



DIVISION FC-B POLICIES AND PROCEDURES

JUDGE KATIE L. DEARING

Fourth Judicial Circuit Court of the State of Florida
Foreclosure Division FC-B
Hearing Room 701

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INTRODUCTION

Rule 1.010 of the Florida Rules of Civil Procedure and the Rules of Judicial Administration encourage the speedy, just and inexpensive determination of every action, and impose on the trial court the duty to monitor and manage the docket in order to achieve this goal. To that end, these policies and procedures are published to assist counsel appearing in Division FC-B by addressing routine questions and issues that arise while litigating and trying foreclosure cases and will be revised/updated periodically. They are not intended to relax or supplant the Florida Statutes, the Florida Rules of Court, local rules of Court, administrative orders, case

specific court orders, the Rules Regulating Florida Bar (including, without limitation, the Rules of Professional Conduct), or any other substantive or procedural law (collectively, the “Applicable Law, Rules and Procedures”). All Applicable Law, Rules, and Procedures are intended to prevail, unless expressly stated otherwise.

SETTING MATTERS FOR TRIAL

A. Non-jury Trials

When a case is at issue, any party may file a motion to set the case for trial. Setting cases for trial will be done only through e-mail. The movant shall e-mail the Motion to Set and a fully completed Division FC-B Trial Set Memorandum to the Court. The Trial Set Memorandum form can be found on the Court’s website at <https://www.jud4.org/Ex-Parte-Dates-Judge-s-Procedures.aspx>. The parties shall complete all information in the form, including the desired mediator, and submit it as an e-mail attachment to the judge’s judicial assistant along with the Motion to Set for Trial. Any disagreements on mediators or proposed trial dates shall be included in the email along with each party’s recommendation. The Court will then prepare and e-file the Trial Order.

Non-jury trials are set date-certain on the Court’s regular hearing calendar, not during a jury trial week. The trial set memorandum should advise the Court of a requested time frame for trial (*e.g.*, 6 months from the date of the trial set memorandum) and the number of days needed for trial.

B. Jury Trials

Most foreclosure cases will likely resolve via non-jury trial. However, if there are claims triable by a jury, and a case is at issue, any party may file a motion to set the case for jury trial. Setting cases for jury trial will be done only through e-mail. The movant shall e-mail the Motion to Set and a fully completed Division CV-B Trial Set Memorandum to the Court. The Trial Set Memorandum form can be found on the Court’s website, along with available trial dates, at <https://www.jud4.org/Ex-Parte-Dates-Judge-s-Procedures.aspx>. The parties shall complete all information in the form, including the desired mediator and trial date, and submit it as an e-mail attachment to the judge’s judicial assistant along with the Motion to Set Trial. Any

disagreements on mediators or trial dates shall be included in the email along with each party's recommendation. The Court will then prepare and e-file the Trial Order.

If the case settles after it is set for trial, the parties shall immediately notify the court so that the trial and all pending hearings may be removed from the court's calendar.

IN-PERSON AND REMOTE APPEARANCES

Counsel, witnesses and all unrepresented parties are required to attend all hearings longer than 30 minutes in person. Prior to coming to the hearing, please ensure that counsel's access badge to the hearing room is activated so that counsel may enter the hearing room at or before the time set for the hearing. The Court's hearing schedule often results in "back-to-back" hearings that do not allow time for the Court to let counsel into the hearing room early. Unless the Court announces otherwise, the Court's hearings are public proceedings, and any party or counsel may come into the hearing room early to observe other proceedings.

For non-evidentiary hearings scheduled to take thirty minutes or less, counsel and unrepresented parties shall be permitted to appear in-person or via Zoom, pursuant to Rule 2.530(b)(1), Fla. R. Gen. Prac. & Jud. Admin. without further Order of the Court (unless the Court has specifically ordered otherwise in a particular case). Counsel or an unrepresented party do not have to agree on whether the hearing attendance is by Zoom or in-person. The Court will permit hearings to be conducted in a hybrid remote manner, with some counsel/parties appearing in-person and other counsel/parties appearing via Zoom.

Please notify the Court of counsel's intention to appear via Zoom at the time the hearing is scheduled and include all necessary information in the Notice of Hearing. Unless notified otherwise, the Court shall assume that all counsel and unrepresented parties will be appearing in person.

The Court shall host all Zoom hearings using the following Zoom information:

[HTTP://WWW.ZOOM.COM](http://www.zoom.com) or <https://zoom.us/j/2751507351>

Meeting ID: 275 150 7351

One tap mobile
+19292056099,,2751507351# US (New York)

When you dial in, you will be placed into a waiting room until the Court calls your case.

MOTION PRACTICE AND SCHEDULING HEARINGS

Before filing a motion, except a motion (a) for injunctive relief, (b) for judgment on the pleadings, (c) for summary judgment, or (d) relating to the maintenance of a class action, the moving party **shall** confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion. The moving party **shall file with the motion** a statement certifying that the moving counsel has conferred with opposing counsel or the unrepresented party and stating whether counsel or the unrepresented party agrees on the resolution of all or part of the motion. **No hearing will be set on a motion which lacks this statement.** A certification to the effect that opposing counsel or the unrepresented party was unavailable for a conference before filing a motion is insufficient to satisfy the parties' obligation to confer. If, for any reason, the moving party is unable to confer with counsel for the non-moving party, the motion should describe actions taken by the moving party to confer. The moving party retains the duty to contact opposing counsel expeditiously after filing and to supplement the motion promptly with a statement certifying whether or to what extent the parties have resolved the issue(s) presented in the motion. Counsel for the non-moving party is obligated to promptly reply to a 'meet-and-confer' request and to provide availability for such conference.

If the interested parties agree to all or part of the relief sought in any motion, the caption of the motion shall include the word "unopposed," "agreed," or "stipulated" or otherwise succinctly inform the reader that, as to all or part of the requested relief, no opposition exists.

All motions do not require a hearing, and the Court may rule on motions without a hearing.

If the parties jointly agree to submit a motion to the Court via the Florida Court e-portal without the need for a hearing, the moving party should forward to the Court the motion, a proposed order and a request for resolution without a hearing.

Hearings will only be set on motions already filed with the Clerk. All hearings must be coordinated with opposing counsel or party if unrepresented. The party requesting a hearing on any pending motion should contact the Judicial Assistant

with all other parties on the line or by email copied to all parties/counsel at Powells@coj.net. **Dates provided for hearings are not held and may be given to other cases.** It is expected that all counsel will promptly respond to the moving party's attorney with proposed dates received from the Judicial Assistant to facilitate this process. **Hearing dates/times are not secured until confirmation is sent from the Court.**

Once a hearing time is set, no party may add or notice additional matters for that time without the express consent of all parties.

The Court's hearing schedule has very little, and sometimes no, time in-between hearings. If attending in person, please arrive early and allow plenty of time for parking. Failure to timely appear for a hearing may result in the motion being denied (if moving party) or the motion being heard without you (if the non-moving party). Moreover, the Court will enforce the time limits set for each hearing. Any matters not resolved during the scheduled hearing time will have to be re-scheduled or decided after an opportunity for written briefing.

Any motion for which counsel is seeking more than one hour of hearing time must be scheduled with the Court directly.

Once a hearing is set, it may not be cancelled without the consent of the Court. A party filing a "Notice of Cancellation" does not cancel a hearing.

USE OF SPECIAL MAGISTRATES

The Court is aware that, for many reasons, there may be a significant delay in obtaining hearing times. The Court encourages the parties to consider the use of a Special Magistrate pursuant to Florida Rule of Civil Procedure 1.490(b). If all parties agree to the appointment of a Special Magistrate, please submit a Joint Motion to Appoint Special Magistrate along with a proposed Order identifying the Special Magistrate and the issues to be handled by him or her. The parties are responsible for the cost of the Special Magistrate.

COURTESY COPIES

Courtesy copies of motions and memoranda should be delivered to the Court **at least three days** before a scheduled hearing on the matter. Motions, pleadings and memoranda may be provided by e-mail as well as U.S. Mail or hand delivery. However, voluminous pleadings (more than 20 pages, including attachments) must

not be emailed. They will need to be provided via hand-delivery, U.S. Mail, or other delivery service. Any binders containing case law shall be **received** by the Court **at least 5 days prior to the hearing**.

The Court encourages all parties to work together where possible to submit one copy of the supporting materials necessary for the Court's consideration.

EMERGENCY MOTIONS, MOTIONS FOR REHEARING AND MOTIONS FOR NEW TRIAL

These motions should first be e-filed with the Clerk of Court. The party filing the motion shall provide a copy for review by U.S. Mail, hand delivery or e-mail **at the time the motion is filed**. Any motion over 20 pages **shall not** be emailed but instead delivered by U.S. Mail or hand delivery. If a hearing is required, the Court will schedule a hearing with the parties.

DISCOVERY DISPUTES

As with all motions filed in this Division (as set forth above), prior to filing a motion to compel discovery, the moving party shall confer in good faith with the non-moving party in an attempt to resolve the discovery dispute. If, for any reason, the moving party is unable to confer with counsel for the non-moving party, the motion should describe actions taken by the moving party to confer.

Once a Motion to Compel or Motion for Sanctions is scheduled on the Court's calendar, it will not be removed even if agreed to by counsel for all parties. The only exception is if the case is completely resolved and settled by the parties.

PROPOSED ORDERS FOLLOWING A HEARING

The Court may request the lawyers prepare proposed orders pursuant to the Court's verbal announcements of rulings made during a hearing. Such proposed orders after a hearing are to be timely submitted to the Court as follows:

1. If all parties before the Court are using the e-Portal, the proposed Order shall be submitted to the Court via the Florida Courts e-Portal.
2. **If there is an unrepresented party involved in the case not using the e-Portal**, the proposed Order must be submitted to the Court in writing,

with sufficient copies for an original to be entered by the Court and a copy for each party not using e-Portal. Further, the party presenting the proposed Order, shall be responsible for providing **addressed, stamped envelopes for parties not using the e-Portal**. The proposed Order service list must contain addresses for any unrepresented party or party not using the e-Portal.

All proposed Orders presented following a hearing **MUST INCLUDE A COVER LETTER INDICATING:**

1. What the Order is for (*i.e.*, the case, the motion heard, including date and time, the title of the Order, etc.); and
2. That all opposing counsel/unrepresented parties have been provided with the same materials being provided to the Court, and whether the parties agree with the language of the proposed Order.

All counsel and unrepresented parties must be copied on the cover letter, including any proposed Order, at the same time provided to the Court. If counsel does not have an email address for an unrepresented party, counsel must mail or hand deliver the proposed Order and letter to the Court consistent with the instructions above.

PROPOSED ORDERS WITHOUT A HEARING:

As set forth above, all motions do not require a hearing, and the Court may rule on motions without a hearing. If a party requests the Court rule on a motion without a hearing, the moving party should forward to the Court the motion, a proposed order and a request for resolution without a hearing, in the manner set forth below:

A. Proposed Orders without a hearing may be submitted to the Court via the Florida Courts e-Portal **with a cover letter** and courtesy copy of the motion, joint stipulation, etc. related to the proposed Order, which must be copied to all opposing counsel/unrepresented parties. The cover letter **must** state (i) that opposing counsel/unrepresented party has been provided with the same materials being provided to the Court, (ii) whether opposing counsel/unrepresented party consents to the relief requested in the motion and proposed order and, if so, (iii) whether opposing counsel/unrepresented party agrees with the language of the proposed order.

B. If there is an unrepresented party involved in the case not using the e-Portal, the proposed Order must be submitted to the Court in writing, with sufficient copies for an original to be entered by the Court and a copy for each party not using e-Portal. Further, the party presenting the proposed Order, shall be responsible for providing **addressed, stamped envelopes for parties not using the e-Portal**. The proposed Order service list must contain addresses for any unrepresented party or party not using the e-Portal.

C. All consent Orders shall include the word “Consent” or “Agreed” in the caption of the proposed Order.

TRIAL TECHNOLOGY

The Court allows parties to utilize technology in their trial presentations. Counsel is responsible for having any technology set-up and ready to use during the trial without causing unnecessary delay. Please contact the Court’s Information Technology department at <https://www.jud4.org/Technology.aspx> to coordinate any technological issues in advance of the trial or hearing.