

General Scheduling and Procedures
Judge David H. Foxman / Division 84

Location and General Information:

Unless otherwise specified in the notice, all hearings scheduled before Judge David H. Foxman, Division 84, will be conducted in **Hearing Room 302** of the Volusia County Courthouse Annex, 125 East Orange Avenue, Daytona Beach, FL 32114. Judge Foxman's Judicial Assistant is **Jennifer Derleth**, and her email address is jderleth@circuit7.org. The office telephone number is 386-257-6070, and the fax number is 386-248-8154.

PLEASE CONTACT THE COURT'S JUDICIAL ASSISTANT, JENNIFER DERLETH, IF YOU HAVE QUESTIONS ABOUT THE FOLLOWING PROCEDURES.

A. Communications with the Judicial Office:

The Clerk and the Judicial Assistant cannot, should not, and will not give legal advice. If you have questions about how to proceed in your case, you should contact an attorney or research the rules of procedure for your type of case. Cases are governed in this division by either the Florida Small Claims Rules, Florida Rules of Civil Procedure or the Florida Rules of Traffic Court. Also applicable are the Rules of General Practice and Judicial Administration.

- a. **Email:** The preferred method of communication is via email with the Court's Judicial Assistant at jderleth@circuit7.org. All parties must be copied on any email directed to the judicial office. Any e-mail sent to or from the judicial office may be public record subject to disclosure.

Proposed orders should be emailed to division84@circuit7.org in an up-to-date WORD format. PDF orders will not be accepted. The division 84 email is solely for the purpose of submitting proposed orders. It does not allow for a reply and/or forward. Do not submit other pleadings or requests via this division email address. The Court will no longer accept "paper" orders, meaning orders sent through postal mail. All orders must be sent electronically.

- b. **Telephone:** Self-represented litigants and those excused from email service may communicate with the judicial office by telephone at 386-257-6070.
- c. **Ex-Parte / Unsolicited Communication:** Unsolicited letters, emails, or communications of any type should not be sent to the Court. The Court's Judicial Assistant is not permitted to relate to the Court the contents of any conversations which would be considered improper *ex parte* communication with the Court. Parties may only contact the judicial office in accordance with these procedures. Unsolicited communications from non-parties will not be considered by the court.

Note to unrepresented parties: If you have a request of the Court, e.g. a request to continue a hearing or mediation, appear remote, etc.; you **MUST** file such request as a motion through the Clerk of Court, and send a copy to all parties.

- d. E-Filing Portal: All attorneys and self-represented litigants must make and receive service by e-mail, which is generally through the Florida Courts E-Filing Portal, unless excused. Fla. R. Gen. Prac. & Jud. Admin. 2.516.
<https://www.myflcourtaaccess.com/authority/>
(The judicial office is unable to provide instructions or assistance for the E-Filing Portal.) It is the responsibility of attorneys and self-represented litigants to update their contact information any time there is a change in the email account registered for electronic service.
- e. Other Inquiries: **The Judge and Judicial Assistant are not authorized to provide legal advice.** Matters outside of the procedures set forth by the Court may be researched in the Volusia County Law Library, the Florida Bar website, the Florida Court's website, or you may consult with a Florida Bar attorney.

B. Scheduling Procedures:

- a. Motions: All motions must be filed with the Clerk of Court before a hearing will be scheduled, or an order submitted to the Judge for review. Please state in your motion the position of opposing party – whether they object or not to the motion.

Parties should, whenever possible, prior to filing or upon receiving a motion, contact the opposing party to determine if the matter can be resolved in whole or in part. This may alleviate the need for filing the motion or allow submission of an agreed order in lieu of a hearing.
- b. Hearing Time: All hearings should be scheduled by email through the Judicial Assistant at jderleth@circuit7.org. In your email, please include the case number, how long is needed, which month you would like for the hearing time, and what motion(s) are being heard. If the matter may be heard at an abbreviated hearing, the short matters docket may be available. The party scheduling the hearing will prepare the notice unless advised by the Judicial Assistant that the Court will prepare the Notice of Hearing. Reasonable efforts should be made to resolve the issue in question before setting the hearing, and reasonable attempts should be made to coordinate the date and time of the hearing with all parties and counsel, including pro se parties.

Further, if a party wishes to cross-notice a motion for a hearing time that has been previously set, please contact the party that initially set the hearing. If there is no objection, and time permits, the matter will be heard at that time. The cross notice of hearing should be e-filed with the Clerk of Court, with copies to all parties. Unless the parties agree otherwise, the motion(s) originally noticed for the hearing will be heard prior to any cross-noticed matter.
- c. Notices of Hearing: When a remote appearance is permitted, the Hearing Notice should state that appearance by Zoom is “optional” and the notice should also contain the physical address where the hearing will take place.

IF APPEARING REMOTELY, VIDEO APPEARANCE WITH WORKING AUDIO IS REQUIRED

Judge David H. Foxman Zoom Conference Link:
 One Click Direct Link: <https://zoom.us/j/3862576070>
 (or)
 Enter in browser: <http://zoom.us>
 Click: "Join a Meeting."
 Enter **Meeting ID: 386 257 6070**

- d. Cancellations: Only the party who scheduled the hearing can cancel the hearing. Even though a Notice of Cancellation may be filed with the Clerk, the party canceling the hearing must contact the Judicial Assistant to cancel the hearing.

Further, no hearing may be cancelled unless prior to the cancellation the parties have submitted an agreed order to the Court fully resolving the matters to be heard.

- e. Case Law / Memoranda of Law / Written Submissions in Advance of Hearings: The Court welcomes the filing of memoranda of law supporting or opposing a motion or other matter to be heard. The Court must have these materials at least **three (3) business days** prior to the scheduled hearing. Any party who wishes the Court to consider a memorandum prior to the hearing on a motion shall submit it directly to the Judge's chambers via jderleth@circuit7.org (with a copy to all other counsel and unrepresented parties). A party who wishes the Court to consider voluminous case law at a hearing should submit hard copies of the cases within the same time frame.
- f. Motions to Compel Discovery: Please see Administrative Order **CV-2022-004-SC** (at www.circuit7.org) prior to filing motions to compel discovery. All hearings to be conducted on Motions to Compel will be held in person only. Once a Motion to Compel hearing has been set, the hearing may not be cancelled.
- g. Motions to Withdraw as Counsel: There is no need to set a hearing if you submit a signed consent from your client and a joint stipulation from counsel.
- h. Proposed Orders: ***Proposed orders should be emailed to division84@circuit7.org in an up-to-date WORD format.*** PDF orders will not be accepted. The division 84 email is solely for the purpose of submitting proposed orders. It does not allow for a reply and/or forward. Do not submit other pleadings or requests via this division email address. The Court will no longer accept "paper" orders, meaning orders sent through postal mail. All orders must be sent electronically.
- i. Deadline for Proposed Orders After a Hearing: Proposed Orders to be prepared by a party must be submitted within ten (10) days of the hearing, unless otherwise specified by the Court upon ruling.
- j. Agreed Orders / Stipulations: Should state that they are agreed to by all parties within the order, or stipulation may be submitted.

C. Appearing in Court:

- a. Courtroom Decorum: Parties and counsel should be respectful, professional and civil to the court, court staff, and each other at all times during court proceedings. Address objections and any remarks to the court, and not to opposing counsel/party. Avoid all disparaging personal remarks or acrimony toward opposing counsel. Refer to all persons by their surnames with the appropriate “Ms. or Mr., Dr.,” etc.
- b. Requests for Appointment of Interpreter: For Small Claims and Traffic cases, you are encouraged to bring a family member or friend who can interpret for you. Court interpreters are limited and most often in County Civil, appointed based on availability. Request for a Court-appointed interpreter must be made through Court Interpreting Services. For more information see <https://circuit7.org/court-interpreting-services/>
- c. Requests for Accommodations: See <https://circuit7.org/ada/>
- d. Virtual Appearance by Zoom:
 - i. Please see the list below of those court proceedings for which remote appearance is authorized without further request.

PIP/Glass/Insurance Case Management Conference
Summary Judgment/Summary Disposition
Zoom Meeting ID: 386 257 6070
 - ii. Any person appearing remotely must:
 - 1. Be in a private location that is quiet and free from distractions. Under no circumstances will a participant be permitted to appear remotely from a moving vehicle.
 - 2. Dress and behave professionally in the same manner as if physically present in the courtroom.
 - 3. Enable the person’s camera when joining the proceeding and keep the camera turned on until otherwise instructed by the Court.
 - 4. Keep the microphone muted until instructed otherwise by the Court.
 - iii. If a witness appears remotely, the party calling the witness must ensure the witness has a functioning camera and microphone and has tested the internet connection before the hearing.
- e. Small Claims Pretrial Conferences: These hearings are conducted IN PERSON. If you have good cause to request an appearance by Zoom, you must file the request with the Clerk of Court, indicating the reason why you cannot appear in-person. Such requests will be reviewed on a case-by-case basis, and if good cause is found, may be reset to a time-certain date to accommodate the request.

If counsel wishes to waive their appearance at a Small Claims Pretrial Conference, they may do so by entering into and timely filing a “Small Claims Pretrial Conference Responses Stipulation, Request to Waive Appearance, and Order”. This form is available on the Court’s website.

Please do not send any exhibits for a Small Claims Pretrial Conference. The Pretrial Conference is not your trial date, so the Court will not be receiving testimony or evidence that day.

- f. Traffic Arraignments and Hearings: These hearings are conducted IN PERSON. If you have good cause to request an appearance by Zoom, you must file the request with the Clerk of Court, indicating the reason why you cannot appear in-person. Such requests will be reviewed on a case-by-case basis, and if good cause is found, may be reset to a time-certain date to accommodate the request.

Please file all motions with the Clerk's Office.

If you have exhibits (documents, photographs, etc.) that you intend for the Court to consider at hearing or trial, please bring hard copies of your evidence to court. Hard copies that are admitted into evidence will be retained by the Clerk's Office.

If you have a video to introduce into evidence, place the video on a thumb drive; bring the thumb drive and a device to play the video to the hearing or trial. If the video is admitted into evidence, the thumb drive will be retained by the Clerk's Office.

Defendants may submit an Affidavit of Defense in lieu of appearance. Defendants may also submit written pleas of No Contest, including requests to waive points. Sometimes hearings are mandatory per statute. You may request plea forms or affidavit of defense forms from the Clerk of Court. <https://www.clerk.org/forms.aspx#traffic>

- g. PIP and Auto Glass CMCs: These hearings are held by Zoom ONLY.
- h. Evidentiary Hearings: These hearings are conducted IN PERSON.
- i. Motions to Determine Rent and Claims of Exemption: These hearings are conducted IN PERSON.
- j. Civil and Small Claims Non-Jury Trials: The Court will conduct these trials IN PERSON. Any request for a party or witness to appear remotely by Zoom must be filed at least five business days prior to the trial date and shall reference any factors relevant to the Court's decision, specifically any relevant factors listed in Fla. Rules Gen. Prac. And Jud. Admin. 2.530(2)(A).
- k. Jury Trials: Please see Administrative Order CV-2023-002-SC (at www.circuit7.org) regarding the use of Uniform Pretrial Procedures.

IN PERSON APPEARANCE IS REQUIRED FOR ALL JURY TRIAL PRETRIALS, DOCKET SOUNDING, AND JURY TRIALS.

D. Pretrial Procedures and Conferences:

- a. Any party may request a Case Management Conference or Status Conference when necessary.
- b. Requests for CMC or Status Conference must articulate the reasons for the necessity of the hearing.
- c. Unless excused by the Court in advance, all CMC's and Status Conferences are mandatory for attorneys and self-represented litigants. Parties represented by counsel are not required to appear at a CMC.

E. Exhibits for Evidentiary Proceedings:

- a. If you have exhibits (documents, photographs, etc.) that you intend for the Court to consider at hearing or trial, you must provide a copy to the opposing party at least 5 business days prior to hearing or trial.
- b. Please bring hard copies of your evidence to court. Hard copies that are admitted into evidence will be retained by the Clerk's Office.
- c. If you have a video to introduce into evidence, place the video on a thumb drive; bring the thumb drive and a device to play the video to the hearing or trial. If the video is admitted into evidence, the thumb drive will be retained by the Clerk's Office.
- d. **Please do not file or send your exhibits to the Clerk ahead of your hearing or trial.**

F. Setting Case for Trial:

- a. Any party may notice the Court that a case is ready to be set for jury or non-jury trial, if not already set by the Court on a date-certain or jury trial period.

G. Continuance Procedures:

- a. Motions for Continuance of trials are disfavored and will be granted only upon good cause shown. Successive continuances are highly disfavored. Lack of due diligence is not grounds for granting a continuance. Except for good cause shown, the motion must be signed by the party requesting the continuance, as required by Florida Rule of General Practice and Judicial Administration 2.545 (e).

H. Forms:

- a. Self-help forms may be found at:
 - i. <https://www.clerk.org/forms.aspx>
 - ii. <https://help.flcourts.gov/DIY-Florida>