

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
FAMILY LAW DIVISION

IN RE: THE MARRIAGE OF

Petitioner, Case No. _____
and Division _____
Respondent.
_____ /

ORDER SETTING FINAL EVIDENTIARY HEARING ON ATTORNEY'S FEES AND COSTS; REFERRING PARTIES TO MEDIATION ON AMOUNT OF ATTORNEY'S FEES AND COSTS; AND ESTABLISHING PRE-HEARING REQUIREMENTS
(ATTORNEY'S FEES/COSTS REQUEST EXCEEDING \$50,000)

It appearing on the pleadings that there remains for determination in this case the disputed issue(s) of entitlement and/or the amount of the attorney's fees and costs to which the moving party is entitled, the Court, to insure an orderly and efficient presentation and resolution of disputed requests for attorneys' fees and taxable costs, **ORDERS AS FOLLOWS:**

1. **Hearing Date.** The final evidentiary hearing on the Petitioner's/Respondent's Motion for Award of Attorneys' Fees and Taxation of Costs ("Fee Hearing") is set before the Honorable _____, Circuit Judge, at the George Edgecomb Courthouse, 800 E. Twiggs Sreet, Courtroom # _____, Tampa, FL 33602 on _____, 20__ at _____ a.m./p.m. TIME RESERVED: _____
2. **Mediation.** The parties are hereby referred to mandatory mediation for resolution of all issues related to attorneys' fees and costs claimed in this case. The mediation conference ("Mediation") shall be concluded no later than seven days before the Fee Hearing. The parties shall split the cost of mediation subject to a different allocation at the Fee Hearing.
3. **Moving Party's Production of Attorneys' Fees & Costs Affidavit.** No later than 10 business days after the date of this Order, the moving party shall file and serve on the non-moving party an affidavit of attorney's fees and costs ("Affidavit") setting forth or attaching the following information:
 - a. Detailed facts to support the moving party's need for attorney's fees and costs and the non-moving party's ability to pay such fees and costs. § 61.16, *Florida Statutes*; see also *Rosen v. Rosen*, 696 So. 2d 697, 699 (Fla. 1997).

- b. Unless the parties have a written stipulation as to the reasonableness of the hourly rate(s) and the time and labor expended, then: the time and labor expended in the case and an itemization of each request for attorney’s fees and item of cost for which the moving party is seeking reimbursement including, without limitation, an itemization setting forth the date each task was performed or cost was incurred; a reasonably detailed description of the task performed or cost expended (with approximate redactions of attorney-client privileged information if necessary); the amount of time or billable hour(s) expended in performing the task; and the name of the attorney or paralegal performing each itemized task for which a fee was incurred.

Example:

Date	Description of Task	Time Expended	Timekeeper	Rate
/ /	prepare letter to client	.2 (or 10 mins.)	ZZZ	\$

- c. Detailed facts to support each of the factors contained in Rule 4-1.5(b)(2) of the Rules Regulating the Florida Bar including the following:
- (1) the nature and extent of the disclosure made to the client about the costs;
 - (2) whether a specific agreement exists between the lawyer and client as to the costs a client is expected to pay and how a cost is calculated that is charged to a client;
 - (3) the actual amount charged by third party providers of services to the attorney;
 - (4) whether specific costs can be identified and allocated to an individual client or a reasonable basis exists to estimate the costs charged;
 - (5) the reasonable charges for providing in-house service to a client if the cost is an in-house charge for services; and
 - (6) the relationship and past course of conduct between the lawyer and the client.

4. **Non-Moving Party’s Response to Fees and Costs Affidavit.** No later than 15 days prior to the Fee Hearing, the non-moving party shall file and serve on the moving party a written Response (“Non-Moving Party’s Response”) to (a) the moving party’s allegations as to entitlement, i.e. need and ability to pay; and (b) each request for attorney’s fees/time entry and cost item set forth in paragraph 5b., stating with particularity whether the non-moving party agrees to such request/time entry and cost item or objects to it. For each objection raised, the

non-moving party shall state the basis and, if applicable, cite supporting authority. In addition, as to any objection that a time entry is excessive or unreasonable, the non-moving party shall state the amount of time such party contends is reasonable and why. The Non-Moving Party's failure to timely file and serve a response shall be deemed an admission by the non-moving party that the moving party is entitled to an award of attorney's fees and costs and the attorney's fees and costs requested are valid and reasonable.

5. **Moving Party's Response to Non-Moving Party's Response.** No later than five days prior to the Fee Hearing, the moving party shall file and serve on the non-moving party a written reply ("Moving Party's Reply") to the Non-Moving Party's Response responding to each objection raised, stating whether the moving party concurs with each particular objection or, if not, citing contrary authority, if applicable. The moving party's failure to timely file and serve a response shall be deemed an admission that the objections raised in the Non-Moving Party's Response are valid and should be sustained by the Court.

6. **Non-Moving Party's Dispute as to Amount of Particular Fee or Cost.** If the non-moving party agrees a particular fee request/time entry or cost item is awardable, but disagrees with the dollar amount, the non-moving party shall state in the Non-Moving Party's Response the amount the party believes is reasonable.

7. **Additional Document Production Requirements.** Upon informal written request, the moving party shall, within seven business days of receipt of such request (unless the parties agree otherwise), make available to the non-moving party all invoices, attorney and paralegal time records, cancelled checks, and other supporting documentation evidencing services rendered (with appropriate redactions of attorney-client privileged information if necessary).

8. **Discovery.** In preparation for the Mediation and Fee Hearing, the parties may conduct limited discovery on an expedited basis. Responses and objections to any discovery request(s) served on a party shall be served no later than 15 days after receipt of such request(s). Depositions may be scheduled on no less than ten business days notice to the opposing party. If (a) either party fails to timely respond to a discovery request, (b) either party or any of such party's witnesses expected to testify at trial fails to appear for deposition, or (c) a discovery issue arises during any deposition, the Court will consider any appropriately filed motion to compel or motion for protective order on an expedited basis. Any discovery motion filed with the Court must contain a certification that the moving party attempted to reach an amicable resolution of the dispute prior to filing the motion and must set forth in detail such efforts.

9. **Deadline to Designate Expert Witnesses.** No later than 20 days after the date of this Order (and in any event, no later than five business days prior to the Mediation Conference), the parties shall designate any and all expert witnesses expected to testify at the Fee Hearing. All parties are under a continuing duty to supplement their respective answers to any interrogatories propounded to and served upon them pursuant to Family Law Rule of Procedure 1.280, for the exclusive purpose of providing complete and current answers to all interrogatories requesting all expert witness information. Any expert witness not disclosed as provided by this Order will not

be allowed to testify nor will the deposition of any expert witness not disclosed be admissible as evidence at the Fee Hearing, absent further order of this Court.

10. **Discovery Deadline.** All discovery in connection with the Fee Hearing shall be completed and all discovery related motions must be filed and heard no later than 5 days before the Fee Hearing. Discovery subsequent thereto will be permitted only on the order of the Court for good cause shown and which will not delay the Fee Hearing.

11. **Meeting of Parties/Counsel and Pre-Hearing Stipulations.** No later than five days before the Fee Hearing, the parties' attorneys shall meet together and review the disputed request for fees/time entries and items of costs to determine the amount of fees and costs in dispute, reduce any stipulations/agreements in addition to those reached pursuant to Paragraphs 6 and 7 above to writing, and agree to an order incorporating such stipulations/agreements.

12. **Sanctions.** Counsel and the parties are directed to exercise good faith in complying with the terms of this Order. Good faith does not encompass general or blanket denials or objections. The Court may consider appropriate sanctions with regard to unreasonable requests for attorney's fees and taxation of costs, objections thereto, or failure to comply with this Order. Failure of any party to comply with the terms of this Order may result in the striking or denial of the motion (as to the moving party), granting of motion (as to the non-moving party), or other appropriate sanctions including the exclusion or limiting of evidence at the hearing or a monetary assessment as provided by the Florida Rules of Civil Procedure as made applicable to this case pursuant to the Florida Family Law Rules of Procedure.

DONE AND ORDERED this _____ day of _____, 20_____.

Circuit Court Judge

Conformed copies furnished to:

Parties
Counsel