

**THIRTEENTH JUDICIAL CIRCUIT
FAMILY LAW DIVISION**

**MOTION TO/FOR
RE-OPEN / REHEARING / VACATE / COMPEL**

(Packet #28)

**USE THIS PACKET IF YOU WANT TO ASK THE COURT TO
DO ONE OF THE FOLLOWING:**

- 1) Set aside a Dismissal and Reopen the case, or**
- 2) Give you a Rehearing, or**
- 3) Vacate an order from a Hearing Officer, or**
- 4) Compel compliance with Mandatory Disclosure.**

If you choose to represent yourself (*pro se*) in your case, you should be aware that you will be required to follow the same rules that are required in cases filed by persons represented by attorneys. The judge or general magistrate assigned to your case is not required to grant what you request in a form. If you do not like the outcome of your case, you may not be able to change it. If you have any questions or concerns about your case, you should consult with an attorney.

If you do not know an attorney, you may call the Lawyer Referral Service at 221-7780. If you do not have the money to hire an attorney, you may apply to Bay Area Legal Services by calling 232-1343. You may also obtain legal information at the Legal Information Center at the George Edgecomb Courthouse, call 864-2280 for the hours of operation.

All instructions and forms distributed by the Thirteenth Judicial Circuit are provided merely as a public service to persons seeking to represent themselves in court without the assistance of an attorney. These documents are meant to serve as a guide only, and to assist *pro se* (self-represented) litigants with their cases. The Thirteenth Judicial Circuit does not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form as drafted. Any person using these instructions and/or forms does so at his or her own risk, and the Thirteenth Judicial Circuit shall not be responsible for any losses incurred by any person in reliance on the instructions and/or forms.

In no event will the Florida Supreme Court, The Florida Bar, or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any direct, indirect, or consequential damages from their use.

<u>FORMS CONTAINED IN THIS PACKET</u>	<u>FORM #</u>	<u>WHEN TO USE</u>
General Information for Self-Represented Litigants	Appendix C	For your information only
12 Rules of Courtroom Civility	12 Rules	Required to start
Nonlawyer Disclosure	12.900(a)	Required if someone who is not a lawyer helps you with the forms
Motion to/for Re-Open/ Rehearing / Vacate / Compel	Motion	Required to start
General Magistrate / Hearing Officer Division Referral Assignment Table	Table	To determine the General Magistrate / Hearing Officer assigned to your case
Notice of Hearing	12.923	Use when a hearing date has been set
Fee Schedule for Family Law Cases	Fee	A schedule of fees for Family Law related cases
Notice of Confidential Information Within Court Filing	2.40(d)(2)	Use to notify the clerk of documents containing confidential information

STEP BY STEP INSTRUCTIONS

STEP ONE - Complete the forms to start the case and have them notarized

1. **FORMS MUST BE COMPLETED AND SIGNED IN BLACK INK AND MOST MUST BE NOTARIZED.** The clerk's office will notarize documents and charge a fee (see attached schedule). Please bring a valid ID.
2. **Names must be written the same way on all documents (no full names on one document and initials on another).**
3. **Your CASE NUMBER AND DIVISION must be written on all documents.**
4. **Complete the following forms and notarize the ones with a notary signature line:**
 - A. 12 Rules of Courtroom Civility - (does not need to be notarized)
 - B. Motion form – (write specifically what you want the court to order and why the court should do so)

STEP TWO – Make copies

After you have completed the forms and have signed and notarized them, make 2 complete copies of everything you have completed (one copy is for your records). If your case involves the Department of Revenue, Office of Child Support Enforcement, make 2 extra sets of copies – 1 for the Office of Child Support Enforcement, and 1 for the Attorney General's office. Copies can be obtained for a fee in the Court Business Center, on the 6th floor of the George Edgecomb Courthouse. You may also purchase copies for \$0.15 per page, before filing your case, from the Family Law Intake staff in room 101.

STEP THREE - Filing your motion

Take the original set of completed and signed forms to the clerk on the 1st floor of the main courthouse and pay the filing fee, if applicable.

STEP FOUR – Notifying the other party

Mail, fax, or hand-deliver 1 set of copies of your documents to the other party. If your case involves the Department of Revenue, Office of Child Support Enforcement, mail 1 set of copies to each of the following addresses:

- 1) Department of Revenue, Office of Child Support Enforcement, 6302 E. Martin Luther King Jr. Blvd., Suite 110, Tampa, Florida 33619, and
- 2) Office of the Attorney General, Child Support Enforcement, P.O. Box 3342, St. Petersburg, FL 33731-3342

STEP FIVE – Scheduling the hearing

1. **For a MOTION TO SET ASIDE DISMISSAL AND RE-OPEN CASE**

- A. If neither party has an attorney, you will be contacted by the Case Management Unit once the judge has reviewed the file.
- B. If the other party has an attorney, follow the instructions below for scheduling a hearing with the judge in the division your case is assigned to.

2. **For a MOTION FOR REHEARING**

- A. If neither party has an attorney and the original hearing was heard by a judge, contact the Case Management Unit at 272-5173 to request a hearing with the judge.
- B. If neither party has an attorney and the original hearing was heard by a general magistrate/hearing officer, call the administrative assistant for the general magistrate/hearing officer who heard your case and request a hearing date. The general magistrate/hearing officer assigned is determined by **the last two digits of your case number (see attached table)**.
 - If assigned to GM-1, call General Magistrate/Hearing Officer **Cuellar-Stilo** (Phone: 272-5351)
 - If assigned to GM-2, call General Magistrate/Hearing Officer **Johnson** (Phone: 276-2335)
 - If assigned to GM-3, call General Magistrate/Hearing Officer **Montagno** (Phone: 276-2337)
 - If assigned to GM-4, call General Magistrate/Hearing Officer **Sarmiento** (Phone: 272-6435)
 - 1) Once a hearing date has been scheduled, complete a Notice of Hearing, Form 12.923, with the place, date, and time of the hearing.
 - 2) Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the other party.
 - 3) Make 2 copies of the Notice of Hearing.
 - 4) File the original Notice of Hearing with the clerk, send a copy of the notice to the other party, and keep a copy for your records.
- C. If the other party has an attorney, follow the instructions below for scheduling a hearing with the judge or general magistrate.
- D. If your hearing was heard by the Child Support Enforcement Hearing Officer and the **DEPARTMENT OF REVENUE - OFFICE OF CHILD SUPPORT ENFORCEMENT** is involved in your case, follow these instructions to schedule a hearing on your motion
 - 1) If you do not receive a notice of hearing within 45 days from the date you provided a copy of your motion to the Department of Revenue, call the Attorney General's office at 727-825-7600 and ask them to schedule a hearing on your motion (child support issues only).

3. **For a MOTION TO VACATE**

- A. If your hearing was heard by the Child Support Enforcement Hearing Officer and the **DEPARTMENT OF REVENUE - OFFICE OF CHILD SUPPORT ENFORCEMENT** is involved in your case, follow these instructions to schedule a hearing on your motion
 - 1) If you do not receive a notice of hearing within 45 days from the date you provided a copy of your motion to the Department of Revenue, call the Attorney General's office at 727-825-7600 and ask them to schedule a hearing on your motion (child support issues only).
- B. If neither party has an attorney and the original hearing was heard by a general magistrate/hearing officer, call the judicial assistant for the judge assigned to your case division and request a hearing date.
 - 1) Once a hearing date has been scheduled, complete a Notice of Hearing, Form 12.923, with the place, date, and time of the hearing.

- 2) Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the other party.
 - 3) Make 2 copies of the Notice of Hearing.
 - 4) File the original Notice of Hearing with the clerk, send a copy of the notice to the other party, and keep a copy for your records.
- C. If the other party has an attorney, follow the instructions below for scheduling a hearing with the judge.

4. For a **MOTION TO COMPEL COMPLIANCE WITH MANDATORY DISCLOSURE**

A. If your case is a pre-judgment case (divorce, support without divorce, or paternity), then your Motion to Compel Compliance with Mandatory Disclosure will be heard by the judge. If your case is a modification case (modify child support or alimony), your motion will be heard by a general magistrate. If the Department of Revenue – Office of Child Support Enforcement is involved in your case, your motion will be heard by a support enforcement hearing officer.

B. SCHEDULING A HEARING WITH THE JUDGE

- 1) If neither party has an attorney, contact the Case Management Unit at 813-272-5173 to request a hearing with the judge on your motion.
- 2) If the other party has an attorney, follow the instructions below for scheduling a hearing.

C. SCHEDULING A HEARING WITH A GENERAL MAGISTRATE/HEARING OFFICER

- 1) If neither party has an attorney, call the administrative assistant for the general magistrate/hearing officer assigned to your case and request a hearing date. The general magistrate/hearing officer assigned is determined by **the last two digits of your case number (see attached table)**.
 - If assigned to GM-1, call General Magistrate/Hearing Officer **Cuellar-Stilo** (Phone: 272-5351)
 - If assigned to GM-2, call General Magistrate/Hearing Officer **Johnson** (Phone: 276-2335)
 - If assigned to GM-3, call General Magistrate/Hearing Officer **Montagno** (Phone: 276-2337)
 - If assigned to GM-4, call General Magistrate/Hearing Officer **Sarmiento** (Phone: 272-6435)
- 2) Once a hearing date has been scheduled, complete a Notice of Hearing, Form 12.923, with the place, date, and time of the hearing.
- 3) Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the other party.
- 4) Make 2 copies of the Notice of Hearing.
- 5) File the original Notice of Hearing with the clerk, send a copy of the notice to the other party, keep a copy for your records.

D. SCHEDULING A HEARING WITH A SUPPORT ENFORCEMENT HEARING OFFICER

(Department of Revenue – Office of Child Support Enforcement)

- 1) If you do not receive a notice of hearing within 45 days from the date you provided a copy of your motion to the Department of Revenue, call the Attorney General's office at 727-825-7600 and ask them to schedule a hearing on your motion (child support issues only).

SCHEDULING A HEARING IF THE OPPOSING PARTY IS REPRESENTED BY AN ATTORNEY:

1. Contact the judicial assistant (J.A.) for the judge or general magistrate/hearing officer to whom your case is assigned and ask the J.A. for 3 possible hearing dates and times.
2. Call the opposing attorney and ask which of those dates and times is best for him/her.
3. Call the J.A. and tell her which date and time you have chosen.
4. Complete a Notice of Hearing form with the place, date, and time of the hearing.
5. Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the opposing attorney.
6. Make 3 copies of the Notice of Hearing.
7. File the original Notice of Hearing with the clerk.
8. Give a copy of the Notice of Hearing to the J.A., send a copy of the notice to the opposing party's attorney, and keep a copy of the notice for your records.

STEP SIX – The hearing

Normally the hearing is when the request in your motion will be decided.

HOW TO DRESS - Dress appropriately. No shorts, tank tops, or sandals. Do not chew gum.

WHAT TO BRING - All evidence you want the court to consider in deciding your motion

WHAT TO EXPECT

The hearing will take place in a hearing room or a courtroom. You will not be in front of a jury, just the general magistrate, hearing officer or judge. Do not interrupt the magistrate, hearing officer or judge when he or she speaks. When speaking to the magistrate, hearing officer or judge, address him or her as “Your Honor” or “Judge.”

Each court has at least one bailiff who is a deputy sheriff and is there to maintain order. When you arrive for your hearing, let the bailiff know that you are present and ready. He or she will announce your case when it is time for your hearing, and will tell you where to sit and where to place your belongings as you enter the hearing room. A bailiff will usually remain inside the room during your hearing. If witnesses are called, the bailiff will step out to bring the witness into the hearing room.

At your hearing, be prepared to discuss any issues covered in your motion and be able to provide proof of any disputed facts by presenting evidence. Evidence is proof presented at a hearing in the form of witnesses (people), exhibits (documents), and objects (things). Not all evidence can be considered by the court, however. Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court. Remember, the duty of establishing the facts that you want to present to the court is on YOU. You should provide the court with admissible evidence to support the claims in your motion and your statements in court. Telling your story may not be enough to have your motion granted.

Usually you will be notified of the court’s decision at the hearing and the written order or recommended order will be mailed to you.

Family Forms and Packets - available for purchase at the Court Business Center

Form Packets with Instructions:

- 1) Complete packets with all forms and self-help instructions are priced individually and available at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at:
 - a) www.fjud13.org/SelfHelp.aspx → Access Forms
 - b) www.hillsclerk.com/About-Us/Forms → Family Law

Individual Forms (may not include necessary instructions):

- 1) For \$.10 per page at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at: www.flcourts.org → then click on “Family Law Forms”

YOU MAY FILE FORMS AT THE FOLLOWING LOCATIONS:

Tampa - George Edgecomb Courthouse – Main Location

Clerk of the Circuit Court, 800 E. Twiggs Street, Room 101, Tampa, FL 33602

Brandon – Brandon Regional Service Center

Clerk of the Circuit Court, 311 Pauls Drive, Suite 110, Brandon, FL 33511

Plant City – Plant City Courthouse

Clerk of the Circuit Court, 301 N. Michigan, Room 1071, Plant City, FL 33563

Ruskin/Sun City – SouthShore Regional Service Center

Clerk of the Circuit Court, 410 30th Street SE, Ruskin, FL 33570