

DIVISION 82 PRACTICES AND PROCEDURES

Judge Katherine Hurst Miller / County Court / Civil
JA Megan Johnson / mjohnson@circuit7.org / 386-257-6058
www.circuit7.org
(Last Updated: June 27, 2024)

Appearing Before the Judge / Remote Appearances

- Please check your notices carefully to see if you need to appear remotely or in person.
- Judge K. Miller requires in-person attendance in Hearing Room 305 of the Volusia County Courthouse Annex / Henderson Judicial Center, 125 East Orange Avenue, Daytona Beach, Florida 32115, for trials and evidentiary hearings, as well as docket soundings, unless permission is given to appear by Zoom in advance.
- Judge K. Miller uses both Zoom court and in-person court in Room 305 for all other hearings.
- Judge K. Miller does not hold hearings in hybrid format with both Zoom and in person, unless permission is given for hybrid appearances in advance.
- If you are unable to attend court in the manner listed on your notice, please file a motion with the Clerk of Court stating why you need a different arrangement and email the motion to mjohnson@circuit7.org in advance of the hearing. You do not have permission to appear differently than your notice unless the judge has signed an order in advance granting special remote/in person appearance.
- All Zoom hearings are assigned the following permanent Zoom ID number: 711 151 6899. Zoom can be accessed via app or by the website <https://zoom.us>. Persons appearing by zoom must have audio capabilities and are requested to have video capabilities. Please attempt to have your Zoom settings show your name. All participants shall be in appropriate attire and in an appropriate location. Zoom court is still court.

Setting Hearings

- Parties should, whenever possible, contact the opposing party before filing or upon receiving a motion 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.
- To obtain available hearing time, please contact Judicial Assistant Megan Johnson by calling (386) 257-6058 or by emailing mjohnson@circuit7.org (calling is preferred). Please include the case number, how much time is needed, and what motion(s) are being heard. If the matter may be heard at an abbreviated hearing, the short matters docket may be available.

Setting Hearings, Continued

- An attorney scheduling a hearing shall file a notice of hearing promptly and provide a copy to all opposing parties. The notice of hearing shall clearly indicate the following: the matter(s) being heard, the time reserved, whether the hearing is on zoom or in-person, and the date and time of the 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.

Canceling Hearings

- 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 notify the Judicial Assistant by calling (386) 257-6058 to cancel the hearing.
- Further, no hearing may be cancelled fewer than two (2) business days before the hearing, unless the case has settled in its entirety or an agreed order on the motion is submitted to the Court fully resolving the matters to be heard.

Cross Noticing Hearings

- Any party may cross notice the same matters at the same time as noticed by another party.
- Any party wishing to cross notice an additional matter for hearing should contact the party that initially set the hearing. If there is no objection, and time permits, the matter will be heard at the same time. If the opposing party objects, the party seeking to cross notice shall contact the Judicial Assistant and seek permission from the Court before cross noticing the matter. The cross notice of hearing should be filed with the Clerk of Court and provided to all opposing parties.

Unilaterally Scheduling Hearings

- Before scheduling any hearing, the party requesting the hearing time shall make good faith reasonable efforts to coordinate the date and time of the hearing with all opposing parties.
- If, after making good faith reasonable efforts, the party is unable to coordinate a mutually agreeable date and time, a party may then unilaterally schedule the hearing.
- The notice of hearing shall indicate that it is unilaterally scheduled, and the party (or counsel) must certify in writing that they have made good faith, reasonable efforts to coordinate the scheduling of the hearing with the opposing parties.

Division 82 Practices and Procedures

Communicating with the Judge's Office

- Due to ethical rules governing the Court, the Court (including the Court's Judicial Assistant) cannot have *ex parte* communications with only one party except under limited circumstances.
- Any party wishing to communicate with the Court regarding scheduling, should follow the procedures outlined above under "Setting Hearings."
- Any party wishing to communicate with the Court with questions about Division Practices and Procedures after reviewing these procedures in full, may contact Judicial Assistant Megan Johnson by emailing mjohnson@circuit7.org or by calling (386) 257-6058.
- All communications with the Court, other than scheduling or asking about Division Practices and Procedures, should be done in writing and filed through the Clerk of Court.
- Unsolicited letters, emails, or communications of any type should not be sent to the Court. The Court's Judicial Assistant is not permitted to relay to the Court the contents of any communications which would be considered improper *ex parte* communication with the Court. Any unsolicited communication may be returned to the sender or placed in the court file.

Submitting Proposed Orders

- Proposed orders should be submitted in Microsoft Word format using the Court's division email address: division82@circuit7.org. PDF orders will not be accepted. The division 82 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.
- If the proposed order is agreed and provided in lieu of a hearing, the email should indicate agreement and the title of the order should be "Agreed Order..." or "Unopposed Order..."
- If you are sending in a proposed ex-parte order compelling the production of discovery, you must comply with Administrative Order CV-2022-004-SC which requires providing written notice to the opposing party giving 10 days to provide discovery and attaching that notice to the motion to compel.
- If you have submitted a proposed order and it has not been entered within a reasonable time, you may inquire regarding the status by calling Judicial Assistant Megan Johnson by phone (386)257-6058. Please do not submit the same order multiple times.

Providing Materials in Advance of Hearings

- The Court will review motions set for hearing before the hearing. The Court welcomes the filing of additional memoranda of law or copies of legal authority (statutes, regulations, case law) the parties desire for the Court to review at least three (3) business days before the hearing. A copy must be sent to all opposing parties simultaneously.
- Instead of filing legal authority with the Clerk of Court, you may provide copies of cases by delivering a notebook to the courthouse or emailing copies to Judicial Assistant Megan Johnson mjohnson@circuit7.org. Using a highlighter on parts of the text does not work well for filings with the Clerk of Court, but it is extremely helpful in voluminous notebooks and emails.

Emergency and Other Urgent Matters

- Any party wishing to be heard on an emergency or other urgent matter shall file a motion indicating the emergency AND contact the Judicial Assistant Megan Johnson by calling (386) 257-6058 to schedule a hearing. For more information on scheduling hearings, see “Setting Hearings” section above.

Exhibits for Trial and Evidentiary Proceedings

- A document filed with the Clerk of Court is not an exhibit. The Court must accept your exhibits at a trial or hearing.
- No original exhibits should be filed with the Clerk of Court or the Court. Original exhibits must be kept by the party offering the exhibit and brought to the trial or hearing. No party shall electronically file exhibits with the Clerk of Court, including through the E-Portal.
- The Court will keep the original exhibits entered into evidence at trials and hearings. Please bring two (2) additional copies, one for you to keep, and one to give to the opposing party.
- Parties may submit courtesy copies of any exhibits with the Court by emailing them to Judicial Assistant Megan Johnson at mjohnson@circuit7.org, and a copy must be sent to all opposing parties simultaneously.
- Any voluminous exhibits (over 50 pages total) must be printed and delivered to the Court’s chambers in lieu of emailing.
- Parties are encouraged to pre-mark original exhibits by labelling them with an “A,” “B,” etc. prior to any trials or hearings.

Exhibits, Continued

- The Court will not accept texts, photos, or videos that are only available on a cell phone, tablet, or laptop. You must print off copies of texts or photos. You must save videos to a flash drive. It is recommended that you bring a laptop to the trial or hearing with you to help display videos on the flash drive, and then leave the flash drive with the Clerk of Court.

Small Claims Pretrial Conference

- If attorneys wish 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.

Setting A Case for Trial

- Non-jury trials will be set for a date certain trial by the Court.
- Jury trials shall be scheduled for a docket sounding date. Docket Sounding will typically occur the week before the scheduled trial week.
- Jury trials are conducted at least quarterly.
- Jury selection occurs on Monday of the trial week, and the trial will occur on a date(s) the same week to be determined by the Court, depending on the number of cases to be tried that week.
- Parties should advise the Court of any scheduling conflicts at the docket sounding.
- All trial counsel must attend docket sounding in person, bringing with them their calendars and the availability of all important witnesses for the trial week.

Preferred Division Forms

Small Claims Pretrial Conference Responses Stipulation, Request to Waive Appearance, and Order
Small Claims Stipulation and Order Approving Stipulation
Small Claims Consent to Judgment

Other Division Procedures

No other division procedures apply currently.