

**CIVIL DIVISION PROCEDURES
SEVENTH JUDICIAL CIRCUIT
FOR JUDGE TERENCE R. PERKINS**

1. Hearings: All civil hearings must first be scheduled on benchmark (<http://apps.flaglerclerk.com/Benchmark/>) and then confirmed by Notice of Hearing. Regular civil hearings are scheduled in 15 minute blocks for 15, 30, 45 minutes, or one hour. Hearing time of more than 1 hour must be requested in writing by email to the Judicial Assistant (sprice@circuit7.org).

Until further notice, Judge Perkins will be using Zoom for most hearings in both civil and criminal cases. We will no longer be doing our hearings by using CourtCall. Here is the zoom information for attending the hearings:

Go to <https://flagler.zoom.us/j/3863134510> or go to <https://flagler.zoom.us/join> and enter Meeting ID: 386 313 4510 or to join from a dial-in phone line, dial 1-415-762-9988 and the meeting ID number is 386 313 4510.

2. A hearing may be cross-noticed, and if it is, can only be canceled with the concurrence of all who have noticed the matter for hearing. Do not notice additional matter(s) for hearing at the time reserved by another party, unless consent has been obtained from that other party and the J.A. is notified. The Judicial Assistant should be advised of any hearing cancellations **immediately – BY EMAIL (sprice@circuit7.org)**; if advised in advance, the J.A. can make the time available to other parties. Please file memoranda of law in advance, rather than serving at the hearing. “Emergency” hearings are rarely granted, and must be requested in writing, giving reasons. With regard to “regular” and “emergency” hearings, it should be noted that under the rules, testimony may not be presented via telephone unless all affected parties agree. Evidentiary hearings should be noticed as such. **Please do not file anything in paper form. All motions, notices, orders, etc. are to be filed through the Clerk’s statewide e-portal system.** Procedures regarding hearings differ from division to division so please refer to the Judge’s web page (www.circuit7.org) to obtain the procedures of each division.

3. **Foreclosure hearings:** Hearings on foreclosure cases must be scheduled by using a “foreclosure hearing” timeslot on Benchmark. These are 5 minute timeslots and more than one hearing is scheduled at the same time. Please only schedule a foreclosure hearing under this timeslot. **Do not** use a 15 minute timeslot for hearings on foreclosure cases (unless approved by the judicial assistant in advance). A foreclosure hearing scheduled on a regular 15 minute timeslot may be cancelled by the Court without notice.

4. **Expedited hearings:** Expedited hearings are hearings scheduled for a total of 5 minutes or less and do not involve the presentation of testimony. They will be held on **some** Wednesday mornings at 8:30 a.m. They are to be scheduled **by the attorneys** on Benchmark and then the Notice of Hearing must be filed.

5. Proposed Orders:

a) The title of the Order should reflect the action taken, i.e. Order Granting Defendant’s First Motion to Dismiss. If an order is agreed upon by all parties, please add “Agreed” before the title of the proposed order. **All proposed orders are to be filed through the Clerk’s statewide e-portal system.**

b) An order granting a motion should grant the relief requested instead of merely reciting that the motion is granted (for example, an order granting a motion to dismiss does not, without more, dismiss the complaint). Similarly, an order approving a stipulation should also, at a minimum, order the parties to comply with its terms. An order denying a motion may merely recite that the motion is denied, unless other orders/directives are announced.

c) Place a title on all proposed orders: i.e., Order Dismissing Complaint, Order Compelling Discovery, Judgment in Favor of Defendant Doe; not simply “Order”.

d) Please **do not** send proposed orders by mail. We do not accept **any** paper copies of orders, motions or any other documents by mail. Everything is to be filed with the Clerk’s statewide e-portal system.

6. **Changing caption:** Unless specifically ordered by the court, do **not** change the caption (“style”) of the case. Even if a party (or even all parties) changes, or a third-party defendant is added, the caption should not be changed by counsel or the parties, **absent a court order**.

7. **Motions:** Please do not move to “abate” or “stay” when actually seeking a continuance, or seeking removal from trial docket. A stay order is rarely entered.

8. **Setting Cases for Trial:**

(a) **When at Issue.** An action is at issue after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading. The party entitled to serve motions directed to the last pleading may waive the right to do so by filing a notice for trial at any time after the last pleading is served. The existence of crossclaims among the parties shall not prevent the court from setting the action for trial on the issues raised by the complaint, answer, and any answer to a counterclaim.

(b) **Notice for Trial.** Thereafter any party may file and serve a notice that the action is at issue and ready to be set for trial. The notice shall include an estimate of the time required, whether the trial is to be by a jury or not, and whether the trial is on the original action or a subsequent proceeding. The clerk shall then submit the notice and the case file to the court.

(c) **Setting for Trial.** If the court finds the action ready to be set for trial, it shall enter an order fixing a date for trial. Trial shall be set not less than 30 days from the service of the notice for trial. By giving the same notice the court may set an action for trial. In actions in which the damages are not liquidated, the order setting an action for trial shall be served on parties who are in default in accordance with [rule 1.080](#).

9. **Withdrawal/Substitution of counsel:** Withdrawal can only be accomplished by order, which will be entered only upon stipulation signed by client(s), or after a hearing. If a hearing is necessary, a notice of the hearing must be served with the motion and notice of hearing to the **client(s)** as well as all other parties; a copy of the motion to withdraw to the client(s) and this service should be reflected on the certificate of service. Fla. R. Jud. Admin. 2.505(f)(1). The client’s home address, email address and phone number must be included in the motion **and** in the proposed order. Unless the client is a corporation (which must be represented by counsel), the order should not require the client to obtain or retain a lawyer. Similarly, a substitution of counsel requires an order of court, and either a **written consent** of the client(s) which shall be filed with the court, or a hearing. Fla. R. Jud. Admin. 2.505.(e)(2).

10. **Continuances:** When moving for a continuance, the rule requires that the **party** (not just the attorney) requesting the continuance should sign the motion or stipulation. Fla. R. Jud. Admin. Rule 1.460 and 2.545(e). This is not always practicable, but when it is not, the motion should recite the reason and the motion should be set for hearing. The motion for continuance should state the date by which all parties believe the case will be **ready to be tried**. The proposed order should reflect the name of the party or parties who moved for the continuance. Any proposed order shall state **the newly established trial date**. No continuance is granted as a matter of right, and no party or counsel should assume that a continuance will be granted. If a case is continued or “bumped”, the time periods and deadlines in the Uniform Pretrial Procedures shall be automatically adjusted accordingly to coincide with the **new** case management conference date and **new** trial date.

11. **Foreclosure proceedings: Original documents (affidavits, note and mortgage, default letters, allonges and assignments) must be SENT DIRECTLY TO THE CLERK'S OFFICE – NOT THE JUDGE'S OFFICE – Hearings will not be conducted if the original documents are not filed with the clerk by that date of the hearing.** Testimony is not permitted at a summary judgment hearing. **PLEASE DO NOT SEND PAPER COPIES OF ANY DOCUMENTS (FORECLOSURE PACKETS OR ENVELOPES) TO THE JUDGE.**

12. **When a case is settled:** Any party seeking affirmative relief in the case must notify the judicial assistant **BY EMAIL** (sprice@circuit7.org) of the settlement or resolution of the case as soon as practicable. This is independent of and in addition to any report to the court by a mediator. Similarly, any party who has requested and received hearing time has a duty to notify the court's JA that the hearing(s) is canceled (our computers do not automatically cancel hearings when a case is settled). In order to close a file, stipulations and proposed orders of dismissal along with the Final Disposition Form (required by Rule 1.998) should be sent as soon as practicable (a mediation report does not close the file).

(Amended July, 2020)