

LOCAL RULE 11 | MOTIONS

(a) Motions for Rehearing/Reconsideration. The moving party must comply with Adm. Order No. 2017-33-GEN . "Administrative Order Regarding Motion for Rehearing." DO NOT set a hearing regarding the motion. The filed motion along with a proposed order MUST BE submitted electronically for the Court's consideration. YOU MUST include all parties in your email to the Court.

(b) Motions to Continue Trial. In accordance with the Uniform Pretrial Order, continuances will only be considered for good cause on written motion prior to calendar call. Also, please comply with Fla. R. Civ. P. 1.460 and 2.545 (e) regarding party consent. If the case is continued the parties must reset it for trial using the Online Scheduling System. If a case is settled prior to the trial date, the scheduling party MUST immediately provide email notification to Ms. Mairale Dyson.

(c) Motions to Withdraw. If you do not have client written consent in accordance with Fla. R. Jud. Adm. 2.505, please notice the client with both the motion and the notice of hearing. In the body of the proposed order granting withdrawal please include the client's address, email address and phone number. If the client is an individual please include the following language in the Order: Within 20 days client shall either retain new counsel who must file a Written Notice of Appearance with the Clerk of Court; or the client must file a written notice with the Clerk of Court advising that he or she will be representing himself or herself (pro se). If the client is a business entity please include the following language in the Order, (Name of Client) shall be represented by counsel who shall file a Written Notice of Appearance within 20 days of the date of the order. Failure to follow this Order will create a presumption that client no longer wishes to participate in this litigation and the Court may sua sponte, or upon motion by opposing counsel, impose sanctions against client. Those sanctions may include striking pleadings, granting attorney's fees and costs, the entry of default, dismissal of the lawsuit with prejudice and/or any sanctions deemed appropriate and just by the Court.

(d) Motions for Summary Judgment - Generally. A motion for Summary Judgment is designed to relieve the Court of the expense of a trial when a party is unable to support by



competent evidence any material issue of fact. The movant for summary judgment has the initial burden of demonstrating the nonexistence of any genuine issue of material fact. But once he tenders competent evidence to support his motion, the opposing party must come forward with counterevidence sufficient to reveal a genuine issue. It is not enough for the opposing party merely to assert that any issue does exist. Rather it is incumbent upon the opposing party to come forward with competent evidence revealing a genuine issue of fact.

Pursuant to the Florida Supreme Court's [amendment to Florida Rule of Civil Procedure 1.510 effective May 1, 2021](#), parties moving for summary judgment must support or oppose the motion with a statement of material facts. In the interest of judicial economy, in the interest of proper and careful consideration of each party's statement of material facts, and in the interest of determining matters on summary judgment on the merits, the Court orders the parties to file any statements of material facts as follows:

1. The moving party shall file a statement of material facts as a separate filing from a motion for summary judgment.
2. The statement shall not exceed ten (10) pages.
3. Each material fact in the statement that requires evidentiary support shall be set forth in an individually numbered paragraph and supported by a specific citation. This specific citation shall reference pages (and paragraph or line numbers, if applicable) of the cited exhibit(s). When a material fact requires evidentiary support, a general citation to an exhibit, without a page number or pincite, is not permitted.
4. Each exhibit referenced in the motion for summary judgment and/or in the statement of material facts must be filed on the docket. Exhibits which have already been filed on the docket need not be refiled. If a deposition transcript is referenced, a complete copy must be filed which includes all exhibits. Within twenty-four (24) hours of filing a motion for summary judgment, the movant shall separately file an index of the cited exhibits which names each exhibit and



references the docket entry at which that exhibit may be found.

5. The responding party may file an opposing statement of material facts which responds to the moving party's statement of material facts.

6. The opposing statement of material facts shall not exceed ten (10) pages.

7. A responding party's opposing statement of material facts must specifically respond to each statement in the movant's statement by setting forth each of the individually numbered paragraphs contained in the movant's statement and after each paragraph, detail respondent's response or opposition.

By way of example:

Movant's Statement of Material Facts

1. Blackacre is a vacant property located at 123 Main Street. Exhibit A ¶ 1.
2. Bobby Jackson Doe owns Blackacre. Exhibit B ¶ 12.

Respondent's Opposing Statement of Material Facts

1. Blackacre is a vacant property located at 123 Main Street. Exhibit A ¶ 1.
Admitted that Blackacre is located at 123 Main Street. Exhibit A ¶ 1. Denied that the property is vacant. Exhibit C at 5.
2. Bobby Jackson Doe owns Blackacre. Exhibit B ¶ 12.
Denied as phrased. Admitted that the last recorded deed to Blackacre names Bobby Jackson Doe. Exhibit B ¶ 12.

8. Each exhibit referenced in the response to the motion for summary judgment and/or in the opposing statement of material facts must be filed on the docket. Exhibits which have already been filed on the docket need not be refiled. If a deposition transcript is relied upon, a complete copy must be filed which includes all exhibits. Within twenty-four (24) hours of filing a response to



the motion for summary judgment, the responding party shall separately file an index of the cited exhibits which names each exhibit and references the docket entry at which that exhibit may be found.

9. In the event that cross motions for summary judgment are filed, the Court may order the parties to submit a consolidated statement of material facts and responses as appropriate. If cross motions are anticipated, the parties may jointly move for an order to file consolidated statements prior to filing the motions for summary judgment.

10. A reply statement of facts is not permitted.

11. Remember Rule 1.510 requires that the motion be served at least 40 days before the time set for the hearing and requires the non movant to serve a response at least 20 days before the time set for the hearing.

Please DO NOT CALL the Judicial Assistant to confirm these procedures, hearings, to see if your documents have been received or signed by the Judge and/or for technical support using the Court Management System (CMS).

You can confirm your hearing by calling the scheduling party. When a hearing is set or cancelled, the Court Management System (CMS) will notify all parties registered with the E-Portal via email. Please notify the Court reporter of any cancellations.

(e) Motions for Summary Judgment – Foreclosure cases.

(1) How were the parties served?

(2) If there was a substitution of plaintiff, is a supplemental or amended pleading required for transactions post complaint (Rule 1.190(d))?

(3) Have all of the parties answered or been defaulted?

(4) If there are Affirmative Defenses, are they addressed by the Affidavit of Indebtedness ("AOI")?

(5) Does the AOI comply with 90.803(6) and Yisrael v. State, 993 So.2d 952, 956-958 (Fla. 2008)? Are the business records attached?



(6) If there was a change in servicers is there an Affidavit or Declaration for the business records of each servicer?

(7) If the complaint pleads that there is an "owner" other than plaintiff, is there some proof regarding the authorization of the plaintiff to act on behalf of the "owner"?

(8) If the complaint pleads a "lost note" count and the note is no longer "lost" was the complaint amended? *Feltus v. U.S. Bank*, 80 So.3d 375 (Fla. 2d DCA 2012).

(9) Is the original note, with all allonges, present so it can be cancelled? Does it run to the plaintiff or is it endorsed in blank? Does it match the copy attached to the complaint?

(f) Motions for Default Final Judgment. A hearing may not be required if the Plaintiff has pleaded a specific dollar amount in the complaint. Please include a copy of that portion of the complaint that states the specific dollar amount with your AOI. If the Plaintiff is seeking any relief beyond well-pleaded liquidated damages, a hearing is required, *Minkoff v. Caterpillar Financial Services Corp.*, 103 So.3d 1049 (Fla. 4th DCA 2013). Attorney fees and other unliquidated damages will require either an evidentiary or a summary judgment hearing. Quiet Title and Partition actions require an affidavit or certified copy of the deed upon which you rely.

