

STRICTLY ENFORCED LIMITATIONS ON AND EQUAL USE OF TIME DURING HEARINGS AND TRIALS

Litigants and attorneys are now on notice that the Court shall henceforth exercise its inherent authority to limit the time for presentation of cases; and it shall do so in a manner that always awards each side equal time. The Court will not do so arbitrarily or capriciously. Instead, the Court is hereby instructing the parties then when setting hearings, the parties should first be realistic about how much time they will need to present their side of the case.

This analysis should not just include planned direct examination and presentation of evidence but also (including but not limited to) time spent on: cross of the opponent's witnesses, openings and closings, objections, sidebars and possible rebuttal evidence. Whenever possible the parties are instructed to confer with the other side before setting a hearing (regarding proposed length of hearing). If this is not done then the party setting the hearing should take the amount of time it believes necessary to present its case and *double it* when requesting the hearing time from the Court.

In the case of trials or final hearings, the Court shall enquire of the parties at case management conference and *especially* at pretrial conferences as to how much time it will take to try the case. The parties will be held to the answer they agree on and each party will then be given half of that time, to use in whatever manner it sees fit, at trial (and no more).

HOW DOES THIS WORK IN PRACTICE?

Trial days are typically from 9-5. Although this is literally 8 hours of time the Court considers it to be 6 hours (considering lunch, breaks and unexpected delays). So, if you agree to a one-day trial then you will be awarded 3 hours (timed) total for your part of the case.

For example, you represent a respondent (in a one-day dissolution trial) and the petitioner testifies, on direct, for 30 minutes. You have reason to question them for an hour-and-a-half on cross. This is your right and how you present your case is your business. However, please account for this in advance because under this hypothetical you have now used 50% of your overall time budget on cross and have not even begun your presentation of your case yet! Some may ask, "well what if my opponent slows me down with repeated and lengthy legal objections?" If they do and it takes more than a few seconds to handle the objection, *that time will be attributed to them*.

The general rule is, if you are talking you are burning your time.

The Court may make exceptions and award additional time when due process concerns and/or unforeseeable delays make it necessary. But generally, when your time is used up, you are done talking. This is not an ideal way to end a case so once again the attorneys are encouraged to carefully consider this when setting hearings or trials.

WHY IS ALL THIS NECESSARY?

The Court reluctantly institutes this procedure after learning, the hard way, that it is absolutely necessary for the just and swift administration of justice in this domestic relations division. In most cases the parties are able to present their cases in a way that is efficient and timely. This results in a swift ruling that allows families (and especially the children) to hopefully move forward with their lives in a healthy and productive way.

However, in a minority of cases attorneys clearly underestimate the amount of time necessary to present their cases. Furthermore, it often seems as if there is no effort to even try to finish in time. Well, why is this a problem? In the case of, say, a hearing docket, this means one case is stealing the hearing time of those to follow (that same morning or afternoon). This has a cascading effect and it is simply unfair to the other litigants. In the case of trials, remember the Court has an extremely busy docket and this now means the Court is left with two options to get the case finished. Neither of these are good.

The Court can go late (if its even possible to finish that day) and this means keeping the courthouse open and keeping personnel after hours. This is disfavored for a variety of reasons (budget, court personnel have lives, etc.). The Court can also recess the matter so that the Court can contact the attorneys the next day to schedule another day or two to give to the case. But guess what? That day or two of additional trial time might be weeks or months in the future (with two family law judges in Collier for 400,000 residents). This is far from ideal. No matter how well the Court may try to make notes, this breaks the flow of the trial for the Court and for the attorneys and their clients. Does this lead to a less accurate ruling? Possibly. Furthermore, you are once again taking someone else's trial time in the next cycle.