

GUIDELINES, PROCEDURES AND EXPECTATIONS OSCEOLA COUNTY CIRCUIT CIVIL DIVISION 20

(Revised and Effective 05/01/2017)

Judge Margaret H. Schreiber Circuit Judge

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In order to assist Counsel, the Litigants and the Court, the following Guidelines, Procedures and Expectations¹ are hereby adopted for Circuit Civil Division 20 in Osceola County, Florida when practicing before Judge Margaret H. Schreiber.

HEARINGS

1. **Setting of Hearings:**

Finding Available Hearing Time: Hearing time may be obtained by using the Judicial Automated Calendaring System (JACS), as follows:

- Go to the court website at <http://www.ninthcircuit.org>
- Click the “Services” link
- Click on the Judicial Automated Calendaring System (JACS) link. Select the calendar for “Osceola Civil Division 20” and hit “Retrieve.” All available hearing times will be displayed.
- Any hearing requests for 1 hour or longer must be approved by Judge Schreiber either by appearing during *ex parte* or by letter to the Judge detailing the reasons for the excessive time.

Coordination of Hearing Time: Coordinate the date and time with opposing counsel/*pro*

¹These Guidelines, Procedures and Expectations are minimum standards. All counsel are also presumed to be familiar with and are expected to abide by the *Rules Regulating The Florida Bar*, and the *Guidelines for Professional Conduct* promulgated by the Trial Lawyers Section of The Florida Bar and adopted by the Conference of Circuit Judges. Copies of each of these documents may be obtained from The Florida Bar and/or are available on-line on its website <http://www.floridabar.org>. In addition, counsel must be aware of the *Ninth Judicial Circuit Courtroom Decorum Policy* promulgated on February 11, 2003 and Amended September 2014. (See <http://www.ninthcircuit.org> for Attorneys/Information/Rules & Policies/Courtroom Decorum Policy) as well as the local administrative rules.

se party. Good faith cooperation is expected both 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 specifically set forth either in the motion or in the notice of hearing. **You must comply with the various requirements of Administrative Order 2012-03 known colloquially as the “meet and confer” requirement (see paragraph 4, below).**

Contacting the Judicial Assistant: After completing the first two steps, then and only then you may contact the Judicial Assistant by e-mail at division20b@ocnjcc.org with a copy to opposing counsel/*pro se* litigants for the hearing to be added to the docket. Your hearing time is not confirmed until you receive a reply from the Judicial Assistant. If counsel/*pro se* litigant does not cooperate in scheduling a hearing, the requesting party may unilaterally set a hearing, giving at least 14 days’ written notice (plus 5 days if mailed) to the opposing counsel/*pro se* litigant who failed to cooperate. Notice of Hearing must state that opposing counsel/*pro se* litigant refused to coordinate a hearing time and include the Certificate of Compliance (*second option*) per attached Exhibit “A.”

Copies to Court: In addition to filing the Notice of Hearing with the Clerk of Court, a copy of the Notice of Hearing and Motion(s) to be heard must be furnished to the Judicial Assistant via U.S. Mail or hand delivery **no later than ten (10) days prior to the hearing.**

Copies to Judge: For all hearings (excluding *ex parte*), please deliver to chambers by U.S. Mail or hand delivery (not by fax or email) courtesy hard copies of any trial notebooks, legal memoranda and/or case law which you intend to rely on at the hearing **at least three (3) business days prior to the hearing** to ensure an opportunity for review. Cases should be highlighted. A courtesy copy must be provided to your opposing counsel/party.

Cross Noticing: Additional motions may not be “piggy-backed” by cross-notice unless counsel first confirms with opposing counsel that there is no objection to the cross notice. Then counsel must email the Judicial Assistant to confirm that it can be heard in the same timeframe or that sufficient additional time is available for all matters to be heard. **It is cross noticing counsel’s responsibility to make sure the matter is placed on the Judge’s court calendar or same may not be heard even if the cross notice has been filed.**

Cancellation of Hearings/Trials: **Only the party setting the hearing may cancel the hearing.** If you settle a case, file a dismissal with the Clerk’s Office, fax or email a copy to the Judicial Assistant and advise the Judicial Assistant to take the case off the hearing/trial docket.

2. **Residential, Timeshares and HOA Lien Foreclosure Cases:** In Division 20, assigned residential, timeshare and HOA lien foreclosure cases needing a hearing are scheduled and heard by Judge Margaret H. Schreiber on **THURSDAYS** in Courtroom 5-E unless

otherwise noted. Please include this location on all hearing notices.

Certain uncontested foreclosure hearings can also be scheduled for *ex parte*. Timeshare hearings are limited to five (5) per attorney per day. Motions appropriate for *ex parte* include the following:

- Motions for Judicial Default
- Motions to confirm assignments
- Motion to Substitute Parties or Counsel
- Motions to Withdraw (Motion must include client's written consent and statement that no matter is pending, as well as the name, address, telephone number of party)
- Agreed Orders. If entry of an agreed order cancels a set hearing, the Court shall be advised of the date and time of the hearing so it can be removed from the docket.
- Amend COP to Correct Scrivener's Error
- Dismissal Orders
- Motions for Writ of Possession
- Motion for Leave to Amend
- Motion to Extension of Time
- Motions to Return Documents
- Motion to Appoint GAL
- Motion for Order to Show Cause

Longer hearings should be set on **THURSDAYS** in Courtroom 5-E in accordance with the procedures set forth herein.

Pursuant to Administrative Order No. 2008-01-01, **no telephonic foreclosure hearings or trials are allowed.**

Scheduling Hearings: Use JACS to coordinate a date listed under RESIDENTIAL, TIMESHARE AND HOA LIEN FORECLOSURE CASES with opposing side. Email your request to division20b@ocnjcc.org with the agreed upon date and time. Include the full style of the case, case number, motion(s) to be heard, time requested, and attorney name(s). Your hearing time is not confirmed until you receive a reply from the Judicial Assistant. The Court expects you will file the Motion before setting a hearing. The original notice of hearing must be promptly filed with the Osceola County Clerk of Court. Failure to timely file the notice of hearing may cause your case not to be heard. Parties must comply with Mandatory Meet and Confer Process (see paragraph 4). **No Telephonic Appearances for Foreclosure Hearings/Trials. Attorneys must bring a proposed Order for the Court's signature with envelopes addressed and stamped for all parties.**

Emergency Hearings: An Emergency Hearing to Reset/Cancel Sale must be e-filed directly to the Clerk's Office. A courtesy copy of the Motion with proposed Orders and self-addressed stamped envelopes must be sent to the Judge to consider and will be reviewed in chambers. **If the sale of the property is scheduled within 72 hours of filing, the Motion with proposed Order must be brought in person or before the Court during *ex parte* to be timely considered by the Judge.** (DO NOT send a courtesy copy to the Court if appearing during *ex parte* as this may cause a duplicate sale date to be assigned.)

Notice for Trial: When a case is at issue, either party may file a Notice for Trial. A courtesy copy for the Court of the Notice for Trial shall include the length of time anticipated to try the case and sufficient self-addressed stamped envelopes for all parties and shall be sent to the Judicial Assistant. If more than 15 minutes is requested for a trial, counsel making the request must clearly state in detail the reasons for the request of additional time.

3. **Telephone Hearings:** Telephone hearings are permitted (except at *ex parte*) as long as there is no testimony to be offered or evidence submitted, or unless otherwise prohibited herein (*e.g. no telephone appearances at foreclosure hearings*). Counsel must file a motion and present a proposed order to the court in advance of the scheduled hearing. Once the Order is signed, it will be noted on the docket and the courtroom/hearing room telephone number provided to counsel. It is the responsibility of the attorney appearing by telephone to initiate the call.

If multiple parties are appearing by telephone, it is the scheduling attorney's responsibility to arrange and place the conference call. **Cell phones may not be used for this purpose.**

Please note that the Court has complete discretion when it comes to telephonic appearances of attorneys, parties and witnesses. There is no right to appear by use of the Court's phone system. Likewise, the Court may require personal attendance of attorneys, parties and witnesses at all hearings/trials. **There are no telephonic appearances for *ex parte*, foreclosures or pre-trial conferences.**

4. **Mandatory "Meet and Confer" Process:** Pursuant to Administrative Order 2012-03, effective April 12, 2012, a mandatory "meet and confer" process is established **for all motions** to be **set for hearing** in the circuit civil division and to occur **before** scheduling the hearing **except** for the following motions: injunctive relief without notice; judgment on the pleadings; summary judgment; or to permit maintenance of a class action.

Counsel with full authority to resolve the matter shall confer **before** scheduling the hearing on the motion to attempt to resolve or otherwise narrow the issues raised in the motion, and **include a Certificate of Compliance** (attached hereto as "Exhibit A") that the conference has occurred **in the Notice of Hearing** filed with the Court. It shall be the responsibility of counsel who schedules the hearing to arrange the conference.

The term "confer" requires a substantive conversation in person or by telephone in a good faith effort to resolve the motion without the need to schedule a hearing, and does not envision exchange of ultimatums by fax, email or letter. Counsel who merely attempt to confer have not conferred for purposes of this Order.

Counsel must respond promptly to inquiries and communications from opposing counsel who notices the hearing and is attempting to schedule the conference. If counsel who notices the hearing is unable to reach opposing counsel to conduct the conference after three (3) good faith attempts, counsel who notices the hearing must identify in the Certificate of Compliance the dates and times of the efforts made to contact opposing counsel.

Counsel shall include in the Notice of Hearing the Certificate of Compliance certifying that the "meet and confer" occurred (or did not occur and setting out the good faith attempts to schedule the conference) and identifying the date of the conference, the names of the participating attorneys, and the specific results obtained.

Counsel who notices the hearing shall ensure that the court and the court's judicial assistance are aware of any narrowing of the issues or other resolution as a result of the conference.

5. **Emergency Hearings:** If an emergency situation arises, counsel may request that a hearing be set on short notice. The Motion must be designated as "EMERGENCY" in the heading, and 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 received by the Court **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 telephone if their schedule will not allow them to appear in person.
6. **Ex Parte/Short Matters:** *Ex Parte* and Short Matters are uncontested or very brief (5 minute) hearings held Monday through Thursday at 8:30 a.m. (or immediately following Marchman Act hearings, if any) in Hearing Room 6-A. This is not a "motion calendar." Uncontested matters will be handled first, followed by short contested matters which will be handled in the order in which the attorneys appear; therefore, *ex parte* matters should arrive early. If no matters remain pending at 9:00 a.m. on trial weeks and 9:30 a.m. on

hearing weeks, *ex parte*/short matters will close.

Please furnish your Motion and Notice of Hearing to the Court at least 48 hours prior to the hearing so that the Court can prepare for the hearing. **No telephone hearings are permitted during *ex parte* or short matters.**

7. **Court Reporter:** If you want a record of the hearing or trial, you must make arrangements for a Court Reporter. No party, witness, attorney or other person in attendance at the hearing/trial may record the proceedings **except** through a court reporting service present in the hearing room or courtroom.
8. **Interpreters:** Unlike criminal cases, there is no entitlement for a language interpreter for litigants in civil court. Accordingly, no language interpreters will be provided for your use. *Caveat – Under the ADA, Court Administration will provide a sign language interpreter for civil matters. Please contact Court Administration no later than five (5) business days in advance of the hearing (30 days prior to a trial) to arrange accommodation for hearing or voice impairment. See Administrative Order 07-97-32-04.*
9. **Discovery Disputes:** Prior to scheduling a hearing, all parties should attempt in good faith to resolve the discovery dispute. This Court follows the guidelines set forth in the *2016 Florida Handbook on Civil Discovery Practice*, a copy of which can be found on the Court's website.
10. **Discovery Motions and Motions to Compel:** All discovery motions and motions to compel must be set for hearing to bring the matter to the Court's attention. The mere filing of a motion is insufficient. Any motions filed but not set for hearing will be considered abandoned. All such motions must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve the matter without court action. *See Fla. R. Civ. P. 1.380(a)(2) and Admin. R. 2012-03.* If no response or objection has been filed to initial Supreme Court approved discovery requests (*e.g.* Fact Information Sheet, Interrogatories, etc.), the moving party may submit the motion with a proposed order (including stamped addressed envelopes) to the Court in chambers for ruling without the necessity of a hearing.
11. **Motions for Protective Orders:** The filing of a Motion for Protective Order, without attempting to set it for immediate hearing, is insufficient to protect from any discovery requested. The Court will make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery. Where necessary, and when possible, the Court will hear and, if possible, rule by telephone on motions or substantive objections that occur during depositions where a failure to do so would require the stopping of a deposition and the resetting of same depending on the Court's ruling.

12. **Motions in Limine (MIL)**: MIL may not be scheduled for a hearing unless they contain a certification of a good faith attempt as to each item to resolve the matter without court action. Notices of hearing on MIL must specifically identify the specific issues which remain in controversy after counsel has conferred. MIL will not be heard during the week of trial or at trial. MILs must be filed prior to the pre-trial conference, but may be heard between the pre-trial conference and the trial (time permitting) unless another order directs otherwise. **Counsel shall comply with Division 20's Standing Procedures for Motions in Limine prior to setting a MIL for hearing.**
13. **Attorneys' Fees**: As provided in Rule 1.380(a)(4), Florida Rules of Civil Procedure, the Court shall award expenses which may include attorneys' fees if you prevail on a motion to compel. Please review the *2016 Florida Handbook on Civil Discovery Practice*, a copy of which can be found on the Court's website.
14. **Compulsory Medical Examinations**: Please review and follow the Guidelines for Counsel Regarding Compulsory Medical Examinations, which can be found on the Court's website.
15. **Hearing Notebooks, Legal Memorandums and Citations**: Any hearing notebooks, legal memorandums or briefs, along with hard copies of the significant cited authorities, **must be provided to the Court at least 3 business days before the hearing.** *Please be sure to provide opposing counsel with the same item.* The Court will attempt to review the motion and the memorandums, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections of case law is appreciated. Brevity is also appreciated. Case law and Memoranda provided to the Court for the first time **during** the hearing may not (in the Court's discretion) be considered. **The Court, on occasion, may rule on motions without a hearing. Therefore, counsel are encouraged to timely file written argument supporting and opposing their positions with the Court.**
16. **Limitation on Hearings**: All hearings related to discovery or trial matters must be **filed and heard prior to the pre-trial conference.** Motions in Limine must be **filed** prior to pre-trial, but may be heard **after** the pre-trial conference if hearing time has been obtained from the JA prior to the actual pretrial and notices of hearing have been sent out. **NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD** absent unanticipated events occurring.
17. **Orders and Rulings of the Court**: The Court will strive to issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling. If counsel are asked to prepare an order, the order should be drafted and circulated within three (3) working days and must be submitted to the Court within

seven (7) days of the hearing, with a copy to opposing counsel. **Counsel must advise the Court of any objection to, or agreement on, the form of the proposed order when the order is submitted.** If the parties bring proposed orders to the hearing, please make certain that (1) a copy is provided to opposing counsel; (2) the party has stamped, addressed envelopes; and (3) the caption contains more than the word “Order.” All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* “*Order Granting Plaintiff’s Motion for Partial Summary Judgment on Liability.*” *See* Fla.R.Civ.P. 1.100(c)(1). If the parties are unable to agree on the form of the order, both sides shall present their proposed order to the Court for consideration within the seven (7) days.

Please note that “e-portal” does **not** provide for the uploading of proposed orders to the Court. If “Agreed Orders” are provided, the title must indicate the substance of the order and, further, that it is an “agreed order.” All proposed orders of any type should be (1) accompanied with a cover letter indicating whether or not the form of the submitted order is agreed to by all opposing counsel and (2) submitted with sufficient paper copies and addressed, stamped envelopes to serve all parties and counsel.

18. **Hearings on Motions for Rehearing, Reconsideration or New Trial:** Upon filing said motion, please send a copy **directly** to the Judge for review. The Court will either (i) rule without a hearing, (ii) direct that a written response be filed by opposing counsel, or (iii) direct the Judicial Assistant to contact the moving counsel to schedule a hearing.

SETTING OF TRIALS

The Judicial Assistant can advise counsel, upon inquiry, as to future trial dockets. Counsel may request in their Notice for Trial, after consultation with opposing counsel, a trial period that will allow sufficient time to complete discovery and facilitate out of court resolution. When filing the Notice for Trial, include the length of time anticipated to try the case as well as sufficient addressed, stamped envelopes for all parties. If no trial period is requested in the Notice, the Court will issue an *Order Setting Status Hearing to Determine Date of Trial and/or Need for Case Management Conference*, setting a status hearing and providing upcoming available trial dockets. The parties may agree to a trial docket and notify the Judicial Assistant in writing or by email and the hearing will be cancelled. If no agreement can be reached amongst the attorneys, attendance at the hearing by the lawyers trying the case is mandatory.

The Court issues a *Uniform Order Setting Case for Trial; Pre-Trial Conference and Requiring Pre-trial Matters to be Completed* in every case when setting the trial and pretrial conference pursuant to *Fla. R. Civ. P* 1.440. Please remember that the fact that a case is still in the discovery stage does not prevent the filing of a Notice for Trial or prevent the Court from setting the pre-trial and trial. *See, Rolle v. Gary A. Birken, M.D.*, 994 So. 2d 1129 (Fla. 3rd DCA 2008).

In the event the Court issues an Order Setting Case for Trial pursuant to a Notice for Trial without agreement of the parties, and either party believes that the trial date will not allow sufficient time to complete discovery, counsel should **immediately** motion the Court for a status hearing and/or case management conference. Delays in advising the Court that there is not sufficient time to complete discovery, or that a conflict exists, may be considered a waiver of any objection to the setting of the trial date.

CASE MANAGEMENT CONFERENCE/COMPLEX LITIGATION

The Court may schedule certain cases for a formal Case Management Conference (CMC) and issue an order setting forth the matters to be covered at the conference. Cases such as medical malpractice cases, complex commercial litigation cases, multiple party litigation cases, cases with voluminous records or exhibits, as well as other types of cases will be set by the Court, without request, for certain types of case management conference. Certain cases may be deemed "Complex Litigation" pursuant to Fla. R. Civ. P. 1.201. Where so designated, the procedures set forth under Rule 1.201, Florida Rules of Civil Procedure, will apply.

Any case can be submitted for a Case Management Conference by simply filing a written request with the Judicial Assistant. Once submitted, the action will be controlled not only by the Pre-Trial Order, but also by any resulting Case Management Order.

PRIOR TO PRE-TRIAL

1. **Uniform Order:** A *Uniform Order Setting Case for Trial; Pre-Trial Conference and Requiring Pre-trial Matters to be Completed (Uniform Order)* will be issued when the dates are set for pre-trial and trial. The Uniform Order should be reviewed in detail and the dates for completion of various items calendared. The Court will presume that each attorney and each party is familiar with the requirements of that order(s). **THE COURT EXPECTS STRICT COMPLIANCE WITH THE ORDER ABSENT A TIMELY MOTION AND ORDER OF COURT MODIFYING THE CONDITIONS THEREIN.** Joint stipulations to extend times set forth therein are not permitted. ***Please review the Pre-trial Order.***
2. **Mediation:** Mediation **MUST BE COMPLETED** substantially prior to pre-trial. The Plaintiff is charged with timely submitting the mediation order. The parties must make certain that the mediator files a final report with the Court.
3. **Witnesses, Exhibits and Experts:** The pre-trial order requires disclosure of witnesses, exhibits and experts with specificity in a timely manner. Exhibits must be presented for review, initialed by opposing party, and annotation of objections noted lest said objections be deemed waived. Retained experts must be disclosed and must be made

available for discovery by the retaining party without the necessity of a subpoena for the retained expert. Opinions rendered at trial will be limited to those disclosed to opposing counsel in either a written report prior to the depositions or in response to deposition or written discovery questions prior to the close of discovery, subject to certain limitations.

4. **Joint Meeting of Counsel**: Plaintiff is charged with arranging a meeting of all counsel at least ten (10) days prior to pre-trial. **Attendance is mandatory by the attorneys who will actually be trying the case.**
5. **Joint Pretrial Statement**: Following the joint meeting, Plaintiff is charged with preparing the joint pre-trial statement. If disagreements exist among the attorneys, the statement **must** set forth all versions.
6. **Motions to Continue**: Trials are set with the agreement of all parties, but no earlier than 120 days from the original trial order. If counsel believes the trial date is not workable, an immediate request for continuance should be made. All Motions to Continue must (1) be in writing; (2) be signed by the attorney **and** the parties requesting same; (3) identify the position of opposing counsel on the motion; (4) indicate any other continuances that have been sought and or granted or denied; (5) set forth when the parties will be ready for trial, if granted; and, (6) comply with *Fla. R. Civ. P. 1.460* and *Fla. R. Jud. Admin 2.545(e)*. Stipulated Motions to Continue will not result in the trial being continued unless

and until the Court reviews the motion and enters an order on same. The Court may require a hearing on the Motion or conduct a Case Management Conference.

PRE-TRIALS

Pre-trials will be utilized to set the order of the trial docket,² discuss witness problems, jury instructions issues, audiovisual equipment needs, need for interpreters, time allotment for *voir dire*, opening and closing, responsibility for obtaining the court reporter and other trial related issues. Pre-trial is NOT the time to handle motions to continue or discovery issues as these matters must have been raised and heard well before the pre-trial conference.

Pursuant to both the Uniform Order and most case management orders, discovery closes the day prior to the pretrial conference. **PARTIES SHOULD ESSENTIALLY BE READY TO TRY THEIR CASES AS OF THE PRETRIAL CONFERENCE.** An Order on Pretrial Conference will be issued at or after the pretrial.

²While the Court will attempt to provide a specific date for trial, all cases are presumed to be ready on the first day of the trial docket and are subject to advancement on the docket to an earlier date (within that trial period) than given at pretrial.

“IN PERSON” ATTENDANCE AT THE PRETRIAL CONFERENCE BY THE ATTORNEYS WHO WILL TRY THE CASE IS MANDATORY. Substituted appearance by counsel other than trial counsel at the pre-trial conference is not permitted. The pretrial will usually last 20 to 30 minutes.

SETTLEMENT OR RESOLUTION

The Court must be notified **immediately** of settlement or resolution of any matter or of any parties to any matter on the trial docket. However, the trial will not be removed from the actual docket, is subject to trial call, and the attorneys must appear, until such time as the Court receives **written notice of dismissal or has signed an order** that the matter has been fully resolved.

TRIALS

1. **Location:** Trials will take place in Courtroom 5-E unless otherwise indicated. Attorneys should check with the Judicial Assistant the day before the trial to confirm the actual courtroom that will be used. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:00 a.m. Depending on other emergency matters, the Court will start at 9:00 a.m. or as soon thereafter as possible.
2. **Courtroom Etiquette and Decorum:** Counsel shall stand when addressing the Court or the jury. Counsel should seek permission of the Court to approach the bench, the clerk, the witness or the jury. All parties and attorneys shall avoid contact with the venire and jury and counsel shall so instruct their clients and witnesses. Counsel shall address all arguments to the Court and not opposing counsel. Counsel shall admonish their clients that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited. Please see *Amended Ninth Judicial Circuit Courtroom Decorum Policy* available at <http://www.ninthcircuit.org>. and on this court’s website. Professionalism will be expected of each attorney and representative of their offices and any retained witnesses.³ The Court is under a professional obligation to make referrals of unprofessional conduct to the local Bar or The Florida Bar. See, *In Re: Code for Resolving Professionalism Complaints* No. SC13-688 (June 6, 2013).
3. **Cell Phones, PDA, Communication Devices, Cameras or other photographic equipment:** Cell phones must be turned off or in the silent mode when in the courtroom. If it is necessary to make or take phone calls, please step out of the Courtroom. Witnesses will

³ Counsel are referred to and must be familiar with the (1) Oath of Admission to the Florida Bar, (2) The Florida Bar Creed of Professionalism, (3) The Florida Bar Ideals and Goals of Professionalism, (4) the Rules Regulating The Florida Bar, and (5) the decisions of the Florida Supreme Court. See for reference *In Re: Code for Resolving Professionalism Complaints*, SC13-688 (June 6, 2013).

not be permitted to possess any type of communication device while on the witness stand. **No photographs or recording, video or otherwise is permitted within the courtroom unless specifically permitted by the Court after formal request is made.**

4. **Trial Briefs:** If a trial brief is to be filed with the Court it must be submitted to the Judge's Chambers in hard copy no later than five (5) business days before the trial is to commence. The Court would appreciate hard copies of case law cited in the trial brief with appropriate highlighting of the pertinent sections.
5. **Court Reporter:** The same Court Reporter should report the entire trial to enable jury read backs. At the pretrial conference, the parties will advise the Court who will retain the Court Reporter.
6. **Voir Dire:** The Court will conduct a preliminary *voir dire* of the jury. Counsel are welcome to request that the Court initially explore certain areas of inquiry that may be important to the trial but sensitive in nature. Counsel are reminded to be considerate of the jurors' personal lives during their inquiries as well as the jurors' time constraints. While the Court will afford counsel significant latitude in questioning, the Court will limit repetitive questions. Counsel shall not attempt to explore the facts of their case nor explain the law that may apply in the case, nor attempt to curry favor with the venire. Time limits provided during pretrial will be enforced.
7. **Jury Selection Process:** After *voir dire*, the Court will first ask for stipulated cause strikes. Upon completion of stipulated challenges for cause, the Court will move to disputed cause challenges and pre-emptory challenges. The Court will start with the first remaining juror and move sequentially as they are seated in the venire, alternating between (or among) counsel until a panel is chosen. Back striking during jury selection is always permitted. The number of alternates will be determined by the Court by the type and length of the trial. Each party will have one additional strike as to each alternate. If a "back strike" of an underlying juror is offered **after** the alternate(s) are selected, the replacement juror will not be the alternate but will be the next juror available after the alternates that have already been chosen.
8. **Opening and Closings:** Only demonstrative aids or exhibits marked by the clerk, agreed to by all counsel or approved by the Court may be used in either opening or closing. Counsel may move away from the podium, but shall remain mindful of the jury's space. Counsel should stay at least three feet back from the jury rail at all times. The Court will discuss with counsel the time requirements for both opening and closing at the pretrial conference and will expect that a reasonable estimate be provided by counsel. Counsel are expected to adhere to these time constraints. Counsel shall not read from, nor appear as if she/he is reading from, reports, depositions or transcripts.

If Power Point presentations are to be used, a hard copy must be filed with the Court to create an appellate record. Further, unless the Power Point content is simply verbiage that could otherwise have been written on a large pad, the content must have been exhibited to opposing counsel prior to its presentation to the jury so any objections may be dealt with in advance of its use.

9. **Exhibits:** All exhibits are to be marked for identification by the clerk with tags provided by the clerk of court **prior to the day of trial**. Arrangements must be made directly with the Division's trial clerk. **Contact Trial Clerk Melissa Burr by email (Melissa.Burr@osceolaclerk.org) to schedule.** Exhibits which will be stipulated into evidence, or which are not objected to, may be marked into evidence as exhibits. Once exhibits are marked in evidence or are offered but not admitted, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and/or authorized by the Court. Audiovisual and/or equipment questions should be addressed to the Ninth Circuit's Technology Support department at <http://ninthcircuit.org/services/technology-support>, or by calling 407-742-2488.
10. **Demonstrative Aids:** Any demonstrative aid that is to be used at trial must be marked by the clerk and exhibited to opposing counsel and the Court prior to the week of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the trial week. No aids are to be shown to the jury without prior approval of the Court. All demonstrative aids should be initialed on the back to verify that they have been presented to opposing counsel prior to the trial. If an issue arises, the Court will look to see if the demonstrative aid in question has been initialed.
11. **Experts:** The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications and his ability to testify must be addressed prior to the start of the trial period and therefore outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "*in limine*" rulings, and the effect of the invocation of the Rule of Sequestration.

If any issues or motions arise as to the expert's ability (qualifications, opinions or ability) to testify arise, those matters must be addressed well in advance of the pretrial conference. Hearing time is limited: failure to have filed and have heard challenges as to experts and their opinions in a timely manner may result in the challenge not being addresses, the trial continued, sanctions being imposed or other actions by the Court.

12. **Use of Depositions:** If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a **hard copy** is available **both** for the Court and for the

witness being questioned.⁴

If depositions (or portions thereof) are to be published during trial either as substantive testimony or for impeachment, any objections must be addressed to the Court in advance of pretrial. Designations of the offering party must be filed, and responsive cross-designations filed within five (5) business days thereafter, and then any objections contained within those designations which need to be addressed by the Court must be noticed and heard before pretrial. It is the responsibility of the party attempting to utilize the deposition to timely commence the process. **The Court may, at its discretion, rule on the objections without a hearing. Therefore, counsel must provide a hard copy of the deposition to the Court, along with an Order (in column format) identifying the deposition, the designation, the objection, and leaving a space for the court to rule. Counsel may wish to provide written argument on the designations and cross-designations in a timely manner.**

13. **Objections:** The Court will not allow speaking objections in front of the jury. When counsel rises to object, only the legal basis for the objection should be stated. If elaboration is necessary, the Court will call counsel to the Bench for a Bench Conference out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection unless the answer or question is patently objectionable. Once the Court has ruled, no further argument shall be permitted. Matters addressed at sidebar are not to be repeated in front of the jury and are considered confidential unless advised otherwise by the Court.
14. **Jurors:** The Court generally will allow jurors to take notes and to ask questions. See Section 40.50, *Florida Statutes*. If any counsel objects to these procedures, such objection should be addressed to the Court prior to the day of trial.
15. **Jury Instructions and Proposed Verdict Form:** Jury instructions and a proposed verdict form are to be prepared by both sides and exchanged at least one week prior to beginning of the trial period. An **agreed set** of jury instructions must be provided to the Court by hard copy as well as via e-mail (**in Word format**) no less than three (3) business days **prior** to the beginning of the trial. Disputed instructions should be sent separately – also in Word format.

The Court will provide each juror with a written set of all jury instructions when the jury retires to deliberate. In addition, the final instructions should not contain any citations, jury instruction titles or information as to who requested the instruction. The Court typically will read some substantive law instructions to the jury during preliminary

⁴In Osceola County all documents electronically filed with the Court are imaged and may not be readily available for the Court to view.

instructions; however, the Court may omit this reading if counsel have not timely provided an agreed set of instructions to the Court. Only one verdict form will be sent to the jury.

INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures of Osceola Civil Division 20 are not covered herein, counsel is free to contact the Court. A status hearing can be set at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

Division 20

(Revised and Effective May 1, 2017)

CONTACT INFORMATION

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Suite 6410
Kissimmee, FL 34741

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Hearing Room: 6-A

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Judicial Assistant
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Scheduling Email: division20b@ocnjcc.org *(Please use this email for all scheduling requests in order to receive the **quickest response.**)*

Melissa Burr

Trial Clerk

Melissa.Burr@osceolaclerk.org

Osceola County Clerk of the Court
2 Courthouse Square
Kissimmee, FL 34741

Phone: (407) 742-3500
Website: www.osceolaclerk.com

“Exhibit A”

First Option

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a lawyer in my firm with full authority to resolve this matter had a substantive conversation in person or by telephone with opposing counsel in a good faith effort to resolve this motion before the motion was noticed for hearing but the parties were unable to reach an agreement.

*/s/ _____
Counsel for the party who noticed
the matter for hearing*

Second Option

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a lawyer in my firm with full authority to resolve this matter attempted in good faith to contact opposing counsel in person or by telephone on:

1. _____(Date)_____ at _____(Time)_____ ;
2. _____(Date)_____ at _____(Time)_____ : and
3. _____(Date)_____ at _____(Time)_____ ;

to discuss resolution of this motion without a hearing and the lawyer in my firm was unable to speak with opposing counsel.

*/s/ _____
Counsel for the party who noticed the matter for
hearing*