

PRACTICES AND PROCEDURES **FOR CIVIL CASES IN DIVISION 32**

The following practices and procedures apply to all civil cases pending in Division 32 and are in accordance with Seventh Judicial Circuit Administrative Order CV-2024-023-SC; In re: Case Management Order in Civil Cases, effective January 1, 2025. See <https://circuit7.org/orders/cv-2024-023-sc/>.

These procedures are designed to assist the parties in having their cases handled as efficiently as possible. If you have questions regarding these procedures, please contact the judicial assistant for the division at kmccoy@circuit7.org or (386) 257-6091. **Email communication is preferred.**

I. Communication with the Court:

- A. All communications with the judicial chambers must be submitted by email to kmccoy@circuit7.org. The subject line of any email to the judicial assistant must contain the case number, case name, and relevant matter. (Ex.: 2024 10010 CICI – Smith v. Smith – 1 Hour Hearing Time Requested)
- B. All communications must comply with Canon 3 of the Code of Judicial Conduct, which prohibits a judge from initiating, permitting, or considering *ex parte* communications and from considering other communications outside the presence of the parties concerning a pending or impending proceeding, unless authorized by law. All parties must be copied on any email directed to the judicial office, unless an *ex parte* communication is authorized by law.
- C. **Do not include the judicial assistant in emails between parties that do not request action from the judicial chambers.**
- D. When communicating with the judicial chambers, please be cognizant that there are several thousand cases pending in this division at any given time and judicial chambers receives numerous emails and phone calls daily. Your inquiry will typically be responded to in the order it was received, as expeditiously as reasonably possible.
- E. The judicial assistant is not permitted to provide legal advice.
- F. All attorneys and self-represented litigants must make and receive service by email through the Florida Courts E-Filing Portal, **unless excused**. See <https://www.clerk.org/e-file.aspx>. **If excused from email service**, communication with the judicial chambers shall be by telephone to (386) 257-6091. The phone number to judicial chambers does not accept text messages.

II. Scheduling Procedures

A. Civil Court Hearings:

- i. Hearings shall be coordinated with opposing counsel and scheduled on Benchmark in fifteen (15) minutes intervals for hearings of no more than forty-five (45) minutes. Instructions and additional information can be found at <https://judviewvolusia.circuit7.org/BenchmarkWebLive>.
- ii. Matters that require more than sixty (60) minutes must be requested for scheduling through the judicial assistant by an email copying opposing counsel and any self-represented litigant to kmccoy@circuit7.org.
- iii. **ONLY** when the parties are unable to locate a hearing date and time on Benchmark, the scheduling party should email the judicial assistant, copying opposing counsel and any self-represented litigant to coordinate scheduling.
- iv. **Conferral Certification:** All motions shall conform to the conferral requirements of Fla. R. Civ. P. 1.202. Motions that fail to comply with Rule 1.202 may be summarily denied. A non-movant's purposeful failure to respond to conferral attempts may be considered consent to the relief sought. **Three attempts** at conferral (which includes telephone communication) are required.

B. Hearing Format:

- i. **IN-PERSON HEARINGS:** All non-jury trials (excluding foreclosures), evidentiary hearings, and hearings scheduled for sixty (60) minutes or longer shall be **IN PERSON** unless agreed upon by the parties and approved via the judicial assistant.
- ii. **REMOTE HEARINGS:** All other hearings may be conducted remotely via **Zoom**. All Zoom hearings are assigned the following permanent Zoom ID number: **386 257 6091**. Attorneys should advise any parties or witnesses to have Zoom available on their computers or electronic devices, with both audio and video capabilities. For all persons appearing on Zoom, please make sure your first and last name are identified accurately. Attorneys are requested to include "Attorney" or "Esq." so that licensed attorneys can be identifiable to

the judge, the clerk, and the court reporter. Absent extenuating or unforeseen technological circumstances, all attorneys shall appear with video, not by audio only. All participants appearing via Zoom shall be in appropriate attire.

- iii. **HYBRID HEARINGS** (with counsel or a party for either side wishing appearing in person) are permitted upon proper designation in the Notice of Hearing.
- iv. Any request to appear in person for a hearing designed as remote in the Notice of Hearing requires **five (5) days advance notice to judicial chambers.**
- v. **COURT REPORTERS:** Court reporters may appear in person or remotely in accordance with the designation in the Notice of Hearing. Attorneys shall refer to the following link for court reporter qualifications: <https://circuit7.org/orders/g-2023-041-sc/>
- vi. Any request for ADA accommodation and/or Interpreter Services may be made by contacting Court Administration at (386) 257-6096, at least seven (7) days before the scheduled court appearance, or immediately upon receiving notification if the time before the appearance is less than seven (7) days.

C. **Notice of Hearing:**

- i. A **Notice of Hearing** must be filed and served immediately upon reserving hearing time.
- ii. **The Notice of Hearing must include:** (a) an in-person, remote or hybrid designation; (b) the docket number and the filing date of the motion to be heard; (c) the amount of time reserved; and (d) the Zoom Meeting ID number. The Notice of Hearing must be provided to the judicial assistant by email to kmccoy@circuit7.org.
- iii. **CROSS NOTICE OF HEARING:** A hearing may be cross-noticed only with permission from the court and by agreement of all parties. The Cross Notice of Hearing must also be provided to the judicial assistant.
- iv. **EMERGENCY HEARINGS must be requested with an appropriate motion and provided in hard copy** to the Judge's chambers under circumstances where persons or property face the threat of imminent harm without court intervention.

- v. A Notice of Hearing must contain the American with Disabilities Act (ADA) notification as required by Florida Rule of General Practice and Judicial Administration 2.540.

D. Submission Deadlines:

All hearing materials (including motions, responses, and memoranda of law/case law) must be delivered in hard copy at least seven (7) days before a scheduled hearing to judicial chambers. Submissions of material ten (10) pages or less (excluding a cover letter) may be provided via email to kmccoy@circuit7.org **This requirement is strictly enforced.**

E. Non-Jury Trials/Evidentiary Hearings:

An evidentiary hearing shall be identified as such in the Notice of Hearing.

The parties shall exchange copies of all exhibits and index at least three (3) business days in advance of the hearing/trial. Failure to copy a party with a proposed exhibit may be grounds to deny the exhibit as evidence. The parties are not required to exchange exhibits if the exhibits are documents previously filed into the court file and in compliance with the Florida Rules of Civil Procedure.

- F. **Expedited Hearings are held at 9:15 a.m. on most Wednesday mornings for matters that take no longer than five (5) minutes;** all expedited hearings are non-evidentiary. All hearings set on this docket shall be noticed for five (5) minutes. Upon review of the court, any matter improperly designated as expedited shall be stricken.
- G. **Foreclosure Default/Summary Final Judgment Hearings are held at 10:00 a.m. on most Wednesday mornings and should take no longer than five (5) minutes.**
- H. **Cancellation of a Hearing must be requested a minimum of forty-eight (48) hours** prior to the scheduled hearing. Absent this advanced notice, counsel shall appear for the scheduled hearing. **ONLY the Judicial Assistant can cancel a hearing; the filing a Notice of Cancellation will not cancel your hearing.** All requests for cancellation shall be sent via email to kmccoy@circuit7.org.

III. SUBMISSION OF ORDERS

- A. All proposed orders following a hearing EXCEPT for Final Judgments of Foreclosure, shall be emailed to division32@circuit7.org in Microsoft WORD format **within seven (7) days unless otherwise stated during the hearing.**

- B. A proposed Order on a Motion to Withdraw as Counsel that requires a hearing **shall be provided in Microsoft Word Format by email to the judicial assistant at least five (5) days before the scheduled hearing.**
- C. Proposed orders must be circulated among the parties BEFORE submission. If a party objects to a proposed order, this objection must be noted in the email to the Court. The moving party must mail or otherwise deliver copies of the signed order to any *pro se* litigant or other litigant who has been excused from eService. A Notice of Service must then be filed in the court file to reflect delivery of the order.
- D. **Foreclosure Proceedings/Original Documents** (including affidavits, notes and mortgages, default letters, allonges, and assignments) must be **SENT DIRECTLY TO THE CLERK'S CHAMBERS**. No hearing shall go forward if the original documents are not filed with the clerk by the date of the hearing. All proposed Foreclosure Final Judgment packets must (i) include all supporting documents, including exhibits and supporting affidavits; and (ii) be submitted a minimum of five (5) business days in advance of the hearing with sufficient copies and self-addressed, stamped envelopes for all parties listed in the certificate of service. **Final Judgments of Foreclosure WILL NOT be accepted by email.**
- E. **EX PARTE ORDERS:**
 - i. **Motions for Withdrawal of Counsel upon** written motion stating the reasons for withdrawal, the client's last known address, telephone number with area code, and email address; and notice to all parties and their client. The motion must attach written consent from the client. Absent written consent, the motion must be set for a hearing.
 - ii. **Motions for Substitution of Counsel upon** written motion which includes the client's written consent.
 - iii. **Motions to Cancel Foreclosure Sales upon** (a) a written motion received by the Court no less than five (5) business days before the scheduled sale date; (b) the motion must contain specific facts setting forth the reasons for the postponement; (c) the motion must have supporting documentation attached (e.g. short sale contract, loan modification information, etc.) and (d) the motion must be served on all parties, specifying all efforts made to contact all parties, and any agreement or objection to the relief sought.

IV. DISCOVERY DISPUTES:

- A. Unless there has been a complete failure to respond or object to written discovery requests, a Motion to Compel discovery must include in the body of the motion in

quotation, each interrogatory, deposition question, request for admission, or request for production to which the motion is addressed, followed by quotation, in full, of the answer or response which is asserted to be insufficient, or the objection and grounds stated by the opposing party. Merely attaching the request and alleged deficient response to the motion will not suffice.

- B. **All discovery disputes are governed by Florida Rule of Civil Procedure 1.202 and *In Re: Motions to Compel Discovery in Civil Actions CV-2022-004-SC*. See <https://circuit7.org/orders/cv-2022-004-sc/>.** A Motion to Compel set for a hearing must detail compliance with this procedure or it will be stricken.

A party may seek a ruling without a hearing by filing a Notice of Request for Court to Consider Motion to Compel Discovery without Hearing contemporaneously with the Motion to Compel.

The opposing party shall have fifteen (15) days from service of the Motion to Compel and Notice of Request to file a written response to the motion and notice.

Following the expiration of the period allowed for the response, the movant shall advise the court that the motion is ripe for a decision and submit a proposed order to division32@circuit7.org.

- C. Discovery disputes called up for a hearing and determined to not be meritorious, failure to respond to discovery, or objections to discovery that have no legitimate basis may result in sanctions pursuant to Florida Rule of Civil Procedure 1.380.

- V. **Motions for Summary Judgment**: All Motions for Summary Judgment, and responses shall strictly adhere to the time requirements in Florida Rule of Civil Procedure 1.510 and the Uniform Case Management Order. Motions and/or responses that do not adhere to the time specifications will not be considered. Replies by movants to a non-movant's response in opposition to a motion for summary judgment are not permitted absent an order from the Court. Replies filed without Court authorization will not be considered. All materials must comply with the Submission Deadlines set forth above.

- VI. **SETTING CASES FOR TRIAL**: Parties should file a Notice of Trial that complies with Florida Rule of Civil Procedure 1.440. **A copy of the Notice should be filed with the Clerk and must be sent to the Judge's chambers.** The Notice of Trial must specify whether the trial is by jury or non-jury, and the expected length of the trial. Parties shall carefully read the Court's Order Setting Case for Trial and the Uniform Case Management Order to comply with the requirements and deadlines therein and, absent an extraordinary circumstance, the trial period shall be scheduled in accordance with the time standards set forth in the Seventh Judicial Circuit Administrative Order CV-2024-023-SC; In re: Case Management Order in Civil Cases, effective January 1, 2025. **Any agreed upon specific trial period requested by the**

parties that disregards deadlines in the Case Management Order absent a demonstrated exceptional circumstance shall not be considered.

VII. CONTINUANCES: A motion to continue must comply with the requirements in Rule 1.460, Fla. R. Civ. P. and Rule 2.545(e), Fla. R. Gen. Prac. & Jud. Adm. **Motions to continue trials are disfavored** and rarely granted. The parties should not assume that a continuance will be granted, even if all parties consent. Lack of due diligence in preparing for trial is not good cause to continue a trial. The parties shall schedule summary judgment motions and motion(s) in limine in advance of trial. The failure to have these matters heard is not a ground for a continuance.

VIII. TRIAL PROCEDURES: The following procedures are for jury trials before the Court. These procedures supplement the requirements set forth in the order setting the case for trial.

- A. JOINT PRETRIAL STATEMENT, JOINT PROPOSED JUROR QUESTIONNAIRE AND JOINT JURY INSTRUCTIONS: The parties shall submit **joint** juror questionnaire, proposed jury instructions, pretrial statement and verdict form(s) no later than docket sounding. Should parties disagree on certain juror questions, proposed instructions or the verdict form, the parties shall denote the competing question, instruction(s) or verdict form for which there is a disagreement within the joint filing. **These items shall be provided in Microsoft Word format by email to kmccoy@circuit7.org.**
- B. MOTIONS IN LIMINE shall be heard prior to docket sounding and shall be limited to case specific anticipated evidentiary issues. **Boilerplate motions in limine** not addressing case specific anticipated evidentiary issues will not be considered. *See State Farm Mut. Auto. Ins. Co. v. Davis*, 336 So. 3d 392, 397 n.5 (Fla. 5th DCA 2022).
- C. Remote Witness Testimony: All witness testimony at hearings or trial shall be in-person **unless agreed upon by the parties and approved by the Court**. If a party seeks to have a witness testify via audio-video communication technology, a motion must be filed in accordance with Rule 2.530, Fla. R. Gen. Prac. & Jud. Admin. Parties calling a witness to testify via audio-video communications technology shall ensure the witness is provided a copy of the Court's procedures governing Zoom appearances.
- D. Counsel for the Plaintiff shall bring one ream of letter size (8x11) paper on the first day of trial and hand it to the clerk. This paper will be used to prepare the juror questionnaires, jury instructions, and verdict forms.
- E. Counsel for Defendant shall bring (i) standard letter size (8x11) lined pads; and (ii) pens for each of the jurors, including alternate juror(s) to be used for juror note taking.

- F. All exhibits must be pre-marked for identification by letter from A-Z, AA-ZZ, A3-Z3, etc. Exhibits will be assigned a number upon admission into evidence.
- G. Any exhibit to be used as a demonstrative aid or during witness testimony shall be shown to opposing counsel before being tendered.
- H. Do not ask the Court to declare a witness to be an expert, or “tender” a witness as an expert.