

Evidentiary Hearings and Trials

******Until further notice, evidentiary hearings and non-jury trials will be held via Zoom video conferencing. Please review the following information.***

- Appearance by video is required. If you or your witnesses are unable to appear by video you must file a written motion with the Clerk's Office, no later than five (5) business days prior to the hearing/trial, advising the Court of the reason you are unable to appear by Zoom and requesting to appear by telephone only. (See Zoom Guidelines and Information sheet for additional assistance with Zoom.)
- To request an in-person hearing, you must submit a motion to the Clerk's Office. Judge Schumann will review the request and issue a ruling via court order.
- It is your responsibility to arrange for the presence of a court reporter if you wish to have a record of the court proceeding. Hearings/trials will NOT be recorded by the Court.
- Judge Schumann's Zoom Meeting ID is: 257 604 2386.

Witnesses

It is the responsibility of each party to ensure their witnesses are able to appear via Zoom and to provide them with the Zoom Meeting ID.

Exhibits

For non-traffic cases:

- If you have exhibits (documents, bills, invoices, text messages, photographs, etc.) that you intend for the Court to consider, you must e-file those exhibits at least three (3) business days prior to the evidentiary hearing/trial using the Florida Courts E-Filing Portal at <http://www.myflcourtaaccess.com>. If you are unable to e-file, you may deliver your exhibits to the Clerk of Court – City Island Courthouse Annex, 125 E Orange Avenue, Daytona Beach, FL 32114.
- All exhibits should be copied to the opposing party, either electronically via the E-Portal or by mail/hand delivery.
- Videos must be presented to the Clerk's Office in person, to be held by the Clerk for appeal purposes only.
- Videos submitted will not be displayed by the Court. If either party wishes to display a video, that party must use the screen share feature on Zoom.

For traffic cases:

- If you have exhibits (documents, photographs, etc.) that you intend the Court to consider, you must provide those items to the Clerk's Office in person at the City Island Courthouse Annex, 125 E Orange Avenue, Daytona Beach, FL 32114.
- Photos should be printed and in color. All exhibits should be copied to the opposing party.
- Videos must be submitted to the Clerk's Office, to be held for appeal purposes only.
- Videos submitted will not be displayed by the Court. If either party wishes to display a video, that party must use the screen share feature on Zoom.

For all cases: documents and exhibits not timely e-filed or hand delivered to the Clerk will not be considered by the court at the hearing, unless good cause is shown.

Information for Trial

1. Following your Small Claims Pretrial Conference, your case will be set for non-jury trial. Your trial will be conducted remotely using Zoom video conferencing. Please review Judge Schumann's Zoom Guidelines and Information for information about using Zoom.
2. Do not forget your trial date. You must be on time. Failure to attend trial on the designated day and time may result in dismissal of your case or a final judgment being entered against you.
3. **Exchange of Documents and Information:** If the judge instructed you to submit any documents or give any information to the other party (such as a list of your witnesses' names and addresses), you must do so. Failure to do as directed by the judge may result in sanctions against you.
4. **Counterclaims:** If you are the Plaintiff and you have been given a written notice that a counterclaim has been filed against you in this lawsuit, this means you are now being sued by the Defendant. If at the Pretrial Conference the judge allowed the Defendant a certain number of days to file a counterclaim, the Defendant must file the counterclaim within the designated number of days from the date of the Pretrial Conference. If the Defendant does so, the Defendant will have a claim pending against you. If, at the time of trial, the counterclaim has been properly filed, there are two lawsuits being considered by the judge at the same time: the Plaintiff's suit against the Defendant and the Defendant's suit against the Plaintiff.
5. **Third Party Complaints:** If you are the Defendant and you believe the Plaintiff may win the suit against you but if the Plaintiff does, someone else should pay you so you can pay the Plaintiff, then you must file a Third Party Complaint against that person and serve them with notice of your claim. Once served, that person must appear in court as you have, to answer your complaint against them. This must be done prior to the trial within the time allowed you by the judge.
6. **Trial Preparation:** There is only one trial. Have all witnesses, documents and other evidence you plan to use at trial with you on the day of trial. You must submit all evidence/exhibits according to the guidelines listed on the previous page of this document. Generally, estimates, letters and affidavits are inadmissible in trial unless both parties agree. If someone has knowledge about your case, that person needs to testify in court and be subject to questioning by the other side. If your case involves technical issues such as automotive repair, construction, air conditioning, pool work, etc., you may need an expert witness to explain the issues so the judge can properly evaluate the questions of liability and damages.
7. **Witness Subpoenas:** If a witness you need will not willingly come to court, you may have the Clerk's Office issue a subpoena to be served on them. You can do this on the 1st floor of the courthouse, Room 100. There are costs that must be paid to the Clerk's Office for issuing the subpoena and costs to the Sheriff's Office to serve the subpoena.
8. **Court Reporter and Appeals:** Your trial will not be recorded. If you wish a record of the proceedings, you must either arrange for a tape recorder to record the hearing (the tape is left with the Clerk's Office) or for a court reporter to attend the trial. Appeals to a higher court because you are not satisfied with the outcome of the trial are governed by special rules. One of these rules requires that the appellate court have a complete record of the trial to review for errors. If you do not have a court reporter or other means of preserving the record at your trial, your chances for success on appeal will be severely limited.
9. **Settlement:** If all parties agree on settlement of all claims before trial, you must notify the Judicial Assistant by calling (386) 257-6070 as soon as possible. Immediately thereafter, the

parties must file a motion with the Clerk's Office to dismiss the case. The proposed order should be emailed to the Judicial Assistant at Division84@circuit7.org.

10. **Address and Phone Number Changes:** All changes in mailing address must be furnished in writing to the Clerk's Office and the opposing party. The Clerk of Court must also have a phone number by which the Court may contact each party directly if necessary. You may also register your email address with the Clerk's Office if you would like to receive court correspondence electronically.
11. **Telephonic Testimony:** If the Court has given prior written approval, witnesses and/or record custodians may appear telephonically before a notary. Each party shall be prepared to provide a number for the witness to be called from the courtroom. The party calling the witness must be prepared to provide a number for the witness to be called from the courtroom. The party calling the witness must be prepared to pay the cost of placing any toll calls. The witness must be available when the call is placed. It shall not be grounds for continuance that the witness was not available when called, that the number called was busy or that the call could not be completed for any reason.
12. **Rules and Procedures Followed at Trial:** Your case is governed by the Florida Small Claims Rules. You can find these rules on the internet or in the Law Library located on the second floor of the courthouse. At trial each side will have an opportunity to make an opening statement. Thereafter, the Plaintiff will testify and be subject to questioning by the Defendant. Plaintiff's witnesses will then be heard, subject to questioning by the Defendant. The Court will consider receiving documents or exhibits into evidence as they are referred to by the Plaintiff or witnesses. The Defendant will then have an opportunity to testify, present witnesses and offer exhibits. The Defendant and the defense witnesses will be subject to questioning by the Plaintiff. After all of the evidence has been presented, both sides will have the opportunity to present a brief closing statement. The judge will then decide the case.
13. **Continuances:** All requests for continuances must be filed in writing with the Clerk's Office, with a copy sent to the other side.
14. **Additional Problems:** For anything you do not understand about the above information and for any additional questions you may have concerning the preparation of your case for trial, please contact the Clerk of Court, Civil Division, in person or by phone at (386) 736-5915. The Clerk is not authorized to practice law and therefore cannot give you legal advice on how to prepare your case. However, the Clerk can be of assistance to you in questions of procedure. In the event that you need legal advice, you will need to contact an attorney.

Online Resources:

Volusia County Clerk of Court Small Claims Information and Forms:

http://www.clerk.org/html/forms.aspx#small_claims

Link to the Florida Small Claims Rules:

<http://www.floridasupremecourt.org/decisions/barrules.shtml>