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STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

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To: Florida Attorneys
From: Stephen Presnell, General Counsel
Date: July 8, 2010
RE: Notice of hearings and motions

This memorandum is intended to address a recurring problem that JAC is experiencing with lack of notice for hearings and motions. Under Florida law as well as the JAC Agreements, JAC is an essential party to any motion seeking authorization for or payment of attorney's fees, due process costs or related expenses in court-appointed and indigent for costs cases. Similarly, JAC is entitled to service of any motion seeking to have a criminal defendant declared indigent for costs prior to the court holding a hearing on the motion.

Unless JAC has expressly waived its right to a hearing, JAC must be served with a copy of a written motion and notice of hearing prior to a court entering an order regarding any motion relating to attorney's fees, due process costs, or related expenses for which JAC is expected to provide payment. A copy of the motion must be served on JAC with reasonable notice (typically a minimum of five business days) prior to the date of the hearing on the motion.

In providing notice to JAC, the manner in which notice is provided should be taken into account. If an attorney elects to send notice solely by mail, then the attorney needs to take into account the time for mailing. Depending on the part of Florida in which the attorney resides, it can take as much as a full week for mail to be delivered to JAC. Also, if an attorney sends several documents to JAC in a single mailing, the attorney or the attorney's staff needs to make sure that each document is stapled separately. For example, if an attorney is submitting a motion along with several billings, the motion should be individually stapled so that the JAC mailroom can identify the motion and forward it to JAC legal for review and response. If multiple documents are stapled together, this could delay JAC's review and response to a motion.

If an attorney wishes to fax notices or motions to JAC, please fax those documents to either (866) 850-1495 or (866) 849-6903. Please do not fax notices, motions, or other legal pleadings to any other fax number at JAC.

To facilitate electronic submission of notices, motions and orders, JAC has set up an e-mail account which is regularly monitored by JAC staff. For those attorneys that are interested in providing motions, orders and other legal pleadings to JAC by e-mail rather than fax or mail, this e-mail account is as follows:

pleadings@justiceadmin.org

Upon receipt of an e-mail to this address, JAC will issue an automated response advising that JAC has received the e-mail in question. If an attorney elects to use this method of submitting motions or orders to JAC, please do not send an additional copy by fax or mail. This account was created partially in an effort to reduce the number of e-mails and faxes received, and thereby reduce duplication of effort.

Attorneys should be advised that, pursuant to the 2010/2011 Agreements, JAC will be e-mailing most responses to motions to the e-mail account on file with JAC rather than sending them by fax or mail. JAC will be sending its responses relating to motions for attorney's fees, due process costs, and other expenses in a fashion similar to the method in which JAC currently sends letters of objection, letters of no objection, and billing audit deficiencies. Attorneys will need to make sure that the e-mail address on file with JAC remains accurate and accessible.

In those instances where an attorney wishes to set a hearing with less than five days notice, the attorney will need to contact JAC legal staff to clear the date and time for the hearing unless JAC has previously indicated that JAC does not wish to participate in the hearing.

The attorney should contact Buddy Aspy toll-free at (866) 355-7902 to clear the date and time for the hearing. If Mr. Aspy is not available, then the attorney should ask to speak with either Martha Cardenas or Shanna Speer. Any instance in which an attorney seeks to set a hearing with less than five days notice must be cleared with JAC legal staff prior to setting the hearing.

Any motion seeking authorization for due process costs should be served on JAC prior to the attorney incurring the costs in question. Prior approval of due process costs is essential because such approval provides reasonable assurance to court reporters and other due process providers that they will be paid for their services in court-appointed and indigent for costs cases. When an attorney incurs costs without notice to JAC and the court, the attorney runs the risk that JAC may object to payment of the costs. This could result in the attorney being personally responsible for paying some or all of the costs incurred.

JAC is aware that there may be instances in which an attorney needs due process services on an expedited basis such as a request for expedited transcripts. In such instances, the attorney should serve JAC with a brief motion outlining the need for the expedited services. This motion should be served either by e-mail or by fax. Additionally, the attorney should contact Buddy Aspy (or Shanna Speer or Martha Cardenas if Mr. Aspy is not available) to request that JAC issue an expedited response. In most cases, JAC can issue an expedited response within a relatively short time frame (typically the same day).

In conclusion, JAC would reiterate that attorneys need to provide reasonable notice of any hearing on a motion for authorization of or payment for attorney's fees, due process costs, or other expenses. JAC has a limited number of attorneys available to handle hearings. Although JAC is willing to accommodate attorneys and the courts, when JAC does not have reasonable notice of a hearing, it becomes difficult for JAC to coordinate its resources so that a JAC attorney is available who is familiar with the motion and the legal and factual issues involved. This can result in a court continuing or delaying the proceedings unnecessarily.

If you have any questions or concerns, feel free to contact the JAC Help Desk at (866) 355-7902