepresented, Respondent's attorney) shall arrange a mutually agreeable time, date and place for this meeting. If the parties are unable to agree, counsel shall promptly notify the Court in writing and the Court will then set the time, date and place for the meeting.

At the pre-trial meeting, the attorneys and/or unrepresented parties shall:

(1) Discuss and attempt to settle the case.

(2) If requested in writing by either party no later than thirty (30) days prior to the Pre-Trial Conference, the parties shall produce, examine and initial every evidentiary exhibit intended to be offered at trial; agree on those which can be admitted as joint exhibits, those which can be admitted without objection, and identify those to which objections will be made and the grounds for each objection, and note this on a separate copy of each party's exhibit list. With respect to each item, the Pre-Trial Stipulation shall reflect whether or not the evidence will be stipulated into evidence, stipulated as to authenticity, with objection reserved for relevancy and materiality, or objected to in its entirety and the ground therefor. All exhibits which are the subject of any objection raised in the Pre-Trial Stipulation shall be brought to the Pre-Trial Conference. Objections not reserved or grounds not noted on the annotated exhibit lists will be deemed waived at trial. The annotated copies of the exhibit lists will be attached to and made a part of the joint Pre-Trial statement required by paragraph 12(b) of this Order. Any listed exhibit not objected to will be admitted into evidence. The parties shall review the witness lists and note on a separate copy which witnesses and depositions the parties in good faith anticipate will actually be called at trial. The annotated copies of the witness lists will be attached to the joint pre-trial statement required by paragraph 12(b) of this Order.

(3) Discuss and stipulate as to those facts which do not require proof at trial. It would be helpful to the Court if the parties would submit a record of school grades for each minor child during the relevant time periods.

(4) Discuss, clarify and frame all factual issues to be tried.

(5) Identify all significant issues of law, procedure or evidence to be decided by the Court prior to or during trial.

(6) Discuss and attempt to agree upon any other matters which will lead to a more orderly trial (e.g., copies in lieu of originals, witnesses out of turn, how depositions will be presented, the need to call records custodians, etc.)

(7) Exchange a copy of each party's list of exhibits.

(8) Exchange a copy of each party's witness list.

If counsel or unrepresented parties cannot agree on the place of the pre-trial meeting or cannot agree in writing that an in person meeting is unnecessary, then it shall be held at the Robert M. Foster Justice Center in Yulee.

13. **JOINT PRE-TRIAL STATEMENT.** No later than ten (10) days prior to the Pre-Trial Conference, the parties shall prepare a proposed joint pre-trial statement. The statement shall be signed by all attorneys and parties; the original shall be filed with the Clerk and one copy emailed in Word format to the Judge's judicial assistant at astrickland@nassauclerk.com no later than the Pre-Trial Conference. To the extent the parties differ as to how portions of the pre-trial statement should read, the differing views should be set forth in the statement. If an attorney believes the opposing party is not actively working in good faith to complete a timely joint pretrial statement, then that attorney shall file a unilateral Pre-Trial Statement.

The pre-trial statement **shall** contain the following items:

(1) Exact date of marriage, (date of separation if pertinent), date of filing, minor children's full names (not initials) and full birthdates, number of adult children not subject to the proceeding.

(2) A statement of facts which are admitted and which of those admitted facts may be read in evidence at trial as a stipulation of the parties.

(3) A list of factual or legal issues raised by the pleadings which are abandoned. A list of significant issues of law, procedure or evidence, if any, to be determined by the Court prior to or during trial.

(4) If there is a minor child or minor children in common to the parties, the following shall be provided:

(a) **An agreed upon or proposed parenting plan** as set forth herein that provides for healthy timesharing by both parties if reasonably possible. See *Davis v. Lopez-Davis*, 162 So. 3d 19 (Fla. 4th DCA 2014)(Explaining Florida's public policy stating, "[t]he legislature determined that '[i]t is the public policy of this state that each minor child has frequent and continuing contact with both parents after ... the marriage of the parties is dissolved'"); *Schutz v. Schutz*, 581 So. 2d 1290 (Fla. 1991)(A parent has a constitutionally protected 'inherent right' to a meaningful relationship with his [or her] children).

The Court is required to approve, grant, or modify a parenting plan which governs “the relationship between the parties relating to the decisions that must be made regarding the minor child” and contains “a time-sharing schedule for the parents and child.” See § 61.046(14), Fla. Stat. (defining “parenting plan” as a “document created to govern the relationship between the parents relating to decisions that must be made regarding the minor child and must contain a time-sharing schedule for the parents and child. The issues concerning the minor child may include, but are not limited to, the child’s education, health care, and physical, social, and emotional well-being. In creating the plan, all circumstances between the parents, including their historic relationship, domestic violence, and other factors must be taken into consideration.”); see also § 61.046(22), Fla. Stat. (defining a “time-sharing schedule” as a “timetable that must be included in the parenting plan that specifies the time, including overnights and holidays, that a minor child will spend with each parent. If developed and agreed to by the parents of a minor child, it must be approved by the court. If the parents cannot agree, the schedule shall be established by the court.”). See *Blackburn v. Blackburn*, 103 So. 3d 941 (Fla. 2d DCA 2012) (explaining that the trial court is required to set timesharing and holiday schedules where the parties were unable to reach an agreement on schools and daycare arrangements).

Fortunately, the Florida Supreme Court has approved forms for parenting plans codified in Florida Family Law Rule of Procedure 12.995 to assist the parties in formulating parenting plans. In any event, pursuant to Section § 61.13(2)(b)(2)(b), Fla. Stat., a parenting plan approved by the court must, at a minimum: (1) Describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child; (2) Include the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent; (3) Designate who will be responsible for: a. Any and all forms of health care. If the court orders shared parental responsibility over health care decisions, the parenting plan must provide that either parent may consent to mental health treatment for the child. b. School-related matters, including the address to be used for school-boundary determination and registration. c. Other activities; and (4) Describe in adequate detail the methods and technologies that the parents will use to communicate with the child. Appellate courts have reversed trial court orders which contained vague and uncertain timesharing/visitation provisions. See, e.g., *Lovell v. Lovell*, 14 So. 3d 1111 (Fla. 5th DCA 2009); *Todd v. Guillaume-Todd*, 972 So. 2d 1003 (Fla. 4th DCA 2008); *Rojas v. Rojas*, 656 So. 2d 563 (Fla. 3rd DCA 1995).

In addition to the minimum requirements it is beneficial to address the following

in the Parenting Plan: (1) How exchanges for timesharing will be effectuated; (2) How scheduling changes will be handled; (3) Details regarding any special health or educational needs for the child; (4) When and how the child may communicate with the non-timesharing parent; (5) What constitutes permissible travel with the child; (6) How the parties may select child care providers; (7) Right of first refusal if the parties are in agreement; and (8) Methods for post-judgment dispute resolution.

The parenting plan must address all jurisdictional issues, including the Uniform Child Custody Jurisdiction and Enforcement Act, part II of this chapter, the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the Parental Kidnapping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980. A Parenting Plan outlining time-sharing with minor child(ren) is required even when time-sharing is not in dispute. If a party does not submit a proposed parenting plan in writing, the Court may consider any arguments or assertions by that party as to important issues of timesharing and parenting to be waived by such party.

(b) In accordance with Fla. Stat. Section 61.13, and controlling law, **Shared Parental Responsibility** shall be ordered unless the Court finds it will be detrimental to the child. If "Sole Parental Responsibility" or "ultimate decision making authority" is sought by either party, a factual basis supporting this claim shall be included in the Pre-Trial Statement.

The Court encourages, but does not require, the parties to submit pretrial proposed findings of fact on each factor set forth in Section 61.13(3), Fla. Stat., concerning what is in the best interests of the children for timesharing purposes. Similarly, the Court encourages, but does not require, the parties to submit pretrial proposed findings of fact on each factor set forth in Section 61.13001, Fla. Stat., concerning relocation standards when that is an issue pled or is expected to be tried by consent,

(5) If more than five items of real or personal property are at issue as far as equitable distribution is concerned and there is no stipulation addressing all of the parties' assets and liabilities, then the parties **shall** prepare an **Equitable Distribution Worksheet** in a form similar to the form available on the Court's webpage, See <http://www.nassauclerk.com/?pid=judicialprocedures>, preferably in the excel spreadsheet format, containing the following:

- a. The Court needs enough information so that every asset and liability must be identified, classified, and valued. This includes marital and non-marital assets and liabilities. Then, each marital asset and liability must be

distributed between the parties. The law requires that there be an equal distribution of assets and liabilities unless there are specific and persuasive reasons to do so, which are supported by the record and articulated by the trial court. See *Stough v. Stough*, 933 So.2d 603 (Fla. 1st DCA 2006).

b. The parties shall utilize the same labels to identify unique property whenever reasonably possible. Therefore, the parties should cooperate to include subcategories when the one party believes that is necessary. For example, it is rarely sufficient to simply have a category for vehicles, instead of including each vehicle as a line item in the spreadsheet. If necessary, additional categories can be added by each party if the other party does not believe they are relevant. It is important that the Court is able to compare "apples to apples" by looking at one spreadsheet with the different valuations, if any, of the parties.

c. The parties shall list all of the alleged "marital" and "nonmarital" assets, label them as nonmarital or marital as the case may be, provide suggested valuations for each asset (real and personal property), suggested distribution for each pursuant to Section 61.075, Fla. Stat., and proposed brief factual findings in support of each asset's distribution when such valuations or distributions are contested. The assets shall include all vested and nonvested benefits, rights or funds as defined by Section 61.076, Fla. Stat. and suggested distribution for each plan.

d. In the spreadsheet, the parties shall also list all liabilities, designating each as "marital" or "nonmarital" and stating amount and name of creditor.

e. Finally, the parties should list any asset which he or she asserts either as a claim for unequal distribution of marital property or as a claim of enhancement in value or appreciation of non-marital property; stating the extent of the claim and a brief explanation in support of it.

f. Real Property Ownership: Name of actual owners by deed/title to real property, including third parties who may be included on a deed/title.

g. Real Property Liability: Name of actual parties actually liable on mortgage notes, second mortgages, HELOCs, etc. Note: Just because someone is named on a mortgage does not necessarily translate that said individual is actually liable on a mortgage note.

h. Vehicles, Boats, RVs, Motorcycles, Trailers, Etc.: Exact year, make and model for all vehicles, actual title/registration ownership, actual liability for secured debts, and complete VIN numbers for all jointly title vehicles.

i. Personal Property: If personal property is not already divided, each item of

personal property should be listed showing the parties' valuations, and the proposed distribution, including a version in Excel format.

j. Business/Corporations: Full and complete name of all business/corporations, including alter egos (e.g. d/b/a as "Acme Equipment") Type of business/corporation (i.e., sole proprietorship, S-Corporation, LLC, partnership, joint venture, etc.) and title ownership including stock share ownership, ownership interest of third parties, etc.

k. Non-Retirement Intangible Assets: Identify account utilizing last four numbers of account, title ownership (individual, joint, third party, children, etc.) type of account (checking, savings, money market, brokerage accounts, stock options, college plans, 529 accounts, etc.).

l. Retirement Assets: Identify all retirement assets including full legal name of retirement asset and type of asset (i.e., pension, 401(K), 403(B), IRA (including type, i.e., traditional rollover, Simple, Roth, etc.)). See, e.g., *Scott v. Scott*, 888 So. 2d 81, 83 (Fla. 1st DCA 2004) ("In distributing the value of the retirement pension fund upon dissolution of marriage, the party not in ownership of the fund is entitled to an equitable distribution of that portion attributable to the marital contributions."). Pertinent dates for valuation of marital and non-marital portion of retirement assets, and valuations for marital and non-marital portions. In order to properly tax effect the equitable distribution of assets, the parties should usually provide for equalizing the distributions of the all pre-tax qualified assets before equalizing the remaining assets. "Consideration of the consequences of income tax laws on the distribution of marital assets . . . is required and failure to do so is ordinarily reversible error." *Miller v. Miller*, 625 So. 2d 1320, 1321 (Fla. 5th DCA 1993); see *Diaz v. Diaz*, 970 So. 2d 429 (Fla. 4th DCA 2007)

m. Liabilities: Actual party liable for debts (Husband, Wife, join, third party, etc. Note: an authorized user may not be actually liable; amount of liability as pertinent date(s), i.e., date of separation, date of filing, current date, etc.).

(5) If a party seeks to **impute income** to the other party, it must state the basis for such imputation and if required by applicable law, set forth recent work history, the current job market, the spouse's occupational qualifications, and the prevailing earnings level in the community. § 61.30(b), Fla. Stat.; *Broga v. Broga*, 166 So. 3d 183, 185 (Fla. 1st DCA 2015); *Rabbath v. Farid*, 4 So. 3d 778 (Fla. 1st DCA 2009).

(6) If a party seeks to reduce or terminate alimony upon establishment of a **supportive relationship**, that party shall set forth the specific factual basis to support

a claim under § 61.14(1)(b), Florida Statutes.

(7) If **alimony** is sought by either party, then the Court requires each party to submit before trial their proposed findings of fact as to the factors set forth in Section 61.08, Fla. Stat., for the purposes of determining whether alimony should be awarded and if so, what type and duration.

(8) **Petitions for Modification:** If a supplemental petition for modification of alimony or child support is among the issues to be heard at trial, the party must set forth in detail the substantial and material change and why it was not anticipated, i.e., contemplated and addressed in a prior final order. If there is a petition to modify timesharing involved under circumstances where the Final Judgment did not reserve jurisdiction to modify timesharing in the best interests of any child(ren), then the movant shall set forth facts in sufficient detail to meet the extraordinary burden that (1) circumstances have substantially and materially changed since the original timesharing determination, (2) the change was not reasonably contemplated and considered by the parties, and (3) the child(ren)'s best interests justify changing timesharing. See *Korkmaz v. Korkmaz*, 200 So. 3d 263 (Fla. 1st DCA 2016)(citation omitted); *Jannotta v. Hess*, 959 So. 2d 373, 374 (Fla. 1st DCA 2007)(citing *Wade v. Hirschman*, 903 So. 2d 928, 933-34 (Fla. 2005));.

(9) If there is a **motion for contempt** that will be heard at trial, the party seeking such contempt shall prepare an order to show cause for the Court to sign if such contempt claimed is indirect criminal contempt rather than civil contempt.

(10) If **child support** is at issue, both parties shall prepare proposed completed child support guideline worksheets calculated in accordance with Section 61.30, Florida Statutes, but this is only required if earnings and timesharing are not in dispute. The pretrial statement shall also include:

- a. Health, dental, vision insurance cost breakdown, including actual monthly premiums to be incurred by each party for themselves and separately for the minor children, including which party shall incur the minor children's premium expenses.
- b. Amount of court-ordered child support paid for another child by either party, including proof.
- c. Actual amount and proof of MANDATORY retirement deductions, MANDATORY union dues, and calculation of other state taxes.

(11) if **uncovered medical expense reimbursement** is sought, the parties should ensure the appropriate percentage is determined. See *Sowell v. McConnell*, 167 So. 3d 521, 521 (Fla. 5th DCA 2015) (noting that section 61.30(8) "requires parties to

pay uncovered medical expenses of a child in accordance with their percentage share of child support”).

(12) If **attorney’s fees** are sought, then the parties are directed to read Rule 4-1.5, Rules Regulating Florida Bar; §61.16, Florida Statutes; *Rosen v. Rosen*, 696 So.2d 697 (Fla. 1997); *Canakaris v. Canakaris*, 382 So.2d 1197 (Fla. 1980); *Naugle v. Naugle*, 632 So.2d 1146 (Fla. 5th DCA 1994) and *Abernethy v. Abernethy*, 638 So.2d 160 (Fla. 5th DCA 1994). Attorney’s fees issues will be decided without an expert witness requirement unless the law requires the use of an expert and at least one party files a notice of objection to this paragraph within 10 days of this Order. Attorney’s fees claimed may be deferred based on the convenience of the Court.

(13) If either party wants the Court to **order a party to obtain life insurance to secure the payment of alimony and child support**, the trial court must make specific evidentiary findings regarding the availability and cost of insurance, the obligor’s ability to pay, and the special circumstances that warrant the requirement for security of the obligation. *Foster v. Foster*, 83 So. 3d 747, 748 (Fla. 5th DCA 2011). The failure to make the necessary findings to support an order requiring the maintenance of life insurance to secure the payment of alimony or child support constitutes reversible error. *Zvida v. Zvida*, 103 So. 3d 1052, 1054 (Fla. 4th DCA 2013). The anticipated evidence in this regard should be set forth in the pretrial stipulation and introduced into evidence or it may be considered waived. See *Hodges v. Hodges*, 128 So. 3d 190 (Fla. 5th DCA 2013); §§61.08(3), 61.13(1)(c), Fla. Stat.

(14) The parties shall set forth in the pretrial stipulation any other matters agreed upon.

14. **FINANCIAL AFFIDAVITS**. It is required that financial affidavits of both parties and all other mandatory disclosures required by Rule 12.285, Fla. Fam. L. R. P. be supplemented within twenty (20) days or twenty (20) days before the Pretrial Conference, whichever is earlier. The Court will take judicial notice of all Financial Affidavits filed in the matter at trial pursuant to Rule 12.004, Florida Family Law Rules of Procedure.

15. **STANDARDS OF CONDUCT**. Conduct that may be characterized as uncivil, abusive, hostile or obstructive impedes the fundamental goal of resolving cases fairly and efficiently and will not be tolerated. Such conduct tends to delay and deny justice. Accordingly, in addition to the standards imposed on all attorneys by the Florida Code of Professional Responsibility, the following standards will apply to all attorneys and parties to this action:

(a) All attorneys, parties and witnesses will be treated in a civil and courteous

manner, not only in court, but at depositions and in all written and oral communications. Parties shall not interrupt a witness except to make evidentiary objections. The parties shall refrain from gestures or comments while others are testifying. The parties shall not talk over one another or speak while the Court is speaking.

(b) No attorney or party will abuse or indulge in offensive conduct directed to other attorneys, parties or witnesses. Counsel and all parties shall abstain from disparaging personal remarks or acrimony towards other attorneys, parties or witnesses. Adverse witnesses and parties will be treated with fair consideration.

(c) Absent good cause, no attorney or party shall attribute bad motives or improper conduct to opposing counsel or any adverse party or bring the legal profession into disrepute by unfounded accusations of impropriety.

(d) All attorneys and parties shall make good faith efforts to resolve by agreement any objections to matters contained in pleadings, discovery requests or objections.

(e) No attorney or unrepresented party shall time the filing or service of motions or pleadings in any way that unfairly limits the other party's opportunity to respond, and each will consult with the other regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

(f) All attorneys and parties shall make every reasonable effort to expedite this proceeding.

(g) Counsel shall strictly abide by Fla. Bar Code Prof. Resp. Rule 4.3-6 regarding trial publicity.

(h) Before hearings are scheduled, or if that is not feasible immediately after scheduling, counsel and all unrepresented parties will attempt to verify the availability of necessary participants and witnesses so that the Court can be notified of any foreseeable problems.

(I) Nothing in this Order supersedes or detracts from the Code of Professional Responsibility or alters existing standards of conduct. Counsel and all parties shall comply with the Court Conduct Handbook on Gender Equality in the Courts.

16. **PRE-MARKING EXHIBITS**. Each party is encouraged to pre-mark exhibits using the Court's stamp on the day of trial.

17. **SUBMISSION OF POST TRIAL PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**. Unless otherwise advised by the Court in writing, the Court requires certain proposed findings of fact to be provided by each party within 10 days after the conclusion of the trial. Although the Court generally makes detailed factual

findings available to the parties for inclusion in draft final judgments, each party shall provide to the Court, within ten (10) days after conclusion of the trial, all of the requested findings it requests that the Court consider that are not already included in any draft factual findings provided by the Court to the parties at the conclusion of the trial. Specifically, the proposed findings of fact that must be provided to the Court relate to the following Florida Statutes governing findings: Section 61.13(3), Fla. Stat., concerning best interests of the children for timesharing, Section 61.13001, Fla. Stat., concerning relocation standards when that is an issue pled or tried by consent, section 61.08, Fla. Stat., concerning alimony, and section 61.075, Fla. Stat., concerning equitable distribution. The deadlines in this paragraph may be extended by the Court for good cause shown. If the parties do not provide the requested findings within the 10 days or within the deadline if extended by the Court, then the parties shall be deemed to have waived any such requirement and invited any error in this regard. Under the doctrine of invited error, a party cannot successfully complain of error for which he is himself responsible, or of rulings that he has invited the trial court to make. *Volusia County v. Niles*, 445 So. 2d 1043, 1048 (Fla. 5th DCA 1984).

A party should not be heard to complain, for the first time on appeal, that the trial court neglected to make findings of fact to support determinations as to timesharing or otherwise if the Court was not advised of the error or the parties had not submitted proposed findings as directed by the Court. See, e.g., *Owens v. Owens*, 973 So. 2d 1169, 1170 (Fla. 1st DCA 2007); accord *Helling v. Bartok*, 987 So. 2d 713, 715 n.1 (Fla. 1st DCA 2008) (citations omitted). Similarly, insufficient alimony findings are waived if no effort is made to submit findings or bring attention to the lack thereof. See *Simmons v. Simmons*, 979 So. 2d 1063, 1064-65 (Fla. 1st DCA 2008); *Helling v. Bartok*, 987 So. 2d 713, 715 n.1 (Fla. 1st DCA 2008). If a final judgment of dissolution does not include sufficient findings of fact, or if an error appears for the first time on the face of the judgment, the aggrieved party must move for rehearing and ask the trial court to correct its error. E.g., *Pensacola Beach Pier, Inc. v. King*, 66 So. 3d 321, 324 (Fla. 1st DCA 2011).

Whenever possible, if drafting a final judgment or assisting the Court in drafting, if an asset must be transferred from the one party to the other, include transfer language in the Final Judgment itself. Florida Statutes § 61.075(4) and Rule of Civil Procedure 12.570(d) both provide the Court with authority to effectuate the transfer in the Final Judgment. Doing so will aid with enforcement, as the transfer order can be used to put third parties on notice that the respective party is now the owner of property. The transfer would also clearly establish ownership of an asset for purposes

of a conversion or civil theft action, if it were to become necessary.

18. **SANCTIONS**. The unexcused failure of counsel or any party to comply with the requirements of this Order will subject the offending counsel or party to appropriate sanctions which may include, but are not limited to contempt, the striking of pleadings or claims or defenses, the exclusion of evidence or witnesses, or the assessment of fees or costs, or such other sanctions as may be appropriate. No extension of deadlines or compliance dates established by this Order is permitted if the extension or modification would cause a continuance of the trial or would prevent the completion of mediation prior to the Pre-Trial Conference. Any extension or modification agreed to shall be by written stipulation signed by all parties to this action and filed with the Court. Any other extension of the deadlines or compliance dates established herein or modifications of this Order requires Court approval. Relief from provisions of this order may be given for good cause shown. The Court solicits feedback to make improvements to these procedures. Any constructive criticism may be delivered anonymously or otherwise to the Judicial Assistant for this division, Ashley Strickland by email to astrickland@nassauclerk.com.

19. **MOTIONS FOR REHEARING, MOTIONS FOR CLARIFICATION, OR MOTIONS FOR NEW TRIAL**. Motions for rehearing, Motions for clarification, and Motions for New Trial shall be emailed to the Court's judicial assistant within 24 hours of the filing with the Clerk of Court.

DONE AND ORDERED in Chambers, in Fernandina Beach, Nassau County, Florida, this ____ day of _____, 20__.

**STEVEN M. FAHLGREN
CIRCUIT JUDGE**

Copies furnished to:

Attorney for Petitioner

Attorney for Respondent

Mediator

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at (904) 548-4600 (then press 0) at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

**IN THE CIRCUIT COURT
OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR NASSAU COUNTY, FLORIDA
DIVISION A**

CORONAVIRUS HEARING ADDENDUM

Various administrative orders have directed that most hearings be conducted either by telephonic means or video conference utilizing the Zoom Application, Skype, etc. in an attempt to contain the spread of the coronavirus. See <https://www.floridasupremecourt.org/News-Media/Court-News>, <http://www.duvalclerk.com/adminOrders/#/page/10/1>, and <https://nassauclerk.com/> There are also various orders from the executive branch that prohibit gatherings of people under certain circumstances. See, e.g., <https://www.flgov.com/wp-content/uploads/2020/03/EO-20-68.pdf>, and <https://www.nassaucountyfl.com/1021/Corona-Virus-Updates>

To take into account the possibility that some variation of an administrative order or executive order still prohibits in person hearings for your matter going forward, the Court adopts this addendum into the Order or notice of hearing to which it is attached. It is the desire of the Court to provide maximum services to the parties during this time while complying with all directives of the Supreme Court, the Chief Judge of the Fourth Judicial Circuit, the Administrative Judge of Nassau County, as well as federal, state and local authorities.

1. For hearings and bench trials in all **civil matters**, the Court prefers using the Zoom™ application³ because numerous individuals can remote into the hearing and await their turn for their case to be called. If the Rule of Sequestration is invoked, the Court can keep others in the waiting room until it is their turn to testify.

2. For matters involving dockets, such as **foreclosure court**, **mental health court**, and **juvenile delinquency court**, it is anticipated that each case will be called as if the parties were present in the hearing room. Using the Zoom™ application allows for multiple parties to appear remotely and await their case being called. Therefore, it will not be necessary for the parties to coordinate with the judicial assistant or clerk if they are logged into Zoom on or before the start of the hearing.

3. Unless otherwise notified by Court Order or the Court's Judicial Assistant, the link to Join the Court's Zoom™ Meeting for all hearings shall be:

³ For instructions how to sign up for Zoom™, please visit <https://zoom.us/resources> There is no fee to join a meeting hosted by someone else. The Court will be hosting the meetings

<https://zoom.us/j/383599807?pwd=MmRDbzFvc0RQenFGQUxFR20vaHpTZz09>

Meeting ID: 383 599 807

Password: 900183

Dial by your location +1 253 215 8782 US or +1 877 853 5247 US Toll-free

There is a separate addendum and invitation link for domestic violence hearings.

4. For hearings involving exhibits, proposed orders, or copies of cases cited, the parties are directed to send these to the Court's judicial assistant, astrickland@nassauclerk.com, via email at least 48 hours in advance of the hearing with copies to all parties who have not been defaulted as it custom and required by the Rules. When the number of pages of the hearing materials exceeds 50 pages, hard copies should be provided to the Court at least 48 hours in advance of the hearing. Counsel submitting proposed orders should also furnish sufficient self-addressed stamped envelopes to the Court via mail for service of any orders when a party is not signed up for the e-portal.⁴ **The Court's physical and mailing address is 416 Centre Street, Fernandina Beach, FL 32034.**

5. If you are not able to use the Zoom™ Application, there are circumstances when individuals are allowed to personally attend Court such as **domestic violence and related injunctions**, but the Zoom™ Application is still available for those cases. However, if you desire to use the Zoom™ Application with that case, you will need to contact the Court's Judicial Assistant at astrickland@nassauclerk.com or 904-491-7275 well in advance of the hearing, so that this can be coordinated.

6. Because of the fluid nature of the coronavirus pandemic, the Court reserves jurisdiction to modify this Addendum by posting any addendum on the Court's website.

⁴ Individuals who represent themselves are strongly encouraged to Sign up for the Florida Courts E-Filing Portal to avoid delays in receiving documents. For instructions on how to do so, please check the following link: <https://www.myflcourtaccess.com/authority/trainingvideos.html>