

19th JUDICIAL CIRCUIT'S CIVIL DIVISION PROCEDURES
(02/06/02)
(www.circuit19.org)

SENDING COPIES OF HEARING NOTICES AND MOTIONS

Copies of all hearing notices and the relevant motions must be sent to the Court's Judicial Assistant in advance of the hearing date. THIS INCLUDES UNIFORM MOTION HEARINGS. Please do not send copies of pleadings on matters that are not set for hearing.

CERTIFICATION OF SETTLEMENT EFFORTS AND TIME REQUIRED

All notices of hearing must contain a certification signed by the attorney who set the hearing in substantially the following format:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s). However the matter has not settled. A hearing is necessary. A good faith estimate of time agreed upon by the parties to have the matter heard is ____ minutes/hours.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future are NOT sufficient. THE CONTACT BETWEEN COUNSEL MUST BE PERFORMED PERSONALLY IN AN EFFORT TO RESOLVE DIFFERENCES. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement, may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar. Any hearing not concluded within the allocated time may be continued. The Court

will take into consideration attorneys dealing with pro se litigants and defaults.

MOTIONS

Due to jury management constraints, motions in limine, and motions for summary judgment will NOT be heard by the Court on the day of trial, absent extraordinary circumstances.

All rule 1.140 motions, including motions to dismiss for (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a cause of action, and (7) failure to join indispensable parties, shall strictly comply with the requirements of Rule 1.140(b) in that the grounds on which they are based and the substantial points of law intended to be argued shall be stated specifically and with particularity. Motions for more definite statement and to strike shall be filed in compliance with the provisions of Rule 1.140. Copies of motions shall be served upon all other known parties. Originals shall be filed with the Clerk. The moving party shall furnish a copy of the motion to the Court's Judicial Assistant and certify compliance. The motion shall be accompanied by stamped, addressed envelopes for all counsel of record or other parties entering an appearance. A generic order granting/denying the motion, with at least five lines for additional provisions and a transmittal letter showing copies to all counsel of record and unrepresented parties, shall be included. If the moving party fails to comply, any party may furnish a copy of the motion and required documents to the Court. The motion is subject to being ruled upon without hearing. If the Court determines that a

hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. No case dispositive ruling will be made without hearing.

UNIFORM MOTION CALENDAR

Pursuant to Administrative Order 94-10 (see attachment), the Court will conduct a Uniform Motion Calendar (UMC). Except for holidays, emergencies, vacations, and other necessary matters, As of January 2, 2002, UMC will be held Tuesday, Wednesday and Thursday from 8:45 A.M. to 9:30 A.M.. All UMC matters should be noticed for 8:45 A.M.. For cases assigned in Okeechobee County, you should contact the Court's Judicial Assistant for the UMC schedule or look on the 19th Judicial Circuit web site at www.circuit19.org. The Court will strictly follow the limitations and conditions contained in the Administrative Order. COPIES OF ALL HEARING NOTICES AND RELEVANT MOTIONS MUST BE SENT TO THE COURT'S JUDICIAL ASSISTANT IN ADVANCE OF THE HEARING DATE. When you attend UMC you must sign up on the sign-in sheet which will be posted outside the courtroom each day. Normally, UMC will be heard on a "first-come, first-served" basis. HEARINGS ON UMC ARE STRICTLY LIMITED TO 10 MINUTES PER CASE! Any case law or statutes to be relied upon at UMC shall be submitted to the Court no later than 3:00 p.m. on the day preceding the hearing with relevant portions highlighted.

After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with a hearing when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over

until the end of the calendar. However, if the Judge runs out of time on UMC, the hearing may have to be rescheduled. Counsel who filed the motion shall bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) and sufficient copies with self addressed and stamped envelopes for all parties. Failure to bring same to the hearing will result in using a Court provided order which will be executed by the Court and filed with the Clerk. Counsel who filed the motion will be required to go to the clerk's office to obtain copies for all the parties at a charge to be set by the Clerk's office. If you want the court file at the hearing you must request it from the Clerk's office.

TELEPHONE HEARINGS

The Court will conduct telephone hearings. These must be non-evidentiary unless prior court approval has been obtained. Telephone hearings will be conducted during UMC without prior court approval. All telephone hearings must be arranged through Court Call, either by the party setting the hearing who wishes to appear by telephone, or by any adverse party wishing to appear at a hearing by telephone. Court Call requires 5 business days notice of telephone hearings. To make arrangements to attend by telephone, you must call the Program Administrator for Court Call at the following Toll-free number: 1-888-882-6878. The Court will not be responsible for conferencing the telephone appearances by anyone and you shall not call the Court's Judicial Assistant to arrange a telephone appearance. Court Call will provide the Court with a schedule of telephone appearances for hearings properly scheduled. If you decide to attend the hearing by telephone and you

are the movant, you must assure the required proposed orders and documents are furnished to the Court no later than the time of hearing.

EMERGENCY MOTIONS

Copies of any “emergency” motions must be sent to the Court for review to determine if a hearing will be granted on an expedited basis, unless clearly mandated under the procedural rules or statutory law. You will be notified whether the motion will be handled on an expedited basis or on the Court’s normal hearing calendar. Please limit requests for emergency hearing time to bona fide emergencies.

REQUIREMENTS FOR COURT REPORTERS

All evidentiary matters (both trials and hearings) must be recorded by a court reporter. It is the moving party’s responsibility to supply the court reporter.

INITIAL DISCOVERY VIOLATIONS

Pursuant to Administrative Order 94-10, the Court will issue ex parte enforcement orders for initial discovery violations.

WITHDRAWAL OR SUBSTITUTION OF COUNSEL

You must follow the provisions of Florida Rule Of Judicial Administration 2.060. You must obtain the client’s consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.

CANCELLATION OF HEARINGS

If you no longer need a scheduled hearing for a motion and it has not been cross noticed by any other party, please cancel it with the Court's Judicial Assistant and notify the opposing party or parties in a timely fashion.

DEFAULT SUMMARY JUDGMENTS

UMC is available to pursue a summary final judgment for liquidated damages including attorney's fees and costs after default based upon a proper motion with supporting documentation unless a party appears at UMC to contest it. If that occurs, the Court will set an evidentiary hearing/trial on such matters as may be necessary and proper. Please note Administrative Order 94-10 regarding having the file present at any hearing of this type.

MEMORANDUM OF LAW

Counsel shall file memorandum of law and send a copy to the Court's Judicial Assistant not later than 3:00 p.m. on the Friday preceding the hearing date. There is no need to file , fax, or deliver memoranda later than that Friday. Memoranda should be brief and to the point. Relevant parts of any case law or statutes submitted should be highlighted.

SUBMITTED PAPERWORK TO COURT

Please submit proposed orders, agreed orders, or stipulations with sufficient copies for all parties and a stamped, self-addressed envelope for each (if postage is insufficient they will be returned). Do not put “cc: all counsel of record” at the bottom of the order; each party is to be individually named. Do not staple the return envelopes to the copies of the orders.

The Court will not execute proposed orders, agreed orders, or stipulations without a cover letter stating the action requested, that a copy was provided to all counsel of record and unrepresented parties, and stating that there are no objections. If there is an objection to a proposed order, the matter will have to be set for hearing unless otherwise resolved by the Court. If the proposed order was a result of a prior hearing on a motion and an objection is raised, the Court may impose sanctions on the party not in compliance with the original Court ruling. The Court will not sign any pleading styled as “Order” only. See Florida Rule Of Civil Procedure 1.100(c)(1).

When you send a notice for trial, please submit two complete sets of return envelopes. If the case is dismissed after filing a Notice for Trial, notify the Court’s Judicial Assistant. DUE TO THE LENGTH OF THE TRIAL ORDER, PLEASE BE SURE THAT EACH ENVELOPE HAS ENOUGH POSTAGE FOR TWO OUNCES OR THE TRIAL NOTICE WILL BE RETURNED.

CORRESPONDENCE WILL NOT BE CONSIDERED UNLESS THE LETTER CLEARLY REFLECTS THAT A COPY HAS BEEN SENT TO ALL COUNSEL OF RECORD AND ANY PARTY WHO IS UNREPRESENTED.

Proposed orders sent to the clerk will not be acted upon. If you desire action by the

Court, you must send the original to the Court's Judicial Assistant in full compliance with these procedures.

Ex Parte motions will not be heard unless specifically authorized by Florida Statute, Florida Rules of Civil Procedure, Canon (3)(B)(7) of the Code of Judicial Conduct, and/or 19th Judicial Circuit Administrative Orders.

TRIAL ORDERS AND DOCKETS

The Court will provide attorneys and pro se litigants with a trial docket at scheduled docket calls. It will be the responsibility of the attorneys and pro se litigants to determine their position on the trial docket following docket call. Please note that cases set for trial will remain on the trial docket until the case is concluded. The cases will retain their priority.

FACSIMILE TRANSMISSIONS

Do not send materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. The only things to be sent by facsimile are emergency matters and materials requested by the Court.

VACATIONS AND SEMINARS

You should advise of your conflicts or vacation and seminar plans at docket call. The Court will attempt to honor reasonable requests that are timely and of which the client have notice.

SETTLEMENT OF CASES

If, after you have received an order setting a case for trial, the case should settle, please notify the Court's Judicial Assistant by telephone followed by a letter advising of the settlement. This also applies to cases which are subsequently placed on the trial docket.

MORTGAGE FORECLOSURES

Make sure you provide the Court with the CORRECT case number. Go back to one of the original summons issued by the Clerk. Don't rely on subsequent pleadings which often transpose or drop numbers.

Provide the Court with the full name of the ORIGINAL plaintiff, as well as the CURRENT plaintiff. DO NOT use initials or your office "shorthand." Problems have arisen when the note and mortgage get reassigned during the case and a new plaintiff is substituted and when you designate the Plaintiff by initials or the "shorthand" used in your office.

DO NOT give the Court the name of your forwarder, mortgage servicing agent or similar entity as the plaintiff. This is a frequent problem and has caused confusion, especially when the Court is given the wrong case number or there has been a substitution of plaintiff.

Make sure you give the Court the full and correct name of the first defendant listed in the original complaint, even if that person has been dismissed, dropped or changed. Spell any unusual names to the Judicial Assistant.

Tell the Judicial Assistant if the hearing reschedules, cancels or amends another

hearing in the case. The Court has frequently experienced the problem of having the same type of hearing in the same case scheduled one or two weeks apart.

Call the Judicial Assistant immediately to advise if a scheduled hearing is canceled for any reason. Hearing time is at a premium.

AFTER SUMMARY JUDGMENT HEARING IS SCHEDULED

Follow the Rules of Civil Procedure! File your motion, with supporting affidavits, notice of hearing and ORIGINAL PROMISSORY NOTE AND MORTGAGE with the Clerk at least TWENTY (20) DAYS prior to the hearing. DO NOT send them to the Judge's office or send them at the same time as your proposed final judgment. DO NOT send the proposed final judgment, notice of sale, etc., with your motion.

At foreclosure hearings, please provide a fully completed proposed final judgment of foreclosure, filling in all amounts other than attorney fees and costs.

If you intend to have the proposed final judgment, notice of sale, etc., available at the time of the summary judgment hearing, send them under separate cover at least TEN (10) DAYS prior to the hearing. DO NOT send the original note and mortgage with the proposed final judgment. Those should be filed with your motion. The proposed final judgment shall contain the location where the sale is to take place and shall be sent to the Clerk's office, attention foreclosure clerk, with a cover memo stating the date of the hearing, requesting that it be held on the inside cover of the court file until the hearing. DO NOT send them to the Judge's office. DO NOT send them a day or two prior to the hearing, even if by Federal Express or similar methods.

Please review the hearing procedures above for instructions on arranging for telephone hearings through Court Call. The Court does not coordinate or conference

telephone hearings.

Send enough addressed, stamped envelopes. One set shall be sent for mailing the final judgment. Three separate sets shall be sent for the notice of sale, certificate of sale, and certificates of title and disbursements.

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT IN AND FOR
MARTIN, ST. LUCIE, INDIAN RIVER AND OKEECHOBEE COUNTIES

IN RE:

Uniform Motion Calendars and Ex Parte
Discovery Enforcement in the General
Circuit Civil Division

_____ /

ADMINISTRATIVE ORDER NO. 94-10

It has been determined by the Judges within this Circuit that certain motions filed in the General Circuit Civil Division may be considered in a more expeditious manner and that there would be a substantial benefit to the Judges, attorneys and parties if uniform procedures were adopted so as to expedite these matters. It is therefore, pursuant to Rule 2.050, Florida Rules of Judicial Administration;

ORDERED AND ADJUDGED as follows:

1. Every Judge assigned to the General Circuit Civil Division has the authority to establish, maintain, and enforce a Uniform Motion Calendar, and to enter Ex Parte orders enforcing discovery pursuant to the terms of this Order.

2. If a Judge decides to establish a Uniform Motion Calendar, the following requirements shall be followed.

A. Prior to setting a matter on the Uniform Motion Calendar, the party or attorney noticing the motion shall attempt to resolve the matter and shall certify the good faith attempt to resolve in the notice of hearing.

B. Hearings are strictly limited to ten (10) minutes per case. If two parties, each side is allowed five (5) minutes; if more than two (2) parties, time will be allocated by the Judge. The time limitation shall include the time necessary for the Judge to review documents, memorandums and cases.

C. Except for default and final judgments matters, the court file will not be available at the Uniform Motion Calendar. The moving party shall furnish to the Judge, at the hearing (unless the presiding Judge orders the copies be delivered at an earlier date), a copy of the motion to be heard and the notice of hearing. All parties shall also furnish to the Judge copies of all documents, pleadings or citations which they desire the Judge to consider.

D. Counsel shall not schedule motions on the Uniform Motion Calendar with the Judge's Judicial Assistant, but shall send written notice and a copy of the motion to opposing counsel (or parties if under represented) in accordance with the applicable rules of procedure in default and final judgment matters ONLY a copy of the notice of hearing and a copy of the motion to be heard shall be DELIVERED to the Clerk, marked "ATTENTION UNIFORM MOTION CALENDAR", at least four (4) business days before the hearing. The Clerk shall bring to the file to the hearing. However, this requirement should not be construed as otherwise deviating from proper notice requirements set forth in procedural or statutory mandates.

E. Any party requesting relief shall bring to the hearing and furnish the court with a prepared, proposed form of order and sufficient copies with stamped addressed envelopes for all parties.

F. A sign-up sheet shall be provided in the courtroom and the sequence of hearings will be set by the Judge, in consultation with the bailiff and Clerk, in the order of appearance of the first party. Failure of any party to appear shall not prevent a party from proceeding with a hearing when the case is called. If a party called for hearing chooses to wait for the absent party, the matter may be passed over until the end of the motion calendar. However, if the Judge is out of time, the issue may be continued.

G. No testimony shall be allowed at Uniform Motion Calendars.

H. The presiding Judge has absolute discretion in the administration of the Uniform Motion Calendar.

I. Failure to comply with procedure designated in this Order may result in the hearing being stricken from the docket.

3. When a motion to compel alleges a complete failure to respond or object to discovery, and there has been no request for extension, an Ex Parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The movant shall submit the proposed order with sufficient copies and self addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to the opposing counsel.

4. This Order shall remain in effect until further Order of this Court.

5. Each of the respective Clerks within this Circuit shall appropriately file and record

this Order and implement procedures to comply with it.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this 9th day of December, 1994.

/s/ Paul B. Kanarek

Paul B. Kanarek

Acting Chief Judge

Copies To: All Circuits and County Judges

All Court Clerks

All Local Bar Associations within this Circuit

Court Administrator