IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT,
IN AND FOR ST. JOHNS COUNTY, FLORIDA

PRACTICES AND PROCEDURES STANDING ORDER FOR CIVIL CASES IN DIVISION 55

The following practices and procedures apply to all civil cases pending in Division 55. These procedures are designed to assist the parties in having their cases handled as efficiently as possible. If you have questions regarding the requirements set forth herein, please contact the judicial assistant for the division at smiller@circuit7.org or (904) 827-5600. Email communication is preferred.

1. Communication with the Court:

A. All communications with the judicial office 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.

B. Do not include the judicial assistant in emails between parties that do not request action from the judicial office. Unnecessarily including the judicial assistant in email exchanges between the parties may result in sanctions.

C. When communicating with the judicial office please be cognizant that there are several thousand cases pending in this division at any given time and the judicial office 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.

D. The judicial assistant is not permitted to provide legal advice.

2. Orders on Unopposed Matters: Orders on consented matters which do not need a hearing may be forwarded to the Judge. The motion and proposed order must specify within the body that the relief sought has been agreed to by all parties. The order must be submitted electronically utilizing the procedures set forth below in paragraph 6. Just because a matter us unopposed does not mean the order will automatically be entered. The Court will review each unopposed motion to determine if the relief is appropriate.

3. Orders on Motions that may not require hearings: The Court may consider the following motions without a hearing:

A. Motions to Cancel Foreclosure Sales: The Court will consider motions to cancel or reschedule foreclosure sales, only if the following requirements are met: (a) the written motion is received by the Court no less than five (5) business days before the scheduled sale date and served on all parties; (b) the motion must contain specific facts setting forth the reasons for the postponement; and (c) the motion must have supporting documentation attached (e.g. sales

contract, loan modification information, etc.). Motions will not be granted as a matter of right and will only be granted on a limited basis upon a determination of good cause.

B. Motions to Withdraw by Counsel: Counsel may seek withdrawal from representation upon filing of an appropriate motion. Notice must be provided to all parties and their client. The motion must set forth the reasons for withdrawal and the client's last known address. If the client does not consent to the withdrawal in writing, a hearing will need to be scheduled.

C. Motions to Substitute Counsel: Motions to substitute counsel must comply with Fla. R. Gen. Prac. & Jud. Adm. 2.505 and contains the client's written consent.

4. Motions to Compel Discovery:

A. Unless there has been a complete failure to respond or object to written discovery requests, motions 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. If there has been a complete failure to respond to discovery requirements, a party may utilize the procedures in Seventh Judicial Circuit Administrative Order CV-22-004-SC to obtain an order compelling discovery without a hearing.

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 merit may result in sanctions, in accordance with Fla. R. Civ. P. 1.380.

5. Hearings:

A. Scheduling Hearings

i. All hearings need to be coordinated among all counsel and scheduled through the Benchmark internet scheduling system. Instructions for using Benchmark can be found on the Judge's webpage at www.circuit7.org. **Hearings may not be scheduled on the Court's calendar less than 10 days before the scheduled hearing date without the Court's consent.**

ii. No hearing shall be scheduled on motions that have not yet been filed. Hearings scheduled on unfiled motions will be stricken. Parties are encouraged to file one Notice of Hearing identifying all matters to be heard during the scheduled hearing block. A Notice of Hearing must be filed *immediately* upon securing hearing time.

iii. ***No hearing may be scheduled for longer than one hour on Benchmark.*** Any hearing requiring more than one hour may only be scheduled through the judicial assistant. If a hearing is scheduled for more than one hour without prior authorization from the Court, the hearing will be stricken.

iv. Multiple motions in the same case may not be scheduled at non-sequential times throughout the same day. Hearings scheduled in this manner will be stricken.

v. Counsel must assure that enough time is reserved to allow for arguments by all parties. All parties will receive equal time during hearings. Hearings scheduled with insufficient time to hear all parties' arguments may be stricken and continued until sufficient time is available. The Court strictly enforces the time limits for the hearing in order to assure all hearings to follow will receive the time set aside for those hearings.

vi. Other parties in a case are not permitted to notice a hearing on a different motion at the same time as the scheduled hearing without the consent of the party that reserved the time. Hearings set in such a manner will be stricken.

vii. Parties having difficulty securing available hearing time are urged to frequently check Benchmark for available hearing time, since the Court's hearing schedule is frequently changing due to hearing cancellations.

B. Chambers Copies of Motions: If the motion(s) scheduled for hearing exceed(s) 15 pages, including attachments, the movant shall submit a chambers copy, in hard copy, of the motion(s) and attachments to the Court, which must be received by the Court ***no later than ten (10) business days prior to the hearing.*** Failure to timely submit a chambers copy of the motion as directed herein may result in cancellation of the hearing, or the Court's inability to review the motion prior to the hearing, due to the Court's busy hearing and trial schedule.

C. Legal Memoranda: If parties desire to submit legal memoranda, or responses in oppositions to motions upcoming for hearing, in addition to filing the memoranda or response, ***regardless of length a chambers copy must be delivered to the judge no later than ten (10) business days prior to the hearing***. Responses or memoranda in opposition to motions are not required unless mandated by the Florida Rules of Civil Procedure. Responses or memoranda in opposition to motions shall not exceed twenty (20) typewritten pages without leave of Court. Replies to responses in opposition to motions are not permitted absent leave of Court. Untimely submissions or submissions not delivered to the Court will not be considered, due to the Court's busy hearing and trial schedule.

D. 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 will be summarily denied. A non-movant's purposeful failure to respond to conferral attempts will be considered consent to the relief sought.

E. Hearing Cancellations: If a hearing is cancelled, a Notice of Cancellation must be filed ***and*** the judicial assistant must be ***immediately*** notified of the cancellation so the time may be made available for litigants in other cases. Only the party that scheduled a hearing may cancel that hearing. If a hearing was set by order of the Court it may not be cancelled without the Court's consent.

F. Court Reporters: Parties arranging a court reporter for attendance at a hearing must assure the court reporter meets the requirements set forth in Seventh Judicial Circuit Administrative Order G-23-041-SC. Court reporters not satisfying these requirements will not be

permitted to report the proceedings, but the hearing will proceed as scheduled. Court reporters must appear in person if counsel for the parties appear in person, to assure the court reporter can hear all the participants.

G. Emergency Motions: Emergency hearings must be requested by written motion, setting forth in the introductory or first paragraph the reasons why the matter is considered an "emergency," and the amount of time needed for a hearing on the motion The request must be delivered to the Judge's chambers. Generally, emergencies exist where persons or property face the threat of imminent harm without court intervention. Hearings on emergency motions will be unilaterally scheduled by the Court and must be attended in-person by counsel and necessary witnesses, unless the Court permits otherwise. The unwarranted designation of a motion as an emergency will result in summary denial of the motion and may result in additional sanctions.

H. In-Person and Remote Appearances: All hearings regardless of the number of matters to be heard, scheduled for one hour or longer or that are evidentiary must be attended in-person. Sequential hearings that collectively are scheduled for a total of one hour or more must be attended in-person. Non-evidentiary hearings scheduled for less than one hour may be attended in person or through audio-video communication technology, as defined in Rule 2.530(a)(2), Fla. R. Gen. Prac. & Jud. Admin.

I. Remote Appearance Zoom Procedures: Audio-video communication technology is conducted using the Zoom platform. Zoom is accessible via the Court's Zoom meeting number 328 827 5617; no password is required. The following shall be strictly adhered to during authorized appearances made over Zoom:

i. Hearings conducted on Zoom are official court proceedings, and proper courtroom decorum must be followed, ***<u>including appropriate courtroom attire</u>***.
ii. Unauthorized recording of Zoom proceedings is not permitted.
iii. If a court reporter is present they must meet the requirements in Seventh Judicial Circuit Administrative Order G-23-041-SC.
iv. Participants shall not move their device around during the Zoom proceedings.
v. Participants shall limit distractions during the hearing. Find a quiet place to participate in the hearing.
vi. All participants shall assure, that they are properly identified by name. Zoom identifiers such as "iPhone" are insufficient.
vii. Participants who interrupt the proceedings or create a distraction, will be disconnected.
viii. Under no circumstances will a participant be permitted to appear remotely while driving a vehicle.
ix. Persons connecting to the Zoom hearing after the hearing has begun may not be admitted into the hearing.

J. Hearing Notices: All notices of hearing must identify the hearing room or courtroom where the hearing will take place and shall not indicate the hearing is a remote hearing. For non-evidentiary hearings scheduled for less than one hour, the notice shall additionally specify "parties and/or counsel may appear by Zoom in lieu of in-person appearance and must strictly adhere to

the Zoom attendance guidelines." An example of a proper notice of hearing can be found on the Court's website. All notices of hearing must contain the ADA notification required by Fla. R. Gen Prac. and Jud. Admin. 2.540. Notices of Hearing scheduled for one hour or more, or evidentiary in nature, shall not contain Zoom information.

K. *Request for ADA accommodation and/or Interpreter Services*: Request for ADA accommodations and/or interpreter services must be made by contacting Court Administration at (386) 257-6096, at least 7 days before the scheduled court appearance, or immediately upon receiving notification if the time before the appearance is less than 7 days.

6. Submission of Proposed Orders:

A. All proposed orders must be sent to the Court electronically by email at division55@circuit7.org. The subject line of the email must state "Proposed Order," and include the case style and case number. The proposed order must be an attachment to the email in Word format. Proposed orders must not be filed through the e-filing portal. Do not send proposed orders in pdf format.

B. Executed orders will be served upon counsel of record in the case at their designated email addresses; thus, it is imperative that all counsel keep their email addresses up to date. Unrepresented parties will receive the executed orders at their email address. Unrepresented parties who have been excused from designating an email address will receive orders through the mail.

C. Proposed orders following a hearing at which the judge announced a ruling and directed a party to submit a proposed order shall be submitted to the Court within ten (10) days of the hearing, unless the judge directed otherwise. Prior to submitting the proposed order it must be presented to opposing counsel. The email to the Court with the attached proposed order must indicate that the proposed order has been shown to opposing counsel for review and whether opposing counsel agrees to its content.

D. Proposed orders following a hearing at which the judge did not announce a ruling shall only be submitted if the Court requested the parties to do so.

7. Case Management Conferences: Unless a case has already been set for trial, all cases will be scheduled for a case management conference approximately five months after the case was filed. Case management conferences are conducted in accordance with Fla. R. Civ. P. 1.200(j). Parties or their counsel may appear in person or by Zoom for case management conferences. Counsel appearing in-person will have their cases called first. Failure to appear at a case management conference may be sanctioned as set forth in Fla. R. Civ. P. 1.200(j)(6). Cases will be scheduled for trial at the case management conference in accordance with the time standards set forth in the Court's Uniform Case Management Order. Parties may not schedule hearings on motions for the same time as the case management conference. Parties or their counsel are directed to carefully read the order setting case management conference to understand the Court's expectations.

8. Setting Cases for Trial: Parties seeking to set a case for trial do not need to schedule a hearing with the Court but should file a Notice of Trial that complies with Fla. R. Civ.

P. 1.440. A copy of the Notice must be sent to the Judge's chambers. If a specific trial term is agreed to by the parties, the Notice should so specify. 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.

9. **Motions for Summary Judgment:** Motions for summary judgment, and responses thereto, shall strictly adhere to the time requirements in Fla. R. Civ. P. 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.

10. **Motions to Continue Trials**: 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. No continuance is granted as a matter of right and the parties should not assume that a continuance will be granted, even if all parties consent. Motions to continue trials are disfavored and rarely granted. Lack of due diligence in preparing for trial is not good cause to continue a trial.

11. **Settlements:** If a case set for trial settles, counsel must notify the judicial assistant.

12. **Witness Testimony by Audio-Video Communication Technology:** All witness testimony at hearings or trial shall be in-person unless otherwise authorized by Court order. If a party seeks to have a witness testify via audio-video communication technology, a motion must be filed that complies 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.

13. **Trials:** 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. Counsel shall stand when court is opened, recessed, or adjourned, the jury enters or retires from the courtroom, addressing or being addressed by the Court, examining witnesses, or making objections.

B. All objections and remarks shall be directed to the Court, and not to opposing counsel. Disparaging personal remarks or acrimony toward opposing counsel will not be tolerated. Refer to all persons (including witnesses, other counsel, and parties) by their surnames, not by their first names. Exceptions may be made in the case of children.

C. Counsel making objections shall state only the legal grounds for the objections, withholding further comment or argument unless requested by the Court. Speaking objections (other than legal basis) are not permitted. The proponent of the question should not make argument regarding the objection unless the Court requests a response.

D. Any paper or other tangible object not yet received into evidence shall be marked for identification by the clerk and shown to opposing counsel before tendered to a witness.

E. All exhibits must be pre-marked for identification by the clerk ***before trial***. Exhibits marked for identification shall be identified by letter. Exhibits will be assigned a number upon admission into evidence.

F. One attorney for each party shall examine or cross-examine any one witness. The attorney who examines or cross-examines shall make any objections.

G. Offers or requests for stipulations must be made outside the presence of the jury. Suggestions of counsel relating to the comfort or convenience of jurors must be made outside the presence of the jury.

H. Do not ask the Court to declare a witness to be an expert, or "tender" a witness as an expert.

I. Motions in limine 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).

J. 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 jury instructions and verdict forms.

K. Counsel for the Defendant shall bring enough standard letter size (8x11) pads, envelopes to hold the pads, and pens, for each of the jurors, including alternate juror(s), to be used for juror note taking.

L. Prior to jury selection, counsel for all parties shall confer and generate **one joint set** of jury instructions for use at the charge conference. Instructions that are agreed upon shall be so designated; instructions not agreed upon should be labeled as the Plaintiff's or Defendant's requested instructions within the **joint** set. Citations to the source of the instructions should be noted therein. Plaintiff's counsel (unless Plaintiff is unrepresented, in which case defense counsel) is responsible for creating the **joint** set of proposed instructions. The **joint** set of instructions should be given to the Court on paper and electronically (e.g. flash drive, email, etc.) in Word format. Proposed verdict forms should be submitted the same way.

M. Counsel and parties shall be prepared to try their cases anytime during the scheduled trial term.

N. Please refer to the trial order and Uniform Case Management Order for additional requirements and deadlines.

DONE AND ORDERED in St. Augustine, St. Johns County, Florida.

/s/ Howard M. Maltz
Circuit Judge

Rev. 10/26