

**POLICIES, PROCEDURES AND PREFERENCES
FOR ALL CIVIL CASES ASSIGNED TO JUDGE JOHN C. COOPER**

SECTION 1 - INTRODUCTION

The Rules of Judicial Administration encourage the speedy, just and inexpensive resolution of cases, and impose on the trial court the duty to monitor and manage the docket in order to achieve this goal. The following policies and procedures, which shall apply to all cases assigned to Judge John C. Cooper, are intended to facilitate the just, prompt, and cost effective determination of cases, and to encourage courtesy, civility and professionalism in all participants. These policies and procedures are intended to supplement, not supplant, the Florida Rules of Civil Procedure, which shall control if there is any conflict between the two. These policies and procedures shall be known and cited as *Cooper Policies and Procedures*, or in abbreviated form as *CPP*.

SECTION 2 - MOTION PRACTICE

2.1 - Form and Content - All motions and responses thereto, unless made orally during a hearing or trial, shall be in writing. All motions shall state with particularity the grounds therefore and the relief sought. All motions and responses thereto, except those listed in 2.7, shall cite in the body thereof all authorities relied upon or shall be accompanied by a memorandum of law.

2.2 - Summary Judgment Motions - Any motion for summary judgment shall contain therein, or by separate statement, a short concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. The statement shall be supplemented by an appendix which shall contain copies of the appropriate affidavit, portions of depositions, specific interrogatories and answers thereto, specific admissions, or other document of record relied upon to establish the material fact.

The party opposing a motion for summary judgment shall, likewise, file and serve a response containing a short and concise statement of the material facts as to which it is contended there exists a genuine issue to be tried, with an appendix in the format set forth above. All material facts set forth by the moving party that are not addressed by the statement in opposition will be deemed to be admitted.

2.3 - Certificate of Good Faith Conference - Before filing any motion, the moving party shall confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion, and the motion shall contain a statement certifying that the moving party has conferred with opposing counsel and that counsel have been unable to agree on the resolution of the motion (the "Certificate").

A. The term "confer" as used herein, means a substantive conversation either in person or by telephone in a good faith effort to resolve the motion without court action and does not envision an exchange of ultimatums by fax or letter. Certification that

counsel has attempted to confer with opposing counsel is not sufficient. The court may sua sponte deny motions that fail to include an appropriate and complete certificate under this section.

B. The certificate shall set forth the date of the conference, the names of the participating attorneys, and the specific results achieved. It shall be the responsibility of counsel for the movant to arrange for the conference. Counsel are expected to respond promptly to inquiries and communication from opposing counsel. Repeated failure or refusal of a party or attorney to so confer should be set out with specificity in the certificate.

C. No conference, therefore no certificate, is required for appropriate ex-parte motions, uncontested motions, judgment on the pleadings, summary judgment, or other dispositive motions.

D. A party alleging that a pleading fails to state a cause of action will confer with counsel for the opposing party before moving to dismiss, and, upon request of the other party will stipulate to an order permitting the filing of a curative amended pleading in lieu of filing a motion to dismiss.

2.4 - Motions Decided on Papers and Memoranda - Motions, except those for summary judgment, may be considered and decided by the court on the pleadings, the court file, and memoranda, without hearing or oral argument. Unless otherwise directed by the Court, responses in opposition shall be filed within five days after service of the motion for discovery disputes, ten days for motions directed to the pleadings, and twenty days for motions for summary judgment. Request for additional time shall be made by a motion filed before the date the response is due. If a timely response is not filed, the court will deem the motion uncontested. Unless otherwise directed by the Court, the movant may file a reply within ten days of service of the response in opposition.

2.5 - Hearings or Oral Argument on Motions - Any party who seeks oral argument on a motion shall set forth the reason therefor and the time requested. If the Court grants hearing or oral argument on a motion, the Court will coordinate the scheduling thereof.

2.6 - Telephone hearings - Telephone hearings for counsel in town are discouraged. Telephone hearings of 15 minutes or less for out of town counsel will routinely be granted. Counsel wishing to appear by telephone should seek leave to do so in advance. Arrangements for any permitted telephone hearings should be made with the judicial assistant at least 48 hours before the hearing.

2.7 - Suggestion of Subsequently Decided Authority - A suggestion of controlling or persuasive authority that was decided after the filing of the last memorandum may be filed at any time prior to the court's ruling and shall contain only the citation to the authority relied upon, if published, or a copy of the authority if it is unpublished, and shall not contain argument.

2.8 - Motions Not Requiring Citation to Authority or Memoranda - Citation to authority in the body of the motion or accompanying memoranda are allowed but not required by either the movant or the opposing party, unless otherwise directed by the court, with respect to the following motions:

- A. Extensions of time for the performance of an act required or allowed to be done, provided that the request is made before the expiration of the period originally prescribed or extended by previous orders;
- B. To continue a pre-trial conference, hearing, or the trial of an action;
- C. To add or substitute parties;
- D. To amend the pleadings;
- E. To file supplemental pleadings;
- F. To appoint a next friend or guardian ad litem;
- G. To stay proceedings to enforce judgment;
- H. For pro hac vice admission of counsel who are not members of The Florida Bar;
- I. To request oral argument; and
- J. Any other motion which, by its nature, does not require citation to authority.

2.9 - Failure to File and Serve Motion Materials - The failure to cite authority in the body of the motion, or to file a memorandum within the time specified shall constitute a waiver of the right thereafter to file such memorandum, except upon showing of excusable neglect. A motion not containing citation to authority or unaccompanied by a required memorandum may, in the discretion of the Court, be summarily denied. Failure to timely file a response to the motion will result in the pending motion being considered and decided as an uncontested motion.

2.10 - Preparation of Orders - In matters in which the court does not prepare its own orders, the Court will direct the prevailing party to prepare an order in accordance with its ruling. Multiple copies and addressed stamped envelopes sufficient for all parties shall be submitted with the proposed order. The party proffering such an order must represent that he or she has provided copies to the opposing parties in advance and that they have no objection to the order. If agreement among the parties cannot be reached on a proposed order, the Court should be so advised with appropriate alternative proposed orders provided.

2.11 - Materials to be Provided to the Court - A courtesy copy of any motion or similar document seeking or contemplating judicial action, shall be provided to the judge contemporaneously with its filing with the clerk. Likewise for response and replies, to legal memorandum, and all other documents of record, or otherwise, which the party considers necessary for consideration and determination of the motion or other request for judicial action. Alternatively, a party may specifically designate what pleadings or other documents of record in the court file are appropriate for consideration, giving a description of the filing and the date it was filed.

2.12 - Motions to File Under Seal - Whether documents filed in a case may be filed under seal is a separate issue from whether the parties may agree that produced documents are confidential. Motions to file under seal are disfavored. The court will permit the parties to file documents under seal only upon a finding of extraordinary circumstances and particularized need. A party seeking to file a document under seal must file a motion to file under seal requesting such court action. The motion, whether granted or denied, will remain in the public record.

2.13 - Emergency Motions - The Court may consider and determine emergency motions at any time. Counsel should be aware that the designation "emergency" may cause a judge to abandon other pending matters in order to immediately address the emergency. Such motion shall state with particularity the reason the matter constitutes an emergency, including the irreparable harm that will likely result if the matter is not considered in the normal course of events in accordance with the procedures outlined herein. Lack of due diligence by a party or counsel does not constitute an emergency. The Court may sanction a party who designates a motion as an emergency under circumstances that are not deemed by the Court to be emergencies.

SECTION 3 - DISCOVERY

3.1 - Duty of Good Faith and Due Diligence - The Court expects counsel and the parties to conduct discovery timely, in good faith, and with due diligence. They are expected to cooperate and be courteous in all phases of the discovery process with a goal of fairly and efficiently exchanging information about the case so that it may be resolved in a timely just and cost effective manner. Response to request for discovery should be timely, complete, and in good faith. If there are objections, they should be stated with specificity and provide any factual basis where appropriate.

3.2 - Duty to Update and Supplement - It is expected that all responses to discovery will be accurate and complete when given. Each party shall have a duty, however, to update or supplement any response immediately upon obtaining information that would make the previous response inaccurate, incomplete or misleading.

3.3 - Special Masters - The Court may, at any time, on its own motion or on the motion of any party, appoint a special master in accordance with Florida Rules of Civil Procedure 1.490, to assist in the coordination of discovery and to mediate/ arbitrate disputes. Unless otherwise ordered, the parties shall bear equally the cost of proceeding before a special master, and such fees may be taxed as costs.

3.4 - Completion of Discovery - The requirement that discovery be completed within a specified time mandates that adequate provisions must be made for interrogatories and requests for admission to be answered, for documents to be produced, and for depositions to be held within the discovery period. The court does not anticipate entertaining motions relating to discovery conducted after the close of the discovery period as set forth in the Court's Case Management Order(s). Motions requesting an extension of the discovery

period must be made prior to the stated date for completion of discovery. This motion must set forth good cause and due diligence.

SECTION 4 - CALENDARING OF TRIALS

Trials in the civil division are scheduled on the first, third and fifth week of each month. Because of limited courtroom availability and other resources, trials can not be specially set on other weeks, except in very unusual circumstances. Unless otherwise ordered, jury selection is conducted the Friday before the trial period, beginning at 9:00 a.m., and docket sounding for all trials scheduled for the trial period is conducted at 9:00 a.m. on the Thursday a week before jury selection. Generally, no motions will be considered during docket sounding. A specific list of available trial periods and the corresponding dates for jury selection and docket sounding may be obtained either from the judicial assistant or on the web site at www.2ndcircuit.leon.fl.us. Trials are stacked during each trial period. Trials are not specifically set during any given trial period for particular dates. The parties must be prepared to try the case on any day(s) during the trial period. The Court will, however, attempt to accommodate the scheduling needs of the parties, counsel or witnesses, and information as to the trials scheduled for any given trial period can be obtained either from the judicial assistant or on the above web site.

SECTION 5 - MISCELLANEOUS

5.1 - Settlement - Any time a matter is scheduled for trial or hearing and the parties have resolved the matter, all parties have the responsibility of notifying the Court as soon as possible of the settlement, and advising the Court of the party who will prepare and present the appropriate judgment, dismissal, stipulation or other order.

5.2 - Transmittal or cover letter - All materials delivered to the Court should be accompanied by a transmittal or cover letter advising the Court of the circumstances or reason for the transmittal. For example, a cover letter with a proposed order should indicate if it is pursuant to a ruling on a certain date, is agreed to by all parties, etc.

5.3 - Copies to counsel or parties - All materials, including transmittal letters, submitted to the Court must be copied to all other counsel or unrepresented parties.