



**DUVAL COUNTY RULES OF COURT
DIVISION CV-E
(ALL-IN-ONE)**

Last Update: 1/3/2020

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DUVAL COUNTY RULES OF COURT

DIVISION CV-E

JUDGE BRUCE ANDERSON

LAST UPDATE 1/3/2020



SECTION 0 | PREAMBLE*

The effective administration of justice requires the interaction of many professionals and disciplines, but none is more critical than the role of the lawyer. In fulfilling that role, a lawyer performs many tasks, few of which are easy, most of which are exacting. In the final analysis, a lawyer's duty is always to the client. In striving to fulfill that duty, a lawyer always must be conscious of his or her broader duty to the judicial system that serves both attorney and client. To the judiciary, a lawyer owes candor, diligence, and utmost respect. To the administration of justice, a lawyer unquestionably owes the fundamental duties of personal dignity and professional integrity. Coupled with those duties is a lawyer's duty of courtesy and cooperation with fellow professionals for the efficient administration of our system of justice and the respect of the public it serves. In furtherance of these fundamental concepts, the lawyers should familiarize themselves with the current "Guidelines for Professional Conduct by the Trial Lawyers Section of the Florida Bar" (adopted by the Conferences of Circuit and County Court Judges), that can be found on the Court's website. It is recognized that these Guidelines must be applied in keeping with the advocacy of the interests of one's client and the long tradition of professionalism among and between members of the Trial Lawyers Section of The Florida Bar. These Guidelines are subject to the Florida Rules of Civil Procedure, the Florida Rules of Professional Conduct, and the specific requirements of any standing or administrative order, local court rule, or order entered in a specific case.

**In part from the 2019 "Guidelines for Professional Conduct by the Trial Lawyers Section of The Florida Bar."*

SECTION 1 | EX PARTE HEARINGS

A. Ex parte hearings are only for **uncontested** matters that can be heard and addressed by the Court in five minutes or less.

B. Ex parte will be held from 9:30 a.m. to 10:00 a.m. on certain, identified dates. Ex parte dates are posted on the website above, as well as outside Chambers 739.

C. Given the nature of ex parte hearings, telephonic appearances will be allowed **only for out-of-town counsel/parties**. The local counsel attending ex parte must have a direct-dial phone number for out-of-town counsel, which will be called at the time of the commencement of the ex parte hearing.

D. If **all** counsel plan on attending the ex parte hearing by phone, please contact the Court to schedule a time-certain hearing.



SECTION 2 | SETTING CASES FOR TRIAL (JURY AND NON-JURY)

A. When the case is at issue, a party may file a Motion to Set Case for Trial.

B. The movant may obtain ex parte dates from the Court's website and coordinate with opposing counsel which date is best for all parties. **Ex parte hearings do not need to be coordinated or scheduled with the Court.**

C. The movant then must file a Notice of Ex Parte Hearing for the agreed-upon date. Courtesy copies of the uncontested Motion and Notice of Hearing **do not** need to be provided to the Court.

D. At the ex parte hearing, the movant must present to the Court a **fully completed Division CV-E Trial Set Memorandum form**. The form can be found on the Court's website and in Chambers. As noted on the form, **please include telephone numbers and email addresses for counsel AND for e-filing.**

E. The Movant shall be responsible for providing **addressed, stamped envelopes for parties not receiving pleadings and orders via the e-Portal**. Further, the Movant shall provide a **blank, stamped envelope for the appointed mediator** (if the mediator is not using e-Portal). Envelopes are not necessary for all individuals or entities using e-Portal.

F. The Court will prepare the Order Setting Case for Trial.

G. The parties must comply with the "Trial Conduct and Courtroom Decorum Policy" that can be found on the Court's website.

H. If a case settles, the parties must **immediately** contact the Court to have the case removed from the calendar/trial docket.

SECTION 3 | SETTING HEARINGS FOR PENDING MOTIONS

A. The party requesting the hearing shall email the Court at pfields@coj.net and copy the assistant(s) for opposing counsel and provide the case number, the motion(s) to be set for hearing and how much time is being requested.

B. The Judicial Assistant will "Reply to All" with available hearing dates/times. PLEASE NOTE: HEARING DATES/TIMES PROVIDED ARE NOT HELD AND MAY BE GIVEN TO OTHERS. HEARING DATES/TIMES ARE NOT SECURED UNTIL CONFIRMATION IS SENT FROM THE COURT.

C. If out-of-town counsel would like to telephonically attend a hearing scheduled to take **fifteen (15) minutes or less**, counsel may do so without further Order of the Court. Please notify the Court of counsel's intention to appear telephonically at the time the hearing is scheduled.

D. Should counsel wish to telephonically attend a hearing scheduled for **more than fifteen (15) minutes**, counsel must seek leave of Court by filing a written Motion and providing a courtesy copy of the Motion and proposed Order to the Court via electronic mail.

E. Telephonic appearance is a privilege. **Counsel must call the Court's office at the number above promptly at the time of the hearing.** If multiple attorneys will telephonically appear at a hearing, please have all counsel on the line prior to calling the Court's office. Any difficulties may require the Court to not allow future telephonic appearances.

F. Courtesy copies: Courtesy copies (hard copies) of all Court filings pertaining to a motion set for a time certain scheduled hearing **MUST be provided to the Court no later than ten (10) business days prior to the scheduled hearing or immediately if the hearing is scheduled within that time period.** Courtesy copies are to be hand delivered with a cover letter or mailed with a cover letter. All opposing counsel/unrepresented parties must be copied with the letter and the enclosure(s), if the enclosure(s) not previously provided through the e-portal/service of process, and specify on letter. Not complying with the Court's request for copies may result in the hearing being cancelled without notice.



G. 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 ten (10) business days before the hearing**, or immediately if the hearing is scheduled within that time period. Such item(s) are to be hand delivered with a cover letter or mailed with a cover letter. *Please be sure to provide all opposing counsel with the same cover letter and item(s).* The Court will attempt to review the motion(s) 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.**

H. Limitation on Hearings: All hearings related dispositive motions and trial matters must be **filed and heard prior to the pre-trial conference**. Motions in Limine (MIL) are governed by Section VII infra. NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL OR MIL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD absent unanticipated events occurring.

I. Meet and Confer Requirement: A mandatory meet and confer process is hereby established as set forth below, for all motions to be *set for hearing* in Circuit Civil Division CV-E and to occur *before* scheduling the hearing except for the following motions: injunctive relief without notice; judgement 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" "First Option") 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 an exchange of ultimatums by fax, e-mail 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 (attached hereto as "Exhibit A" "Second Option").

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 assistant are aware of any narrowing of the issues or other resolution as a result of the conference.

SECTION 4 | HEARINGS OF MORE THAN ONE (1) HOUR

Any Motion for which counsel is seeking more than one hour of hearing time must be scheduled with the Court during Ex Parte (See Section I, *supra*).



SECTION 5 | CANCELLATION OF HEARING

A. When cancelling a hearing, please call the Court with opposing counsel's office on the line. You may also email the Judicial Assistant and copy opposing counsel notifying the Judicial Assistant of the cancellation.

B. DO NOT assume the hearing is automatically removed from the Court's calendar. If you do not receive a telephone call or email confirming the cancellation, please try contacting the Judicial Assistant again. **A Notice of Cancellation that has been e-filed with the Clerk is not sufficient notice of a cancellation. Cancellation of a hearing MUST be confirmed with and by the Court.**



SECTION 6 | MOTION TO COMPEL OR MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DISCOVERY AND MOTION FOR PROTECTIVE ORDER

To avoid recurring discovery problems and curtail perceived abuses in discovery and unnecessary delays, counsel should comply not only with the technical provisions of the discovery rules, but also with the purpose and spirit of these rules. *Bainter v. League of Women Voters of Fla.*, 150 So. 3d 1115, 1118 (Fla. 2014). Whether conducting or responding to discovery, and in both oral and written practice, counsel must conduct themselves consistent with the standards of behavior codified in (1) the 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; (5) the decisions of the Florida Supreme Court and (6) the applicable code of conduct and standing orders promulgated by the Fourth Judicial Circuit and Division CV-E. Counsel should also familiarize themselves with the current "Florida Handbook on Civil Discovery Practice" as a quick reference for many recurring discovery problems and quickly access legal authority for various topics. This handbook can be found on the Court's website.

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

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 discovery motions must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve that matter without court action. See *Fla. R. Civ. P.* 1.380(a)(2) and the Meet and Confer Requirement *supra* for motion hearings.

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.



SECTION 7 | MOTIONS IN LIMINE (MIL)

A. MIL may not be scheduled for a hearing unless counsel have complied with the "Meet and Confer Requirement" (See Section III I.), *supra* and such MIL contain a certification of a good faith attempt as to each item to resolve the matter without court action in the form of a Certificate of Compliance (attached hereto as "Exhibit A") that the conference has occurred in the Notice of Hearing filed with the Court. Notices of hearing on MIL must identify the specific issues which remain in controversy after counsel have met and conferred. MIL will not be heard during the week of trial or at trial.

B. All case specific MIL shall be filed, served, noticed and heard or agreed to by the parties no later than the deadline set forth in the case management order or the order setting case for jury trial. The MIL shall 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. Opposing counsel shall have five (5) business days to file a written response if they wish. Courtesy copies of such MIL, Notices of Hearing, written response(s), hearing notebooks, legal memorandums and citations are governed by Sections III F. and G. *supra*.

C. The Court may summarily rule on any MIL not written with particularity as described above. Any MIL not timely filed and/or not discussed by counsel at the meet and confer and (if unresolved) not set for hearing will be considered abandoned.

D. The party filing the MIL will prepare the proposed order on any contested hearing reflecting the Court's rulings(s). All counsel are reminded that rulings on MIL are non-final orders subject to modification during trial as evidence is presented.

SECTION 8 | EMERGENCY MOTION/MOTION FOR REHEARING/MOTION FOR NEW TRIAL

The Motion should first be e-filed with the Clerk of Court. The movant must provide the Court a courtesy copy of the Motion by mail, hand delivery or email. However, any large documents (more than 20 pages, including attachments) must NOT be emailed, rather, in such case, the movant should follow the procedures set forth in Section III. G. *supra*. If any party requests a hearing set on the Motion, that party should contact the Court consistent with the instructions above (See Section III). The request for hearing may or may not be granted.



SECTION 9 | PROPOSED ORDERS AFTER A HEARING

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.

A. Proposed orders after a hearing are to be timely submitted to the Court as follows:

1. If counsel is asked to prepare an order, the order should be drafted and circulated to opposing counsel 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.
2. 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).
3. If there is an unrepresented party involved in the case not using 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;**
4. If all parties before the Court are using e-Portal, the proposed Order may be emailed to the Court in Microsoft Word format; and
5. The proposed Order service list must contain e-filing addresses for opposing counsel/unrepresented party. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope.
6. If the parties are unable to agree on the form of the order, both sides shall present their respective proposed orders to the court for consideration within seven (7) days of the hearing with copies to opposing counsel. The party objecting to the proposed order shall also present a "redline" or "blackline" version, in



Microsoft Word format, of the proposed order to the Court, together with a transcript of the hearing if a Court Reporter was requested by any party. The purpose of providing the Court with a "redline" or "blackline" version, in Microsoft Word format, of the proposed order is to allow the Court to compare the versions of the competing proposed orders to consider and comprehend what has been changed, revised or added. Copies of any such "redline" or "blackline" version of the proposed order and hearing transcript shall be provided to opposing counsel/unrepresented party.

7. If you want to know if a specific order has been signed by the Judge, you should first check the Clerk of Court's records system to confirm it has been docketed as the Judicial Assistant is unable to track the signing of a specific order.

B. ALL PROPOSED ORDERS PRESENTED FOLLOWING HEARING, whether submitted to the Court in writing or via email as contemplated *supra*, 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.

C. 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.

NOTE: Any complex proposed Orders should be submitted in Microsoft Word format via email to the Court with a cover letter consistent with the instructions above.



SECTION 10 | PROPOSED ORDERS WITHOUT A HEARING

A. Proposed Orders without a hearing may be submitted to the Court **with a cover letter**, which must be copied to all opposing counsel/unrepresented parties. A courtesy copy of the motion, joint stipulation, etc. related to the proposed Order must be provided. The letter must state that opposing counsel/unrepresented party has been provided with the same materials being provided to the Court and whether opposing counsel/unrepresented party agrees with the language of the proposed Order. The service list on the Order must contain e-filing addresses for opposing counsel/unrepresented parties.

B. If counsel does not have an email address for an unrepresented party, counsel must mail or hand-deliver the proposed Order, cover letter and all attachments to the Court consistent with the instructions above. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope for that party.

C. All consent Orders shall include the word "Consent" or "Agreed" in the caption of the proposed Order, and 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).

D. The proposed Order service list must contain e-filing addresses for opposing counsel/unrepresented party. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope.

E. If you want to know if a specific order has been signed by the Judge, you should first check the Clerk of Court's records system to confirm it has been docketed as the Judicial Assistant is unable to track the signing of a specific order.



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.



APPENDIX



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