

# **PROCEDURES AND PREFERENCES<sup>1</sup>**

## **FRANKLIN COUNTY CIRCUIT COURT**

**Francis J. “Frank” Allman, Circuit Judge**

### **INTRODUCTION**

The Rules of Judicial Administration encourage the speedy, just, and inexpensive resolution of cases. These rules require the trial court to monitor and manage its docket to achieve this goal. In furtherance of this goal, information on the Judge’s procedures and preferences is provided for the benefit of attorneys and parties appearing before Judge Francis J. “Frank” Allman.

### **SECTION 1 - COMMUNICATION WITH THE JUDGE’S OFFICE**

#### **1.1 Communication with Judge Allman**

Impartiality is the most basic principle of judicial ethics. This means that all parties to a pending case must be included in all communications with the Court regarding the matter. The Judge is restricted by principles of judicial ethics from communicating about pending cases outside of hearings or documents filed in the court file and served on all parties. These restrictions apply equally to the Judge’s Judicial Assistant (the JA). The JA cannot deliver messages about substantive matters from a litigant or any other person to the Judge. However, communication with the JA for scheduling purposes is permitted.

#### **1.2 Communication with Judge Allman’s Judicial Assistant (JA)**

At the risk of stating the obvious, the JA does not consider arguments or decide legal matters; such is the exclusive province of the Judge. Consequently, the practice of arguing the merits of a case to the JA or including the JA on e-mail exchanges in which disagreements between the parties are aired, serves no purpose and is prohibited. Furthermore, the JA is an extension of the Judge. As such, intemperate communication should be avoided.

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<sup>1</sup> See Fla. R. Gen. Prac. & Jud. Admin. 2.215(f) (2024)

### **1.3 Materials Submitted to Judge**

Any mail (binders) should be mailed to the Judge's Leon County office at: Leon County Courthouse (Room 365B), 301 S. Monroe Street, Tallahassee, Florida 32301. Notices of readiness for trial should be emailed to the Judicial Assistant, Kelly Porritt, at [porrittk@leoncountyfl.gov](mailto:porrittk@leoncountyfl.gov). For submissions of proposed orders please see Section 2.6.

## **SECTION 2 – MOTION PRACTICE:**

### **2.1 Civil Cases - Summary Judgment Motions**

Summary Judgment Motions must be set and heard prior to pre-trial. Motions for summary judgment must contain a short concise statement of the material facts on which the moving party contends there is no genuine issue to be tried. The statement must be supplemented by an appendix which contains copies of the appropriate affidavit(s), portions of depositions, specific interrogatories and answers thereto, specific admissions, or other document of record relied upon to establish material fact. Citation to the documents contained in the appendix should be provided in the statement of undisputed facts.

The party opposing a motion for summary judgment shall, likewise, file and serve a response containing a short 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.

While the Court understands the need to make a record, when submitting summary judgment materials, the parties should adhere to the principle of lucid brevity.

**Foreclosure Cases:** Foreclosure packets must be provided to the Judge at least 10 days prior to a scheduled hearing. **In the case of a final evidentiary hearing/non-jury trial, the original Note and a copy of the Mortgage shall be filed with the Clerk of Court at least ten (10) days prior to the scheduled hearing/non-jury trial date.** (*See Administrative Order No. 2013 - 3.*)

## **2.2 Certificate of Good Faith Conference**

Before filing any motion in any type of case, the movant must confer with opposing Counsel in an effort to resolve the issue(s) raised by the motion. This does not envision an exchange of ultimatums but rather a substantive conversation geared toward resolution of the matter in good faith. Counsel should expect to be asked by the Court if a *conversation* with opposing Counsel occurred (not an email exchange by staff).

Additionally, Counsel are expected to respond promptly and professionally to inquiries and communication from opposing Counsel in this and all matters concerning the litigation. In all but the rarest cases a return call should be made no later than 24 hours after receiving a message.

## **2.3 Motions Decided on Papers and Memoranda**

Routine, unopposed motions may be decided without a hearing, provided the opposing party's position is noted in the motion.

Some motions (excluding summary judgment motions; motions in limine, motions to suppress, bond motions, Williams Rule notices, etc.), may be considered and decided by the Court on the pleadings and the record, without hearing or oral argument.

**Responses in opposition to a filed motion must be filed within 10 days; otherwise the Court may rule on the motion without a hearing.** Request for additional time will be made by a motion filed before the date the response is due.

## **2.4 Hearings or Oral Argument on Motions**

Any party who seeks oral argument on a motion must contact the Judge's JA to schedule a hearing by emailing the JA at [porrittk@leoncountyfl.gov](mailto:porrittk@leoncountyfl.gov). The JA will assist the parties in scheduling a hearing date. If the parties cannot agree on a hearing date, the procedure in Section 2.4.1 will govern. All notices of hearing must specifically state what motion(s) are to be heard, the title of the motion, the date filed, and the docket line must be included in the notice. **Failure to include this information may result in the cancellation of the hearing.** A courtesy copy of the Notice of Hearing is expected to be emailed to the JA for the Judge.

Most motion hearings are not “stacked,” and **the minimum hearing time is 15 minutes. If a witness is expected to testify, the witness and attorney must appear in person, unless Zoom procedures have been followed.** The movant shall provide a courtesy copy of the Notice of Hearing to the JA. The parties should be aware that due to the volume of motion hearings, scheduled starting times and time limits are strictly enforced. If a movant does not appear at least by the scheduled time, the motion may be deemed abandoned and summarily denied. Similarly, if the opposing party does not timely appear the motion may be granted without further proceeding.

**Motions hearings will NOT be scheduled unless:**

- the motion has been filed with the Clerk;
- the movant has included a statement in either the motion or the notice of hearing that a “good faith effort” has been made to resolve and/or narrow the issues, but the effort was unsuccessful. See Section 2.2;
- the movant has consulted with opposing Counsel regarding the total amount of time needed for the hearing prior to e-mailing the JA. In this regard, Counsel should be realistic in assessing the amount of time needed for the entire hearing (not just one side). Hearings may be recessed and continued if the allotted time expires before the hearing is concluded;
- the movant has consulted with opposing Counsel regarding convenient hearing dates after receiving available dates from the JA.

**2.4.1 No Agreement on Hearing Dates**

If the parties cannot agree on a hearing date, the movant shall notify the JA, who will bring the matter to the Judge’s attention. The Judge will then schedule the hearing at the convenience of the Court. **The movant must provide a Notice of Hearing to the JA.**

**2.4.2 Timing of Hearings**

Motions, particularly motions for summary judgment, etc., must be filed *and* heard prior to trial. The Court considers jurors’ time to be extremely valuable and will make every effort to ensure their time is not wasted. The Court considers it a waste of jurors’ time to have them sitting in the jury room not hearing testimony because there is argument at trial on motions that could have been presented prior to trial.

This is highly disfavored. Unless otherwise determined by the Court, motions will not be heard on the day of trial.

## **2.5 Materials to be Provided to the Court Before Hearings**

Please be aware that the Court is not automatically copied with the motions and supporting documents filed by the Counsel. Because the Judge strongly prefers to read all submitted documents in advance of hearings, it is the responsibility of Counsel to provide the Court with a courtesy copy of all documents (motions, memoranda, authority, etc.) See Sections 2.5.1 and 2.5.2. Please do not send original motions to the Judge.

### **2.5.1 Submitting Materials**

The Court accepts copies of efiled motions and notices of hearings via e-mail to the JA in PDF format. However, supporting materials should be submitted directly to the Judge's office. Materials exceeding 25 pages must be submitted in a three-ring binder. The size of the binder should correspond to the size of the materials submitted. Stated another way, one inch of materials should not be submitted in a 4-inch binder and vice versa. Longer submissions should also contain a table of contents and section dividers for ease of reference. **Please do not staple any pages in three-ring binders.**

### **2.5.2 Time to Provide Materials**

Submission of any materials within five (5) days of a hearing is disfavored as doing so will likely result in the Judge having insufficient time to read the material. Likewise, as the Judge prefers to read all legal authority in advance of hearings, handing the Judge case law during a motion hearing is highly disfavored.

## **2.6 Submitting Proposed Orders**

Please note, the Clerk will not forward to the Judge efiled orders which are attached to motions. **All proposed orders must be separately submitted to JA via email in Word format).**

Orders submitted after a hearing - Normally the prevailing party will be asked to submit a proposed order after the Court rules at a hearing. In some instances, the Court may request proposed orders from both sides, after review of which the Court will efile the signed order of the prevailing party.

## 2.7 Cancellation of Hearings

If your hearing is cancelled or rescheduled, all attorneys are tasked with notifying the JA as soon as possible so that the Judge may turn his attention to other matters. A notice of cancellation efiled by the attorney cancelling a scheduled hearing will alert the Clerk to remove it from the docket.

## 2.8 Remote Appearances

Any attorney desiring to attend a hearing by Zoom must consult with opposing Counsel. If there is not opposition, no motion is required for Zoom appearance at a routine hearing. However, Counsel must advise the Judge's Office of the intention to appear by Zoom when scheduling the hearing in order to prepare the necessary equipment. The intention to appear by Zoom should be stated in the Notice of Hearing and a courtesy copy emailed to the Judicial Assistant.

The Court has four separate Zoom Meeting IDs. These are recurring, unchanging virtual courtrooms. Please be sure to log into the correct Zoom Meeting.

If there is opposition to Counsel's Zoom appearance at a non-evidentiary hearing scheduled for 30 minutes or less, Counsel shall file a written motion and submit a proposed order as contemplated by Fla. R. Jud. Admin. 2.530(b)(1) no fewer than 48 hours prior to the proceeding. A motion with good cause shown is necessary for Zoom appearance at a hearing for more than 30 minutes.

**Note:** Remote appearance at the Final Pretrial Conference in criminal cases is prohibited. Both Counsel and their clients must appear in person at the Final Pretrial Conference.

Topic: Franklin Co. **CIVIL / FAMILY LAW / PROBATE Cases**

Time: This is a recurring UNRECORDED meeting.

Join Zoom Meeting

<https://zoom.us/j/92261881968?pwd=aVF4SnNianZNR0pNNzFNc1dSVUIPdz09>

**Meeting ID: 922 6188 1968**

**Passcode: 742131**

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Topic: Franklin Co. - **CRIMINAL / DOMESTIC VIOLENCE Cases**

Time: This is a recurring RECORDED meeting.

Join Zoom Meeting

<https://zoom.us/j/98030591301?pwd=OVNvcXQvb2ZhK1pCNld2bHBJM2I3Zz09>

**Meeting ID: 980 3059 1301**

**Passcode: 307750**

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Topic: Franklin Co.-**DEPENDENCY / DELINQUENCY / GUARDIANSHIP / SHELTER Cases**

Time: This is a recurring RECORDED meeting.

Join Zoom Meeting

<https://zoom.us/j/95904295059?pwd=TUEzc01yaEZpNFJFTVdyd2dRZ0lWdz09>

**Meeting ID: 959 0429 5059**

**Passcode: 867128**

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### **SECTION 3 – EMERGENCY MATTERS**

Emergencies are defined as “non-routine matters which, by their nature, require immediate action by the Court to prevent or stop physical harm to a person, irreparable property damage, or a hardship of such a critical nature that the immediate intervention of the Court is absolutely necessary.”

#### **3.1 Prohibited Practice**

The practice of labeling a routine matter as an “emergency” to gain priority on the Court’s docket, calendar, or otherwise is prohibited. Please be aware that the designation of a matter as an “emergency” will normally cause the Judge to abandon other pending matters in order to immediately address the emergency. Often the JA, Clerk, bailiff’s unit, court reporter, attorneys, as well as other litigants, are also affected by alleged emergencies. In the case of a bona fide emergency this is necessary and proper.

However, non-emergencies which are improperly labeled as emergencies create hardships and unfairly prejudice court personnel and other litigants. Therefore, such a motion must state with particularity the reason the matter meets the definition of

an emergency as set forth above. **Please Note:** Lack of due diligence by a party or Counsel does not create an emergency.

### **3.2 Emergency Hearings**

Requests or motions for an emergency hearing are decided by the Judge. If the matter is a bona fide emergency, the movant shall file the motion for an emergency hearing with the Clerk of Court. The Clerk will e-mail the motion to the JA and the Judge will then review the motion to determine if it is an actual emergency and if a hearing is warranted. Opposing Counsel must be given a copy of the motion with all attachments.

## **SECTION 4 - PRESENCE OF DEFENDANTS/CRIMINAL CASES**

### **4.1 In General**

A defendant's presence is required at **ALL HEARINGS AND CASE MANAGEMENT CONFERENCES** unless previously waived by the Court or by Court order. However, Counsel are authorized to waive the appearance of their clients for routine case management conferences, provided the requirements of Section 4.4 are satisfied. No Court order or approval is required.

#### **4.1.1 Defendant's In-Person Presence Required At Final Pretrial Conference**

All defendants are required to be present, **in person**, at all final pretrial conferences. Counsel are specifically ordered not to excuse the in-person presence of his or her client at the final pretrial conference.

### **4.2 Criminal Cases - Defendants in Custody (in Franklin County Jail)**

Defendants are not automatically transported to the courthouse for routine or non-evidentiary hearings. If Counsel wants a defendant transported, a request must be made to the Franklin County Jail by calling (850) 670-8500, no later than 24 hours before the proceeding.

Defendants are automatically transported to the courthouse for violation of probation hearings, final pretrial conferences and trials; no request of the Franklin County Jail is required for these proceedings.

#### **4.2.1 Criminal Cases - Defendants in Custody (in other than Franklin County Jail, e.g., Department of Correction facilities, other jails, etc.)**

Defendants who are not being held in the Franklin County Jail will require a transport order to secure their appearance in court. The Franklin County Jail requires a minimum of ten (10) business days' notice in order to ensure the transport of out-of-county defendants.

It is the responsibility of Counsel to make certain the Franklin County Jail receives two certified copies of transport orders no fewer than ten (10) business days prior to the defendant's scheduled court appearance. Counsel should make every endeavor not to cause the unnecessary transport of out-of-county defendants as this is not an efficient use of county resources.

#### **4.3 Criminal Cases – Transport of Defendants**

The practice of having inmates transported from the jail for a plea hearing when there is not an agreed-upon disposition (unless the inmate will be entering an “open” or “straight up” plea) is **prohibited**. Often plea hearings are set while plea negotiations are still ongoing. This is expected and proper. However, Counsel are required to cancel the transport of inmates if a plea agreement has not been reached (unless the inmate will be entering an “open” or “straight up” plea). Inmates are **not** to be transported so Counsel can “talk to them” about a plea. While the Court understands that plea agreements can disintegrate unexpectedly, this should be a rare occurrence. The unnecessary transport of inmates will be very closely monitored.

#### **4.4 Criminal Cases – Excusing Appearance of Defendants**

As noted in Section 4.1, Counsel are authorized to excuse clients from appearance at routine case management conferences. However, Counsel are expected and required to alert the Court if any client is not keeping appropriate contact with Counsel. In order to make a clear record, Counsel are required to advise the Court that the client has been excused when the case is called.

#### **4.5 Criminal Cases - Plea Hearings (Out-of-Custody/Disputed/Open or Straight Up Pleas)**

If a defendant who is not in custody wishes to enter a plea where some aspects are disputed, or to enter an “open” or “straight up” plea with sentencing occurring at the

time of the plea, the plea must be specially set with the Court's JA. All Counsel must confer and reserve sufficient time on the Court's calendar to hear the entire matter (not just one side). If the parties cannot agree on a date, the plea hearing will be set according to Section 2.4.1.

#### **4.6 Criminal Cases – Mental Health Evaluations**

To have a defendant evaluated for competency, attorneys must file a motion to determine competency to proceed and provide a copy to the Judge through his JA. Once that has been accomplished, the Judge will enter an order directing that an evaluation be conducted and processed through the Criminal Case Management Unit (CCMU). The CCMU will prepare and provide the appropriate order to the Judge which assigns a mental health expert to conduct the evaluation.

### **SECTION 5 – CONTINUANCES**

#### **5.1 Motions to Continue Trials, VOP Hearings, Sentencing, Etc.**

Motions to continue a trial, violation of probation (VOP) hearing, sentencing, and specially set hearings must be in writing and if necessary scheduled for hearing before the date of the matter sought to be continued. The Court may rule on the motion without a hearing if the position of opposing Counsel is noted in the motion.

In Criminal cases, motions to continue a trial after the Final Pre-Trial Conference or to continue a VOP hearing on the date of the hearing, are **strongly discouraged** and will be carefully reviewed.

#### **5.2 Motions to Continue Other Hearings**

Motions to continue other hearings must be in writing, must identify the reason(s) for continuance and the position of opposing Counsel, must state the status of speedy trial (in criminal cases), must state the number of times the party has previously moved for a continuance, and must be scheduled for hearing before the date of the matter sought to be continued. An agreed-upon order along with the motion may be presented, which the Court may enter without a hearing. Additionally, the Court, in its discretion, may rule on opposed motions to continue without a hearing.

## **SECTION 6 – DISCOVERY**

### **6.1 Duty of Good Faith and Due Diligence – In General**

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 requests for discovery should be timely, complete and in good faith. If there are objections, they should be stated specifically and with appropriate factual support.

### **6.2 Duty to Update and Supplement – In General**

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.

### **6.3 Civil Cases - 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 Fla. R. Civ. P. 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.

### **6.4 Civil Cases - Completion of Discovery**

The requirement that discovery be completed within specified time mandates that adequate provisions must be made for interrogatories and requests for admissions 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 related to discovery conducted after the close of the discovery period as set for in the Court's Trial Order(s). Motions requesting an extension of the discovery period must be made prior to the stated date of completion of discovery. This motion must set forth good cause and establish due diligence.

## **SECTION 7 – TRIALS**

### **7.1 Civil and Criminal Trials**

Jury selection and trials start at 9:00 a.m. All Counsel and their clients are expected to be present in the courtroom by no later than 8:30 a.m. Jurors are sacrificing their time to perform an important civic duty. Again, the Court intends to make every effort to ensure that jurors' time is not wasted. See Section 2.4.2. Counsel should be personally aware of, and impress upon their clients, witnesses, etc., the importance of timeliness. This applies equally to breaks and recesses.

### **7.2 Witnesses**

All witnesses that are present should be in the courtroom at 8:30 a.m. to receive instructions from the Court. Counsel are permitted, in their discretion, to have reliable witnesses arrive at a later time. While the Court recognizes that the pace of trial is impossible to predict with surgical precision, Counsel are cautioned to be judicious in the exercise of this discretion. Furthermore, during the trial, it is Counsel's obligation to have the next witness immediately available when court resumes from a break or recess. The Court considers it a waste of jurors' time to be waiting on witnesses to appear and/or for Counsel to be searching for witnesses when court reconvenes.

#### **7.2.1 Witness Lists**

Counsel must provide the Court with a list of probable witnesses prior to the beginning of the trial. The list may be legibly handwritten, and the witnesses need not be listed in the order they will be called to testify.

### **7.3 Evidence**

Counsel must provide the Court and opposing Counsel with a list of probable evidence prior to the start of the trial. All exhibits should be marked and numbered as listed. All evidence must be shown to opposing Counsel after marking. It is opposing Counsel's obligation to carefully examine the evidence before the trial begins.

During trial, the party offering the evidence is obligated to make opposing Counsel aware of any changes in the numbering of the exhibits or the intent to offer of any evidence not previously numbered or displayed. Opposing Counsel may rely on this

numbering; therefore, it is unnecessary to further present exhibits to opposing Counsel before offering the item in evidence. Counsel are responsible for arranging to have evidence in the courtroom in time for inspection and marking prior to the start of the trial.

#### **7.4 Civil Trials - Scheduling**

A case management conference will be required to set any matter for trial. Case management conferences may be set on the Court's own motion after a party has filed a notice of matter ready for trial or upon the good faith request of either party. Counsel should be prepared to advise the Court of all information necessary to complete the order during the conference. Mediation will be required. The Judge's entire trial calendar is available as a pdf document on the judicial website: <https://2ndcircuit.leoncountyfl.gov/calendars.php>, and will be emailed to you before the case management conference, to assist you in the trial date selection process.

The notice for trial **shall** contain the number of days Counsel needs for the entire case to be presented (that includes jury selection, opening, presentation of plaintiff and defense cases, closing and jury deliberation). If opposing Counsel believes that more time is needed, they shall immediately file a response to the notice for trial.

#### **7.5 Civil Trial Schedule**

Unless otherwise ordered, trials will commence immediately after jury selection. Counsel shall be prepared to present opening statements and evidence immediately after jury selection. 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 of the parties, Counsel or witnesses, and information as to the trials scheduled for any given trial period can be obtained from the Judicial Assistant.

Generally, no lengthy motions (such as motions for summary judgment), will be considered during the pretrial conference.

##### **7.5.1 Civil Trial – 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.

If **non-jury trial** time is anticipated to last more than one hour, a pretrial conference is required. A non-jury trial time anticipated to last less than one hour does not require a pretrial conference.

#### **7.6 Criminal Trials - Scheduling**

Criminal trials are scheduled during case management conferences by agreement of the parties or by the Court.

#### **7.7 Criminal Trial Schedule**

The schedule for criminal trials is contained in the monthly calendars and is posted on the Circuit's website: <https://2ndcircuit.leoncountyfl.gov/calendars.php>. Counsel are strongly encouraged to issue witness subpoenas for the entire trial period.

#### **7.8 Plea Acceptance After Final Pretrial Conference in Criminal Cases**

“Straight up” or “open” pleas (no agreement) will be accepted after Final Pre-Trial Conference. The Court, in its discretion, may accept a negotiated plea after the Final Pre-Trial Conference. However, this is highly disfavored, and Counsel should be prepared to justify why the Court should accept a plea agreement after the Final Pre-Trial Conference.

**Please note:** Despite all expectations that a case may be resolved with a plea, Counsel are strongly cautioned not to cancel witnesses or cease trial preparation in expectation that a defendant will enter a plea, as the failure of an expected plea to occur will not be grounds for a continuance.

### **SECTION 8 - PETITIONS TO SEAL/EXPUNGE**

**8.1** A courtesy copy of the Petition, notarized Affidavit of Petitioner, FDLE Certification, Position of the State Attorney, and a blank order **MUST** be provided to the JA upon filing a Petition to Expunge/Seal.