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08/31/2004 at 11:18 AM, BOB INZER, CLERK OF COURTS

IN THE CIRCUIT COURT OF
THE SECOND JUDICIAL CIRCUIT

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NO: 90-13

(REVISED)

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PAUL F. HARTSFIELD
CLERK OF CIRCUIT COURT

IN RE: MOTION PRACTICE PROCEDURES

WHEREAS, the following procedures have been determined to be consistent with the Florida Rules of Procedure and the inherent judicial authority of the court, and

WHEREAS, the following procedures will secure the just, speedy and inexpensive determination of every action as envisioned by Rule of Civil Procedure 1.010 and Florida Rule of Criminal Procedure 3.020, it is therefore:

ORDERED AND ADJUDGED that

The following procedures shall apply to probate and guardianship proceedings determined to be adversary proceedings pursuant to Rule 5.025 and discovery matters pursuant to Rule 5.080, Florida Probate and Guardianship Rules and to all Circuit Criminal, Juvenile, and Civil Proceedings.

1. SCOPE AND CONSTRUCTION OF PROCEDURES

(a) These procedures, shall apply to all Circuit Court Criminal, Juvenile and Civil Proceedings, unless specifically provided to the contrary or necessarily restricted by inference from the context.

(b) These procedures are intended to supplement and compliment the Florida Rules of Civil, Criminal, and Juvenile Procedure, and other controlling statutes and rules of Court. They shall be applied, construed and enforced to avoid inconsistency with other governing statutes and rules of court and shall be employed to provide fairness and simplicity in procedure to avoid technical and unjustified delay and to secure just, expeditious and inexpensive determination of all proceedings.

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(c) The Court may by written order suspend application and enforcement of these procedures, in whole or in part, in the interest of justice in individual cases. When a judge of this Court in a specific case issues any order which is not consistent with these procedures, such order shall constitute a suspension of the procedures with respect to that case only, and only to the extent that such order is inconsistent with these procedures.

2. MOTIONS; MEMORANDA; AND HEARINGS

(a) In making any written motion or other application to the Court for the entry of an order of any kind, the moving party shall file and serve with such motion or application a legal memorandum with citation of authorities in support of the relief requested, and a proposed order except that the following motions need not be accompanied by a memorandum:

1. Motion for continuance;
2. Petition for writ of habeas corpus;
3. Motion for default addressed to the court;
4. Motion for judgment after default;
5. Motion to withdraw or substitute counsel;
6. Motion for confirmation of sale;
7. Motion to withdraw or substitute exhibits;
8. Motion for leave to proceed in Forma Pauperis;
9. Motion for extension of time providing that good cause supporting it is set forth in the motion;
10. Motion to deposit funds with the court; and
11. Motion for post-conviction relief pursuant to Florida Rules of Criminal Procedure 3.850.
12. Motion for enforcement of domestic orders.
13. Motion to reduce or set bail.
14. Motion for release on recognizance.
15. Motion for appointment of experts.

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16. Motion to seal or expunge records.

17. Motion to mitigate or modify sentence.

18. Motion for award of jail credit.

19. Motion for appointment of Public Defender for purposes of appeal.

20. Motion for transcription of trial proceedings for purposes of appeal.

(b) Each party opposing any written motion or other application shall serve, within ten (10) working days after being served with such motion or application, a legal memorandum with citation of authorities in opposition to the relief requested. A rebuttal response may be made within five (5) working days after being served with an opposition memorandum. Failure of a party to respond to a written motion or other application may be deemed sufficient cause for granting the motion by default. No other memoranda or writing directed to any such written motion shall be filed or served by any party unless requested by the Court.

(c) Absent prior permission of the Court no party shall file legal memorandum in excess of ten (10) pages in length.

(d) Motions and other applications will ordinarily be determined by the Court on the basis of the motion papers and legal memoranda unless hearings are otherwise required by applicable rules or law; provided further that the Court may allow oral argument upon the written request of any interested party or upon the Court's own motion. Request for oral argument shall accompany the motion or the opposing legal memorandum, and shall estimate the time required for argument. Any hearing granted on request of a party shall provide notice for signature by the Judge.

(e) Motions of any emergency nature may be considered and determined by the Court at any time in its discretion.

(f) All applications to the Court (i) requesting relief in any form, or (ii) citing authorities or presenting argument with respect to any matter awaiting decision, shall be made in writing in accordance with this rule and in appropriate form pursuant to the Florida Rules of Civil Procedure, and, unless invited or directed by the presiding Judge, shall not be addressed or presented to the Court in the form of a letter or the like. All pleadings and papers to be filed shall be filed with the Clerk of the Court along with a courtesy copy to the Judge.

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3. MOTIONS TO COMPEL AND FOR A PROTECTIVE ORDER

(a) Before filing a motion to compel pursuant to Rule 1.380, or a motion for protective order pursuant to Rule 1.180(c), Florida Rules of Civil Procedure, counsel for the moving party shall confer with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised, and shall file with the Court at the time of filing of the motion a statement certifying that he has so conferred with opposing counsel and that counsel have been unable to resolve the dispute.

(b) Except for motions grounded upon complete failure to respond to the discovery sought to be compelled or upon assertion of general or blanket objections to discover, motions to compel discovery pursuant to Rule 1.380, Florida Rules of Civil Procedure, shall (1) quote in full each interrogatory question on deposition, request for admission or request for production to which the motion is addressed; (2) quote in full the objection and grounds therefor as stated by the opposing party; and (3) state the reasons such objection should be overruled and the motion granted. The objecting party shall then respond as required by paragraph 2(b) hereof.

4. PROBATE AND GUARDIANSHIP PROCEEDINGS

These procedures shall not apply to probate and guardianship proceedings except those determined to be adversary proceedings pursuant to Rule 5.025 and discovery matters pursuant to Rule 5.080, Florida Probate and Guardianship Rules.

5. CLERK OF THE COURT DUTIES

The Clerk of the Court in each county in the Second Judicial Circuit is instructed to accept all motions that are submitted for filing. Questions regarding the validity shall be determined by the Court.

6. EFFECTIVE DATE

These procedures shall apply to all motions or other applications filed subsequent to the effective date of this order and to such other motions and applications now pending that the Court may direct. This order shall become effective on June 1, 1990.

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This Order shall replace and supercede Administrative Order 90-13, dated March 9, 1990 and an amendment to Administrative Order 90-13 dated March 22, 1990.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 15TH day of May, 1990.

Charles D. McClure
Chief Judge

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