

CIRCUIT CIVIL DIVISION 7 PROCEDURES AND GENERAL INFORMATION

Mailing Address: P.O. Box 9000, Drawer J-167
Bartow, FL 33831-9000

Physical Address: Polk County Courthouse
255 North Broadway
Bartow, FL 33830

Hearing Room: **5D-1** (5th Floor, Blue Elevators)
Motion Hearings, Non-Jury Trials and Pretrials

Virtual Hearing Room Link: *Through Microsoft Teams

[Click here to enter Polk Civil Division 07 Virtual Courtroom](#)

+1 863-225-4022 361 560 839#

Courtroom: 7D (Seventh Floor, Blue Elevators)
Jury Trials

Administrative Orders: Copies of all Administrative Orders for the Circuit are available on our website at WWW.JUD10.FLCOURTS.ORG.

Docket Schedule: Three weeks of motions and two weeks of jury trials. Non-Jury Trials are scheduled during motion weeks.

Email: klindsey@jud10.flcourts.org

SCHEDULING HEARINGS ON REGULAR (MOTIONS) DOCKET:

You may e-mail our office (klindsey@jud10.flcourts.org) to obtain hearing times for a motion hearing. Please include the following information in your email:

Case #

Style:

Motion:

Duration Time Requesting:

Attorney for Plaintiff:

Attorney for Defendant:

Attorney requesting hearing:

All hearing date/time slots shall be cleared with opposing counsel prior to notices being filed. In the alternative, if counsel's good faith attempt to clear a hearing has been unsuccessful, the following

language shall be used: **“The above hearing date has not been cleared with opposing counsel’s calendar because (factual statement).”** Once a slot has been cleared (or a good faith attempt has been made) you must send back an email to reserve a particular date/time slot. If you don’t, the hearing will not be reserved or added to the calendar. All available hearing date/time slots are given to anyone attempting to set a hearing. Slots are not “held” unless directed by the Judge.

You may email a copy of the Motion that is being heard with the Notice of Hearing if pages are less than 20 pages. Should the Court want electronic copies of the pleadings and/or case law, the JA will email what is requested and in what format. Be sure to include the location of the hearing on your Notice of Hearing.

Any hearings submitting evidence shall be IN PERSON in Hearing Room 5D-1. (please let me know ahead of time, if you plan to appear in person)

All motion hearings are held in hearing room 5D-1, 5th Floor, Blue Elevators. Also, if this will be a virtual hearing the virtual information must be included on the notice of hearing. Please see Virtual Hearings for more information.

Uniform Motion Calendar: Judge Ojeda **does not** have a UMC Calendar. If a matter is uncontested, you may submit the motion and proposed order to the Judge for review. The motion itself should reflect that the matter is, in fact, uncontested.

Emergency or expedited hearings: Emergency or expedited hearings **are only set by the Judge** once he has received an *Emergency Motion* for consideration and directs that an emergency hearing be set on the matter. If the *Emergency Motion* is denied as an emergency, the attorney/movant may set it during the regular course of business per the Civil Rules of Procedure.

Cross-Notice: Be sure that any additional motions that have been considered for potential cross notices are not included in the above scheduling procedure without prior approval of the Court.

Virtual Hearings:

VIRTUAL HEARINGS: ALL non-evidentiary hearings maybe held virtually through **Microsoft Teams**. **Counsel may appear by video link, unless authorized by the Court to appear by telephone.** Virtual hearings should be scheduled as a virtual hearing when you are clearing your hearing with the Judge’s office and opposing counsel. The notice of hearing should also reflect that the hearing will be held virtually and include the virtual information for the hearings.

[Click here to enter Polk Civil Division 07 Virtual Courtroom](#)

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SCHEDULING MOTIONS FOR SUMMARY JUDGMENT HEARING FOR RESIDENTIAL/ COMMERCIAL FORECLOSURES WITH PRO SE DEFENDANTS (ONLY) INSTRUCTIONS:

1. If there is no opposing counsel, a residential or commercial foreclosure *Motion for Summary Judgment* hearing may be scheduled on our Foreclosure Docket. Please contact the Judge’s office for available dates.
2. **This will be a virtual hearing and the Petitioner’s attorney must appear virtually for the hearing.** If counsel does not attend the hearing virtually, the Court may not take action on the pending Motion.

3. **The information for the virtual hearing must be included in the Notice of Hearing.**
4. The Clerk of Courts is responsible for scheduling and implementing the sale date upon receipt of the executed Judgment.
5. **Judgment packets for this docket shall be forwarded to our office a minimum of 10 days prior to the hearing date.** All information readily available (i.e. attorney's fees and costs) should be completed. Our circuit requires the filing of a notarized AFFIDAVIT OF COMPLIANCE in accordance with Administrative Order No. 3-29.2. A copy of the notarized *Affidavit of Compliance* must be included in the packet. Failure to include this document will prevent the Final Judgment from being signed and processed. All original documents must be filed with the Clerk of Courts. Do not send original documents with the packet.

The Judge WILL NOT grant any Motions for Default Final Judgment on residential or commercial foreclosure cases without a properly noticed hearing. The only exception to this would be if the Default Final Judgment was stipulated to by counsel/parties. A copy of the signed stipulation would need to be submitted along with the packet and filings would still need to be in compliance with local Administrative Order 3-29.2(which includes filing and providing a hard copy of a notarized *Affidavit of Compliance*).

CONTESTED SUMMARY JUDGMENT IN ALL PROCEEDINGS

1. Summary Judgment packages must be **forwarded to our office a minimum of 10 days prior to the hearing.** Case law shall be submitted via email in Word format with relevant text/rule of law/holdings highlighted, you can also mail color copies with your hardcopy package.
2. **You must follow Fla.R.Civ.P. 1.510.** In addition, should you object that a fact is not supported by admissible evidence, please provide the Court with your objection/memorandum of law along with your highlighted case law with your Summary Judgment package as set forth above.
3. In your Summary Judgment package, you shall provide the Court with all documents that relate to the summary judgment requested or the non-movant's response, all supporting pleadings, your affidavits, your declarations, your Designation of Specific Facts showing there is a genuine issue for trial, Supporting Factual Positions - Rule 1.510 (c)(1) & (5), cited materials that are tabbed and highlighted that you will be arguing, and copies of relevant discovery/depositions cited in pleadings and Rule 1.510 required documents. If you are the movant, please provide a proposed reasons order in Word granting summary judgment. If you are the non-movant, please provide a proposed reasons order in Word denying summary judgment.
4. All original documents should be filed with the Clerk of Courts. Do not send original documents with the packet.

MOTIONS IN LIMINE

1. Motions in Limine may not be scheduled for a hearing **unless and until counsel have conferred** in an effort to resolve all or a portion of the Motion. The term "confer" requires a substantive conversation in person or virtually in a good faith effort to resolve the motion without the need to schedule a hearing and does not envision an exchange of ultimatums by fax, e-mail or letter.
2. The Motion in Limine or Notice of Hearing on said Motion must contain a certification that the parties have conferred (as set forth above) in an attempt to resolve each portion of the Motion prior to court's intervention.

3. The Notice of Hearing on the Motion in Limine must identify the specific issues which remain in controversy after counsel have conferred.
4. No Motion in Limine will be heard during trial unless the judge authorizes it in advance.
5. The Motion in Limine must state with particularity the grounds upon which it is based and the substantial matters of law to be argued and shall identify any evidence or supporting material on which the movant relies.
6. The judge may summarily rule on any Motion in Limine not written with particularity as described above. Any Motion in Limine not timely filed and scheduled for hearing before pretrial conference will be considered abandoned.
7. "Omnibus" and "boilerplate" Motions in Limine are discouraged. See, *Boyles v. A&G Concrete Pools, Inc.*, 149 So.3d 39, 43-44 (Fla. 4th DCA 2014) ("Motions in Limine can serve an important function in streamlining a trial. The excessive use of them, however, can clog the docket and become a trap").
8. A minimum of 10 days prior to the hearing, all parties shall submit their relied upon Case law with relevant text/rule of law/holdings highlighted and in color along with a hardcopy of the Motion, Response and Notice of Hearing.

CANCELLATION OF HEARINGS:

1. Please call or email as soon as you learn that the hearing is to be canceled. If your case settles, you must still cancel any hearings that you have set on the Judge's calendar.
2. Only the party who set the hearing may cancel it, and **it is that party's responsibility to notify everyone of the cancellation.**
3. Do not assume that if a case has been settled or cancelled (and even if the judge has signed an order dismissing the case), that the judicial assistant knows it has been cancelled. Please **always** provide a *Notice of Cancellation* to the judge's office to make sure that the hearing or trial has been taken off the book.

SUBMITTING PROPOSED ORDERS FOR CONSIDERATION:

1. All proposed Orders being submitted without a hearing must include a copy of the motion in the packet submitted by mail or through the Portal. Please verify the correct Judge with the Clerk's Office prior to submitting the motion/proposed Order packet for consideration. If the Judge feels that a hearing is needed, the submission will be returned to the sending attorney with a memo stating that the Judge requires a hearing. Orders to Show Cause regarding entry of Summary Judgments entry **MUST** include a final hearing date that is obtained by email before submitting the packet for the Judge's consideration. If this is sent in with a blank for the final hearing date, it will be returned with a memo directing the attorney to email for available dates and resubmit with the date filled in.
2. If your attorney tells you he/she is going to object to the order, please call and inform the judge's office. If you rely on the mail getting there within 5 days, you may be too late with the objection. Note that objections made by phone must be followed up by a written explanation within 5 days, with copy to opposing counsel.
3. Submitting proposed orders via the Portal is preferred, but should the documents exceed 50 pages and are to be mailed in, the packet should be bound together by either a paperclip or binder clip. **PLEASE DO NOT STAPLE the cover letter, original proposed order, and copies to be**

conformed together as one large packet. Also, please do not staple the envelopes to the copies to be conformed. It is quite difficult and time consuming to remove all those staples!

4. When sending in proposed orders, please be sure to send a transmittal letter showing that a copy of the letter and proposed order has been sent to opposing party. Orders will generally be held for a minimum of five (5) working days in order to give opposing party/counsel time to object. If the cover letter indicates that there are no objections to the proposed order, the Judge may waive the hold process and sign the order upon submission to the Court.
5. **It will your responsibility to provide copies of the signed order to all parties who are not included on the e-service list through the portal.**
6. Please do NOT email, mail, and only send proposed orders through the Portal. Please only submit one way to the JA.
7. If you mail a proposed order you must include a cover letter indicating that said order will be held for (5) working days or that the proposed order is agreed upon. Counsel must include sufficient copies and stamped envelopes to be conformed and mailed out to all parties/counsel. Otherwise, it will be up to the parties/counsel to get copies from the Clerk's Office, subject to any applicable fees.
8. If you object to an order, please contact the Judge's office immediately via email or phone. Note that objections must be followed up by a written explanation within five (5) working days, with copy to opposing counsel.
9. Do not include a Certificate of Service to be completed by the judicial assistant.
10. Please include all necessary information in your proposed order, as the Court will not fill in the blanks (Hearing dates/Attorney/etc.)

Orders and Document's with Confidential Information/Redacting Information

In accordance with a recent amendment by the Florida Supreme Court, to Rule of Judicial Administration 2.420, "the clerk shall not be required to identify and designate information as confidential," in circuit civil, county civil and small claims court documents. Effective July 1, 2021, the attorney who prepares the proposed order will be solely responsible for ensuring any confidential information contained in filings is appropriately redacted or identified for redaction.

The attorney is required to:

- File a Notice of Confidential Information when filing documents with Social Security numbers, bank account numbers, or other non-public information;
 - Identify the precise location(s) of confidential information within the document, including each page number on which it appears; and
 - Identify the type of confidential information or provision that applies to the identified information.
- The amended rule affects small claims

SUBMITTING EMERGENCY MOTIONS FOR CONSIDERATION:

Please email the Judge's office a copy of the *Emergency Motion* to the office. Any emergency motion submitted for *ex parte* consideration, should clearly so state. Unless the *Emergency Motion* is being submitted *ex parte*, the email shall include a cover letter that indicates that this submission has been copied to the opposing party/ counsel, who may send in a timely response per the procedure of this Judge's office. After reviewing the *Emergency Motion* and any response received from the other side,

Judge Ojeda will decide if the matter raised is a true emergency and whether the hearing should be advanced on the docket.

MOTION(S) FOR APPOINTMENT OF ATTORNEY AD LITEM:

If a case calls for the appointment of an Attorney Ad Litem, you may choose an attorney that accepts regular appointments in civil matters. At such time as you are ready to submit the motion and proposed order to our office, please be sure to include the attorney ad litem's information (i.e. name, address, phone number) in the order. There should be no blanks in the Order for the Judge to fill in.

TRIALS:

To have your case set for trial, you will need to file a Notice for Trial with the Clerk of Court and email or mail a hard copy to this office. Do not rely on the clerk to provide our office with the information. If you do not receive a trial order within a reasonable time, you should inquire with the judicial assistant. Jury trials are scheduled during a two-week trial period. Non-Jury trials are scheduled during the three week motion block. **Virtual appearance at the pre-trial conference is permitted.**

MARKING TRIAL EXHIBITS:

Prior to any hearing all documents intended for admission into evidence shall have exhibit identification information pre-marked in a form suitable for receipt into evidence. The exhibit labels shall be in substantially the following format:

Case No. _____
Party _____ Exhibit No. _____
Admitted _____ Excluded _____
Date: _____

The party submitting the exhibit shall fill in all blanks on the label except "admitted" and "excluded."

JURY INSTRUCTIONS:

In accordance with the uniform Order Setting Pretrial Conference and Jury Trial and Directing Mediation, Plaintiff shall provide a complete set of proposed jury instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions should be submitted via email to the judicial assistant no later than the Friday before the trial. Said instructions should be in Word format.

JOINT MOTION(S) TO CONTINUE TRIAL:

Please forward Joint Motion(s) to Continue Trial to the Judge's office via email for the Court to review.

MOTION(S) FOR REHEARING:

Florida Rule of Civil Procedure 1.530(b) provides that a Motion for New Trial or Motion for Rehearing should be served within 10 days of the jury verdict or 10 days from the filing of a judgment in a non-jury action. You must file the original with the Clerk and email or mail in a courtesy copy to the Judge. If a rehearing is to be held, the judicial assistant will email you available dates and times for you to clear and notice the hearing.

Any Motion for Reconsideration shall follow the same procedures as a Motion for Rehearing.

VOICE MAIL

Our office only has **one** line for incoming calls. If you call our office during normal business hours and get our voice mail, it means that the Judicial Assistant is on another line with a customer or away from her desk. Accordingly, if you leave a voice mail message, you should expect to receive a return phone call in a timely fashion. Your patience in this matter is greatly appreciated.