

**STANDARD OPERATING PROCEDURES**  
**HONORABLE KIM BERKELEY CLARK**  
**COURT OF COMMON PLEAS 5<sup>TH</sup> JUDICIAL DISTRICT OF PA**  
**FAMILY DIVISION**  
**440 Ross Street, Suite 5039**  
**Pittsburgh, PA 15219**  
**(412) 350-0269**

**CONTACTS WITH THE OFFICE**

1. Unless specifically requested, the court will not entertain e-mails, faxes, letters or telephone calls requesting action. All matters shall be presented in open court by way of motion or petition *with proper notice to all parties*. Motions mailed to the office (including but not limited to motions for reconsideration, motions for extension of time to file 1925 (b) statement, etc.) will **NOT** be considered unless presented in court. Unsolicited letters will be returned, unread.
2. Counsel may correspond with the court by e-mail as long as all counsel are copied on the email. In juvenile matters, the probation officer or caseworker should also be copied on the email. To ensure that the Judge Clark receives and reads the email, Judge Clark's secretary and law clerk should be copied on the email. *In cases where a party is not represented, counsel shall not correspond with the court by email.*
3. Faxed or delivered correspondence regarding a motion that is being presented with insufficient notice or that which is not an emergency will be attached to the motion for consideration by the court.
4. Counsel shall e-mail, mail, or deliver a copy of the pretrial statement to the court. **DO NOT** fax a copy to the court.
5. Counsel, parties, and/or third parties shall not engage in *ex-parte* communication concerning a pending case with the court or court staff. Such communication may be deemed a cause for referral to the disciplinary authorities, or other appropriate sanctions.
6. Judicial staff will answer inquiries concerning court procedures (such as scheduling) but not substantive matters.
7. From time to time, Judge Clark may change the date of a scheduled proceeding to accommodate her schedule. In such a case, phone calls or letters requesting a scheduling change will be considered.



## **JUVENILE COURT MOTIONS**

Motions may be presented, with proper notice to all parties, at 8:30 A.M., on any day that Judge Clark is sitting on the bench in juvenile court. Any party wishing to present a motion should contact the judge's chambers to determine when Judge Clark is sitting in juvenile court.

1. Except in the case of an emergency, motions on dependency cases should be presented on a day when Judge Clark is assigned to hear dependency cases. The party presenting the motion **MUST** serve the CYF caseworker with a copy of the motion and give notice of the date of presentation.
2. Except in the case of an emergency, motions on delinquency cases should be presented on a day when Judge Clark is assigned to hear delinquency cases. The party presenting the motion **MUST** serve the juvenile probation officer with a copy of the motion and give notice of the date of presentation.
3. Except in the case of an emergency, motions for dual supervision cases should be presented on Judge Clark's dual day. The party presenting the motion **MUST** serve the parties on the delinquency **and** the dependency case, as well as the CYF caseworker and the juvenile probation officer, with a copy of the motion and give notice of the date of presentation.
4. Absent compelling reasons, requests for continuances, even if consented to, will **NOT** be granted on the date of the hearing. If a party needs to request a continuance on the day of the hearing, the request should be in the form of a written motion and presented at 8:30 A.M., when motions are presented.

## **ADULT FAMILY DIVISION MOTIONS**

1. The Family Division Motions Court schedule is published in the Pittsburgh Legal Journal and is also available on the Court website at <http://www.allegheycourts.us>
2. Uncontested motions, with proper notice to all parties, and consent orders may be presented by **lawyers** at 8:30 A.M., on any day that Judge Clark is sitting on the bench in juvenile court. Any party wishing to present a motion or consent order should contact chambers to determine when Judge Clark is sitting in juvenile court.
3. *Pro se* motions should be presented on Judge Clark's motions day.
4. Motion Sign-Up Procedures



- a. Sign-Up sheets will be placed outside chambers at 12:00 noon the **day before** Judge Clark's scheduled motions day. On motions day, parties may sign up inside the courtroom.
  - b. The original motion should be placed in the sign up box or given to the tipstaff if a party is signing up in the courtroom. Judge Clark requires no additional copies. Do not mail courtesy copies to the court.
  - c. Motions will **NOT** be accepted via fax or U.S. mail.
  - d. Motions will be accepted by email as long as all counsel are copied on the email. In cases where a party is not represented, counsel shall not correspond with the court by email. However, no time slot will be guaranteed for presentation of the motion. To ensure that the Judge Clark receives and reads the email, Judge Clark's secretary and law clerk should be copied on the email. ***In cases where a party is not represented, the court will not accept motions by email.***
5. If less than seven (7) days notice is given, counsel shall advise the court as to the nature of the emergency or of opposing counsel's consent to shorter notice.
  6. Judge Clark's assigned cases may be presented to another judge in cases of true emergency or if it is an uncontested purely routine matter and does not affect Judge Clark's court calendar.
  7. If there is an issue on a case assigned to Judge Clark that cannot wait until Judge Clark's motions day, Judge Clark would prefer having the motion presented at 8:30 A.M. on a day that she is hearing juvenile cases, ***even if the motion is contested.***
  8. Judge Clark will sign uncontested motions and consent orders of other judges' cases provided they are purely routine matters and do not affect the court schedule of the other judge. Judge Clark will consider a motion on a case assigned to another judge if it is determined to be a true emergency.

### **CONSENT ORDERS**

1. Judge Clark will consider signing a consent order if it is brought to chambers and Judge Clark is available to sign it. Unless specifically requested, a consent order should **NOT** be dropped off for signature nor should Judge Clark be interrupted during court proceedings to obtain her signature. Consent orders will be considered at any time during motions court while the judge is on the bench or at 8:30 A.M. on any day that Judge Clark is assigned to hear juvenile matters.



2. Absent compelling reasons, continuances on Adult Section matters, even if consented to, will **NOT** be granted within thirty (30) days prior to trial.

### **MISCELLANEOUS**

1. In the event a matter is settled prior to trial, counsel shall be responsible for notifying the Docket Clerk and Judge Clark so that the matter can be removed from the court's calendar and an appropriate order shall be submitted for signature to Judge Clark, including "consented to" language and signatures by both parties and/or their counsel.
2. Except in very rare circumstances, Judge Clark will not consider counsel's attendance at another proceeding to be a valid excuse for lateness.
3. Testimony via telephone is only allowed by permission of the court. Such permission should be obtained via motions court and obtained prior to hearing. If all parties consent to telephone testimony, Judge Clark will entertain an oral motion for telephone testimony during the trial but the parties are on notice that Judge Clark may not permit telephone testimony even if all parties agree.
4. Judge Clark prefers that the each party submit a list of all potential witnesses (with correct spelling of names) prior to the start of a trial.
5. *Whenever possible, trial exhibits should be sent to the court electronically. Judge Clark will not review the exhibits prior to the admission of the exhibit. This applies to Juvenile, Adult and Orphans' Court matters.*

### **COURTROOM PROCEDURES AND DECORUM**

1. Because the Division utilizes audio recording, Judge Clark will direct the lawyer to speak, respond, or call a witness so that the record is clear as to who is speaking.
2. When beginning the direct examination of a witness, please ask the witness to state and spell his or her name.
3. Do **NOT** speak while some one else is speaking (except to make an objection).
4. If there are more than two attorneys (or *pro se* litigants), please state your name when making an objection.



5. Please do **NOT** interrupt Judge Clark while she is speaking. You are free, however, to make an appropriate objection to a question that Judge Clark might ask.
6. Please make sure your cellular phone is off, or at least on vibrate. While Judge Clark does not issue contempt citations or fines for ringing cell phones, she does find it annoying. It is not good practice to annoy the judge!
7. Please remember to address the court at all times and not each other. What occurs in the courtroom is official court business; it is not family therapy or a venting session.
8. Judge Clark has a dress code. Lawyers, parties, or witnesses who are not properly dressed may be denied access to the courtroom. Lawyers should instruct their clients to dress properly for court.
9. Lawyers and unrepresented parties will have the opportunity to make a closing argument at the end of the case. Judge Clark asks that closing arguments be concise and limited to the issues in conflict.
10. Judge Clark will state her decision and reasons on the record in open court. If a party does not understand the order or reason, Judge Clark does not mind giving further explanation.

