



19th Judicial Circuit Court Judge Elizabeth A. Metzger
Guidelines and Procedures

Circuit Civil Non-Jury Division

(Updated: June 28, 2022)

(Please note these guidelines and procedures pertain to all civil non-jury cases in Martin County, excluding residential foreclosure cases. Procedures pertaining to residential foreclosure cases are set forth within a separate document posted on circuit19.org)

PLEASE REVIEW ALL PROCEDURES PRIOR TO CONTACTING THE JUDGE'S
OFFICE

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COMMUNICATIONS WITH JUDGE’S OFFICE: Please do not ask the Judicial Assistant or other Court personnel to communicate any message to the Judge. This is prohibited ex-parte communication. The Court’s staff is not permitted to relay ex-parte information to the Judge. This office can best respond to all communications via e-mail to: sedas@circuit19.org. E-mails must contain the case name, case number, subject matter and relevant date(s). Please ensure that all e-mails are also copied to all opposing counsel and/or *pro se parties* and indicate same in the body of your e-mail to prevent ex-parte communication to the Court.

PAPERLESS OFFICE: This office is paperless. Therefore, all correspondence, motions, hearing materials, etc. should be sent by EMAIL in PDF format to the Judicial Assistant at sedas@circuit19.org. Although discouraged, if you lack the ability to transmit documents by email, you may deliver or mail hard copy documents. Hearing materials should be provided to the Court at least five (5) business days before the hearing. Lengthy materials submitted in the form of tabbed PDF electronic binders are greatly appreciated. Highlighting pertinent sections and brevity is appreciated. Alternatively, lengthy submissions may be mailed or delivered to the Judicial Assistant on a flash drive. Please do not mail binders or hard copies of hearing materials. An electronic copy of the submission, including any flash drive, must be simultaneously provided to all other parties.

Case law and memorandum provided to the Court during the hearing may not be considered.

ORDER PREPARATION & SUBMISSION: Proposed orders must be submitted in Microsoft Word format. Proposed order’s title must describe the subject and ruling of the Court, *i.e.* “Order Granting Plaintiff’s Motion for Partial Summary Judgment on Liability”, and shall contain the name and e-mail service address for all parties. *See*, Fla.R.Civ.P., Rule 1.100(c)(1). If any party does not have an e-mail service address, that party’s physical service address shall be contained in the proposed order and it must be noted that the moving party shall serve each party who does not have an email address and file a certificate of such service.

It is preferred that you send your proposed orders by email in advance of the hearing date to the Court’s Judicial Assistant.

If counsel is asked to prepare an order, the order shall be drafted and circulated within 2 business days of the hearing, and submitted to the Court via e-mail to the Judicial Assistant, with a transmittal letter confirmation to all counsel and *pro se parties* within 7 business days of the hearing, advising the Court in writing of any objection to the form of the proposed order. The Court will not execute proposed orders, agreed orders, or stipulations without transmittal confirmation to all counsel of record and *pro se parties*. The transmittal letter shall be authored by counsel of record versus an office paralegal or other staff. All proposed orders shall have the following language under the service list:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL:

(Include the parties with email addresses below this paragraph)

PLAINTIFF’S/DEFENDANT’S COUNSEL SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE: (Include the parties with physical addresses below this paragraph)

COURT REPORTERS: Fla. R. Jud. Admin. 2.535(b) requires that the party requesting a court reporter must arrange for and pay the reporting fees for any hearing or trial. This requirement shall not preclude taxation of costs as authorized by law.

SETTLEMENT OF CASES: If your case settles, immediately notify the Judicial Assistant via e-mail, with transmittal confirmation to all parties, ATTACHING AN ALREADY E-FILED NOTICE OF SETTLEMENT, DISMISSAL DOCUMENTS AND FINAL DISPOSITION FORM.

A. PRETRIAL PROCEDURES

COMPLIANCE WITH AO 2021-05 MANDATORY/ CIVIL CASE MANAGEMENT AND

RESOLUTION: Please see [Administrative Order 2021-05](#); **Compliance is required.** The party initiating a civil action in this division must serve a case management plan and order with the summons and complaint. A fillable case management order is available on Judge Metzger's web page. The complete case management plan and order must be submitted to Judge Metzger by Plaintiff/Plaintiff's counsel for final approval no later than thirty (30) days after the last defendant is served with the complaint. For cases filed before April 30, 2021, the completed case management plan and order must be submitted to Judge Metzger by Plaintiff/Plaintiff's counsel for final approval no later than December 3, 2021. For cases subject to a statutory stay or moratorium that prevents prosecution of the case, the completed case management plan and order must be submitted to Judge Metzger by Plaintiff/Plaintiff's counsel within forty-five (45) days after the stay or moratorium ends or within thirty (30) days after service of the complaint or the last of all defendants (whichever date is later).

HEARING SCHEDULING: All motions must be e-filed PRIOR to setting a hearing, however, the mere filing of a motion is insufficient to set a motion for hearing. The motion must be set for hearing to bring the matter to the Court's attention. Provide the Judge's office with the notice of hearing and hearing packet via e-mail only.

Uniform Motion Calendar (5-10 minute, non-evidentiary hearings) and Special Set Hearings (1 hour or less) must be scheduled online by counsel. All UMC hearings must be noticed for 9 a.m. Please refer to Judge Metzger's on-line calendar to confirm and schedule available dates. Parties will be restricted to the time allotted for the hearing. Attorneys who repeatedly abuse the online scheduling requirements may be denied further privileges of self-scheduling. Any hearings requiring more than 1 hour must be scheduled by contacting the Judicial Assistant via e-mail, with the attached copy of the Motion already e-filed with the Clerk, and a statement explaining exactly why more than 1 hour is needed.

Telephone hearings are permitted for UMC. Telephone hearings are also permitted for motions for summary judgment or any non-evidentiary special set hearings. At this time, telephone appearances will be permitted at docket call and case management conferences. All evidentiary hearings and trials will be conducted in person, in the courtroom, as the court cannot efficiently or effectively conduct such proceedings remotely. All telephone appearances must be arranged by contacting Courtcall at least three (3) business days in advance at: 888-882-6878 or online at www.courtcall.com. Courtcall will provide participants with a written confirmation of their telephonic appearance and a number to call to make said telephonic appearance. Persons electing to make a telephonic appearance must notify all parties in writing no less than three (3) business days prior to the scheduled hearing date.

Hearings on UMC are limited to ten (10) minutes per case (not per motion). Additional motions may not be "piggy-backed" by cross-notice unless counsel first confirms with opposing parties and the online calendar, that

sufficient additional time is available and can be reserved for same. UMC is heard on a “first come, first serve” basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter 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. If UMC time expires, any remaining hearings will need to be rescheduled.

Contested motions for summary judgment, evidentiary motions and complex, highly contested motions will not be heard at UMC. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions, such as motions to strike affirmative defenses, amend pleadings, short discovery motions, etc. UMC is available to pursue a summary final judgment for liquidated damages, after a default based upon a proper motion with supporting documentation, unless a party appears to contest it. In that instance, the parties must reset on the on-line “special set” calendar. Please do not set a non-qualifying motion on UMC simply because special set hearing time is not available immediately.

HEARING CANCELLATION: Cancellation of any hearing must be done: (1) through the **online** Court scheduling calendar; **and** (2) by **e-filing** a Notice of Cancellation of Hearing in advance of the hearing date; **and** (3) sending a courtesy copy of your Notice of Cancellation of Hearing to the Judicial Assistant via **email**, once you have e-filed same.

EMERGENCY HEARINGS: If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be e-mailed to the Court at sedas@circuit19.org, along with a transmittal confirmation from counsel, before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via Courtcall telephonic appearance if their schedule will not allow them to appear in person.

COOPERATION OF COUNSEL: Hearings must be cleared with opposing counsel and/or *pro se parties*. Good faith cooperation is expected from counsel, their support staff, and *pro se litigants*. Should counsel, their staff, or *pro se litigants* fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be set forth either in the motion or in the notice of hearing. After 3 days, the requesting party may unilaterally set a hearing. Notice of the hearing must be provided at least five (5) business days prior to the hearing. All motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without Court action. *See*, Fla.R.Civ.P., Rule 1.380(a)(2). All notices of hearing shall contain a certification signed by the scheduling attorney in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. 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 or local professionalism panel.

MOTION TO DISMISS and/or MOTION FOR MORE DEFINITE STATEMENT: All Motions to Dismiss filed pursuant to Fla.R.Civ.Pro.1.140 (b) and Motions for More Definite Statement filed pursuant to Fla.R.Civ.Pro.1.140 (e), will initially be considered without a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds and the applicable substantial matters of law shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

Any party may furnish to the Court via email: the motion to dismiss; a proposed completed order; and transmittal confirmation to all counsel of record and *pro se parties*. The copy shall be accompanied by a proposed completed order. The motion will be held for ten (10) days to give the opposing side the opportunity to reply. If it is determined that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required, an appropriate order will be entered. No case dispositive ruling will be made without a hearing.

EX PARTE MOTIONS TO COMPEL: If a motion to compel discovery sets forth a complete failure to respond or object to discovery, the time for complying with the discovery request has lapsed, and there has been no request for an extension of time, 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 motion must include a certification that the movant has conferred or attempted to confer with the attorney or person failing to make discovery in good faith so as to obtain the information without court action. Upon the filing of such motion, the moving party shall send the motion, proposed order and transmittal confirmation to the Court via e-mail.

MOTIONS FOR PROTECTIVE ORDERS: The filing of a motion for protective order, without presenting it to the Court, is insufficient. The party filing such order must email the motion to the Judicial Assistant, and set same for hearing.

MOTIONS FOR REHEARING, RECONSIDERATION OR NEW TRIAL: Upon the filing of such motion, the moving party shall send a copy to the Court for review via e-mail. The copy of the motion shall be accompanied by a proposed order and transmittal confirmation to all counsel. If the Court determines that a hearing is necessary, the movant will be given dates and times to coordinate with opposing counsel or *pro se litigants*, and the movant must file the appropriate notices.

WITHDRAW OR SUBSTITUTION OF COUNSEL: Compliance with Fla. R. Jud. Admin. 2.505 is required. Written client consent must be filed, or a hearing must be held after proper notice to the client.

MOTION TO CONTINUE: Any motion to continue must comply with Florida Rule of Civil Procedure 1.460, including requirement of signature by the party requesting continuance. **Simply filing a motion to continue will not suffice to continue the case. Your case will not necessarily be continued because both parties agree.**

CASE MANAGEMENT CONFERENCE: The Court will schedule certain cases for a formal Case Management Conference (“CMC”) and issue an order setting forth the matters to be covered at the conference. However, a request can be made by any party to set a CMC by simply filing a written motion. A copy of the motion to set CMC shall be sent to the Judge’s Judicial Assistant via email with a proposed order in Word format. The court may schedule the case for trial at the case management conference, if the court deems appropriate.

SETTING OF TRIALS: The Court will issue an Order Directing Pre-Trial Procedure and Setting of Trial in every case upon receipt of a copy of a filed Notice for Trial pursuant to Fla.R.Civ.P. 1.440. Please email the required copy of the Notice for Trial to the Court’s Judicial Assistant. The Court will not act on a Notice of Trial unless the foregoing copy is emailed to the Judicial Assistant.