

POLICIES, PROCEDURES AND PREFERENCES
FOR ALL CIVIL CASES ASSIGNED TO JUDGE TERRY P. LEWIS

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. In the hopes that it might prove useful, this Memo contains information on my preferences towards practices and procedures for civil cases assigned to me.

SECTION 2 - MOTION PRACTICE

2.1 - Form and Content - In general, all motions and responses thereto, unless made orally during a hearing or trial, should be in writing and should state with particularity the grounds and the relief sought. The motion and responses thereto, should include all authorities relied upon, either in the body of the motion or response, or in a separate memorandum of law. The requirement of citation to legal authority is not required for routine motions that do not raise substantive legal issues, e.g. motions for continuance or extension of time, to add or substitute a party, amend the pleadings, etc.

2.2 - Motion Decided on Papers and Memoranda - One of the reasons for requiring legal authorities or separate memorandum is that I may rule on some motions on the basis of the motion, the response and memoranda, without oral argument. If you don't give me the authority that supports your motion, and it's not apparent on its face, it may be summarily denied. Likewise, if the response doesn't give me any contradictory authority, I may assume there is none.

2.3 - Hearings or Oral Argument on Motions - The other reason for requiring citation to legal authority early on is that, if we do schedule a hearing on the motion, everyone is better prepared to discuss the pertinent issues and legal argument. It is much less helpful to come to a hearing and present me with cases or other authority that have not been given to me or opposing counsel ahead of time. If you show me the courtesy of providing your memoranda or legal arguments sufficiently ahead of the hearing, I will show you the courtesy of reading it before the hearing.

2.4 - Scheduling of Motion Hearings or Request for Ruling without Hearing

When you file your motion, you should send me a copy, together with a cover letter indicating if you wish to have oral argument on the motion, via **U.S. Mail** or

Hand Delivery. If so, tell me why and how much time is requested. I will review the motion and determine whether to set it for a hearing and how much time to allot. I may request a written response from opposing counsel before making that decision. If we do decide to set a hearing, my judicial assistant will coordinate the scheduling. Please include your or your assistant's email address so that she can contact you with dates.

I will typically also have my judicial assistant request a written response from the other attorney within a certain time, and a reply from you if you so elect. If you have not provided legal authority, there may be a reminder of that as well.

If I set less time than you requested for the hearing, please understand that the number of cases in my division is quite large, and the demand for judicial action quite high. I must balance the needs of all cases and litigants in order to resolve your disputes as fairly and expeditiously as possible.

Except as restricted by the Rules of Judicial Administration, telephone hearings are not only allowed, but encouraged, as a cost saving device for attorneys or parties who do not reside in the Tallahassee area - or even for those who do. If you want to appear for any scheduled hearing by phone, you don't need a motion and order, but make appropriate arrangements with the judicial assistant and let opposing counsel know.

2.5 - Good Faith Conference - Before filing any motion, you should confer with the opposing counsel or party in a good faith effort to resolve the dispute. This does not envision an exchange of ultimatums by fax, e-mail or letter, but rather a substantive conversation about the matter. Counsel are expected to respond promptly to inquiries and communication from opposing counsel in this and all matters concerning the litigation. I do not require a certification in your motion of this good faith attempt to resolve the dispute, but it is my expectation, and my assumption when I receive your motion.

2.6 - 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 ruling and should contain only the citation to the authority relied upon, if published, or a copy of the authority if it is unpublished, and should not contain argument. The filing of supplemental memoranda or argument, unless requested by me, is frowned upon. It is unfair to the opposing counsel, who may feel compelled to respond, which in turn may prompt a desire for additional reply, and on and on. So, don't do it.

2.7- Preparation of Orders - If I can rule at the hearing, I will and ask the

prevailing party to prepare an order in accordance with my ruling. Multiple copies and addressed stamped envelopes sufficient for all parties should be submitted with the proposed order. The party proffering such an order should indicate in a cover letter 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, I will need to have each proposed order, in hard and electronic copy, with some indication as to specifically how they differ.

2.8 - Materials to be Provided to the Court - As noted above, a courtesy copy of any motion or similar document seeking or contemplating judicial action, should be provided to me contemporaneously of its filing with the clerk. Likewise for response and replies, for legal memorandum, and all other documents which you consider necessary for consideration and determination of the motion. If we don't have to pull a file, especially a multi-volume one, and search for the appropriate pleadings or documents, so much the better. Alternatively, I would ask that you specifically designate what pleadings or other documents of record in the court file are appropriate for consideration, giving the date it was filed.

2.9 - Emergency Motions - Please be aware that the designation "emergency" may cause me to abandon other pending matters in order to immediately address the emergency. Such a motion should 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 create an emergency.

SECTION 3 - DISCOVERY

3.1 - In General - Duty of Good Faith and Due Diligence - I expect 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 - 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. 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.

3.3 - 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. I don't anticipate entertaining motions relating to discovery conducted after the close of the discovery period as set forth in the Order Setting Trial. Motions requesting an extension of the discovery period should be made prior to the stated date for completion of discovery, and such a motion should set forth good cause and due diligence.

3.4 - Discovery Disputes - As with other motions, I expect that you will make a good faith effort to resolve your dispute, before seeking judicial action. I also understand, however, that reasonable people may disagree on what is properly discoverable, and in what manner. One of my jobs is to help resolve your dispute and I will try to do so quickly and fairly.

SECTION 4 - CALENDARING OF TRIALS

Generally, trials in the civil division are scheduled on the first, third and fifth week of each month, and jury selection is done the Friday before the trial period, beginning at 9:00 a.m. Pre-trials are scheduled about three weeks out. Generally, no motions will be considered during the pre-trial.

A specific list of available trial periods and the corresponding dates for jury selection and pre-trial may be obtained either from my judicial assistant or on the web site at <http://www.leoncountyfl.gov/2ndcircuit/>. 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. I 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 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 of the settlement, and advising the Court of the party who will prepare and present the appropriate judgment, dismissal, stipulation or other order.