

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
FAMILY COURT DIVISION

In Re: Permanency and Post-Permanency
Hearings and Termination of
Parental Right Matters

Administrative Order No: 16-04

ORDER

Now on this 22nd day of August, 2016, pursuant to Chapter 210 and 211 of the Missouri Revised Code, applicable Missouri Supreme Court Rules, and federal law and regulations governing foster care placement, it is hereby ordered that the following case management system is adopted. The immediate purpose of case management is to create a more efficient, predictable system in order to achieve more timely case dispositions, reduced waiting times and more meaningful appearances for litigants, attorneys, and the Court, thereby promoting the timely administration of justice.

PERMANENCY HEARING

In all such cases where legal custody of a juvenile has been placed with either the Missouri Children's Division, other entities, or persons other than the juvenile's legal or natural parents, the Court shall, within twelve months of the juvenile coming into care, schedule a Permanency Hearing to determine whether the juvenile can be reunified with one or both of the juvenile's parents. In determining whether to reunify the juvenile, the Court shall examine whether the conditions or circumstances that caused removal of the juvenile from the home have been corrected and whether a date can be established for the juvenile to safely return home. If appropriate, the Court shall also examine and may determine whether compelling reasons exist regarding the permanency goal and continued placement of the juvenile with persons or entities other than the juvenile's legal or natural parents. If appropriate and if the juvenile has been in alternative care for the last 15 out of 22 months, the Court shall also examine whether the Missouri Children's Division has documented a compelling reason why a petition for termination of parental right is not in the best interest of the juvenile.

If the juvenile cannot be safely reunified with one or both of the juvenile's parents, then the Court shall determine the most appropriate permanency goal for the juvenile including but not limited to:

- a. Whether the parental rights over the juvenile should be terminated and the juvenile freed for adoption; or
- b. Whether the juvenile should be placed in a guardianship with an appropriate resource; or
- c. Whether the juvenile should be placed with a fit and willing relative other than legal guardianship; or

- d. Whether the Missouri Children's Division has documented a compelling reason why another planned permanent living arrangement serves the best interest of a juvenile who is sixteen years or older.

The Court shall enter an order continuing or modifying the social service plan for the juvenile and make findings on the efforts of the Children's Division to finalize the plan for the juvenile and whether those efforts have been reasonable, and in accordance with the best interests of the juvenile, and order the permanency plan that is most appropriate for the juvenile. The Court shall also order the Children's Division to carry out reasonable efforts to finalize the permanency plan for the juvenile and shall order specific deadlines for execution of the plan and shall specifically state the responsibilities of the parties to carry out the plan.

The Court shall schedule a post permanency plan review hearing for the juvenile to be held no later than six months from the date of the Permanency Hearing. The Court may also, in its discretion, schedule a review hearing for the juvenile to be held before said post permanency plan review hearing.

TERMINATION OF PARENTAL RIGHTS

When the Court has determined that the permanency plan for the juvenile is termination of parental rights, the Court shall order the Juvenile Officer or Children's Division to file a Petition for Termination of Parental Rights. The Juvenile Officer or Children's Division shall file such Petition within ninety days of the date of the permanency order or show cause to the Court why a Petition for Termination of Parental Rights should not be filed. If a Petition for Termination of Parental Rights is not timely filed, the Court shall schedule a show cause hearing no later than 180 days after the order of permanency has been entered.

If the Juvenile Officer or the Children's Division elects to file a Petition for Termination of Parental Rights prior to the post permanency review hearing and/or show cause hearing, the petitioner shall file such petition, request issuance of summons on the necessary parties, and obtain service on the parents and any other necessary parties. The initial return hearing shall be scheduled in the division in which the Chapter 211 RSMo case has been or is currently pending and the petitioner shall notify the Docketing Unit of the division where the initial return hearing shall be scheduled.

SERVICE RETURN HEARING DATE

Pursuant to 211.455 R.S.Mo., the petitioner shall meet with and advise the Court within thirty days of the filing of the petition, the status of service of summons on all parties. Therefore, the Docketing Unit shall schedule all cases for an initial return date (service return date) no later than 30 days after the filing of the Petition for Termination of Parental Rights. Only the petitioner need appear for the service return date.

At the initial return date, the petitioner shall determine whether all parties have been served with summons or if additional time is needed to serve parties. If additional time is needed to serve summons, the petitioner shall request an additional service return date so that service can be obtained. In general, additional dates for service shall not exceed 21 days between service return

dates unless good cause exists for such. In addition and if appropriate, the petitioner may inform the Court as to whether the matter should be set for an uncontested hearing, consent hearing, or a contested trial/date.

At the initial service return date, the Court shall order an investigation and social study as required by Section 211.455.3 R.S.Mo., to aid the Court in determining whether termination of parental rights is in the child's best interests. The Court shall order a date for completion of the report, not to exceed 30 days from the date of the order. The agency completing the report shall electronically file the report and submit to the petitioner, the guardian ad litem, and counsel for parties no later than seven days after completion.

APPOINTMENT OF COUNSEL

In the event a party requests an attorney and said party is financially unable to employ an attorney, or in other appropriate circumstances as determined by the Court in its discretion, the Court shall appoint an attorney to represent the party. If an attorney is appointed, the Court will ordinarily appoint the same attorney who represents/represented the party in the underlying Chapter 211 RSMo case. If the same attorney who represents/represented the party in the underlying Chapter 211 RSMo case is appointed in the termination of parental rights case, the new order of appointment in the termination of parental rights case shall serve as a new appointment for purposes of satisfying the attorney's next obligation for appointment to a Chapter 211 case. The Court may in its discretion, tax attorney's fees as costs in the case and/or enter an appropriate order regarding assessment of attorney's fees.

In circumstances where the Court determines in its discretion that it is not appropriate to appoint the same attorney who represents/represented the party in the underlying Chapter 211 RSMo case, the Court may appoint a different attorney to represent the party in the termination of parental rights case. The appointment of said new attorney in the termination of parental rights case shall serve as an appointment for purposes of satisfying the attorney's next obligation for appointment to a Chapter 211 case. The Court may in its discretion, tax attorney's fees as costs in the case and/or enter an appropriate order regarding assessment of attorney's fees.

APPOINTMENT OF GUARDIAN AD LITEM

The Court will appoint the same guardian ad litem for the child or for the parents who is appointed in the underlying §211.031 case.

POST PERMANENCY REVIEW HEARING

If the permanency goal is termination of parental rights/adoption, at the first Permanency Plan Review Hearing or at any return hearing for the pending Termination of Parental Rights matter, or at another hearing scheduled by the Court in its discretion, the Court will determine whether the termination of parental rights action can proceed through consent, default or otherwise through an uncontested hearing. If the termination of parental rights action can proceed through consent, default or through an uncontested hearing, the Court may take up the hearing at the first Permanency Plan Review Hearing or at any return hearing for the pending Termination of Parental

Rights matter, or at another hearing scheduled by the Court in its discretion. If the matter can only be resolved through trial, the Court will assign the case to the administrative judge's division for further handling and the Court will also order mediation.

MEDIATION

In all cases where the Court has ordered permanency by way of termination of parental rights and adoption and an adoptive resource has been identified, the Court shall enter an order for mediation. The Court may in its discretion and as appropriate, order mediation in cases where the Court has ordered permanency by way of termination of parental rights and adoption and there is *not* a currently identified adoptive resource. All lawyers, including the attorney for the petitioner, the guardian ad litem and the lawyers for the parties, shall be informed of the date and time of the mediation and, in consultation with the mediator, determine if attendance of counsel at the mediation shall be required. If mediation resolves the case, the Juvenile Officer shall request the case be placed on the next available consent/uncontested docket date consistent with the availability of counsel for the parents.

CONTESTED TRACK

Contested cases which are assigned to the Administrative Judge's Division will be scheduled for final trial/disposition within nine months after the case is transferred or as close thereafter as practicable.

CASE MANAGEMENT CONFERENCE

The Court shall schedule one or more Case Management Conferences in all contested cases. The purpose of the Case Management Conference is to schedule a trial/adjudication of the case, resolve any outstanding discovery disputes, identify issues of law and fact for trial, assure that all relevant evaluations will be completed prior to the final hearing on the merits, resolve any other matters which will simplify or aid the conduct of the hearing on the merits, determine if a pretrial conference will be necessary and if so, schedule the pretrial conference.

All attorneys of record, guardians ad litem, and unrepresented parties, including the Missouri Children's Division or its contract agency provider, shall appear at the Case Management Conference and shall be prepared to discuss the merits of the case with a view toward early disposition of the case. If the parties are able to reach agreement, the matter shall be scheduled for an uncontested hearing at the next available uncontested/default docket.

If the case does not get resolved at a Case Management Conference, the Court will enter a case management order which shall include appropriate orders, including but not limited to mediation, establishing dates for the naming of any experts and for the closure of discovery and filing of motions, establishing a date and time for a pre-trial conference, establishing a date for trial as soon as possible, but generally within twelve weeks after the Case Management Conference, and address any other matter reviewed by the Court at the Case Management Conference. The case management order shall control the subsequent course of the proceeding, unless modified by the Court to prevent manifest injustice.

DISCOVERY

No discovery may be conducted after the closure date except by agreement of the parties, or by order of the Court, for good cause shown, upon the filing of a motion to extend discovery prior to the original closure date. The agreement of the parties to extend discovery after the closure date shall not constitute a basis for continuance of the designated trial date. Nothing contained in this order shall excuse a party from its continuing obligation to update responses to discovery. All motions shall be filed promptly after counsel discovers, or should have discovered, the basis for such motion. No motion may be filed after the closure date set in the Case Management Order except for cause occurring subsequent to the closure date. No continuances will be granted except upon order of the Court for extraordinary, unforeseen circumstances.

PRE-TRIAL

The parties shall complete and file with the Court a Pre-Trial Statement (Attachment A) no later than five (5) calendar days prior to the Pre-Trial Conference. In the event a Pre-Trial Conference is not scheduled, the parties shall complete and file with the Court the Pre-Trial Statement (Attachment A) no later than ten (10) calendar days prior to the trial date. Failure to submit the Pre-Trial Statement on or before the dates set forth above, may result in the Court's imposition of appropriate sanctions and/or the exclusion of the evidence that should have been disclosed in the timely filing of the Pre-Trial Statement.

All parties, including the Missouri Children's Division and attorneys of record, shall attend the Pre-Trial Conference and be prepared to discuss the merits of the case. At the Pre-Trial Conference, if the parties are able to reach agreement, the matter will be scheduled for an uncontested hearing. If the parties are unable to reach an agreement, the Court may issue a Pre-Trial Conference Order which will confirm or address any matter reviewed at the Pre-Trial Conference.

TRIAL

The Court will schedule contested matters to be heard as soon as possible. To facilitate the prompt resolution of cases, the Court has the discretion to schedule multiple contested matters for trial on any given docket. Parties are advised that in the event more than one case on any given docket is ready to proceed to trial on the trial date, one of the cases may be transferred the day of trial to another division and if at all possible, trial will proceed that day. Trial shall commence on the scheduled date and time all parties are notified that Local Court Rule 24.3 concerning continuances will be strictly enforced and **no continuances shall be granted except for compelling cause**. If any attorney desires to file a motion for leave to withdraw, such motion shall in all respects, comply with court rules and administrative orders and shall be served timely on the client – any such motions shall be filed far enough in advance of the trial date so they may be addressed prior to the trial date. Counsel shall document and provide evidence of efforts to contact or communicate with the client.

EXHIBIT LIST

A collective exhibit list shall be prepared no later than five days prior to trial. The petitioner shall have the responsibility of initiating the collective list. The exhibit list shall state with specificity the number by which the exhibit is marked for identification, a short description of the exhibit, and whether the exhibit is objected to by any party, and so, which party so objects. All exhibits shall be numbered consecutively as provide in Local Rule 24.1.1 and shall be so marked prior to the trial. At trial the parties shall submit the exhibit list to the Court and the Court Reporter.

POST-TRIAL/JUDGMENT

The Court may take matters under advisement. If directed by the Court or otherwise required, parties must submit proposed judgments or findings of fact and conclusions of law no later than thirty days after conclusion of the trial or thirty days after directed by the Court.

IT IS SO ORDERED.

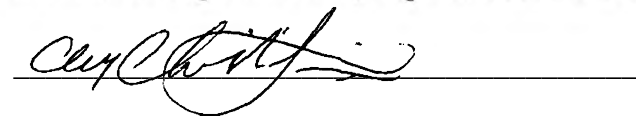
August 22, 2016
Date



DAVID M. BYRN, Administrative Judge
Family Court Division

Copies to:

Presiding Judge
Circuit Court's Family Court Committee
Juvenile Officer
Deputy Court Administrator/Director, Family Court Services
The Children's Division Regional Manager
Managing Attorney, Division of Legal Services, Dept. of Social Services
Office of the Guardian ad Litem
CASA Project
Family Law Committee, KCMBA, Chair
Juvenile Law Section, KCMBA, Co-Chairs
Division of Legal Services, Dept. of Social Service



ATTACHMENT A

PRE-TRIAL STATEMENT TERMINATION OF PARENTAL RIGHTS CASES

Instructions:

Each attorney of record must complete this Pre-Trial Statement and file the completed Pre-Trial Statement, with service to all parties, no later than five (5) calendar days prior to the Pre-Trial Conference. In the event a Pre-Trial Conference is not scheduled, the parties shall complete this Pre-Trial Statement and file the completed Pre-Trial Statement, with service to all parties, no later than no later than ten (10) calendar days prior to the trial date. Counsel need only complete those portions that are relevant to issues in controversy; those portions not in controversy shall be designated as "not applicable." All answers must be typed and completed in the order as specified below.

1. Present Date:
2. Attorney's name and party represented:
3. If the respondent, please state whether the party is willing to relinquish parental rights over a child and if so, under what circumstances:
4. State whether or not the case remains contested and if so, what specific issues are in controversy:

IF THE CASE REMAINS CONTESTED, COMPLETE ALL SECTIONS BELOW

1. Are the grounds for termination of parental rights contested? If so, please state with specificity which grounds are contested and which are not.
2. Does the party propose alternatives to termination of parental rights? If so, please state what alternatives exist.
3. State the issues which remain unresolved and provide a summary of the same.
4. State whether all discovery has been completed. If not, specify with particularity any discovery which has not been completed and the reason it remains outstanding. State with particularity any discover disputes that remains unresolved.
5. List all expert witnesses you intend to call at trial.
6. List all stipulated exhibits you intend to offer at trial.
7. Indicate the number of expected witnesses to be called at trial and estimated length of trial.

8. List any procedural, evidentiary, or other issues which need to be resolved prior to trial.

By execution of this Pre-Trial Statement, counsel is certifying to the Court that a good faith effort has been made to settle all issues in this matter, including issues on the merit, evidentiary issues, and outstanding discovery disputes.

Party

Attorney for Party

I hereby certify that a true copy of the above and foregoing Pre-Trial Statement along with the following documentation:

_____ Witness List

_____ Exhibit List

_____ List of Names and Address of Expert Witnesses

_____ Proposed Stipulations

Were served upon opposing counsel/party by electronic filing on _____.

Attorney for Party