

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN  
AND FOR HERNANDO COUNTY, FLORIDA  
Administrative Order NO.: H-2013-15**

**ORDER ESTABLISHING MOTION PRACTICE PROCEDURES FOR THE  
FORECLOSURE DOCKETS IN HERNANDO COUNTY (EXCLUDING BACKLOG  
PROGRAM FORECLOSURES)**

**THE UNDERSIGNED**, after consultation with the Judges presiding in Hernando County, in a concerted effort to develop an administrative plan for the efficient and proper administration of the foreclosure cases within this County, so as to effect the prompt disposition of cases and control of judicial dockets, and to take such action as may be deemed necessary to cause such dockets to be even more consistent with the time standards established by the Florida Supreme Court; and pursuant to Rule 2.454(b), as trial judges are authorized and encouraged to take charge of all cases at an early stage of litigation, and to control the progress of the cases thereafter; and based on previous experience, use of written briefs in support of certain motions rather than requiring a hearing on every motion filed saves judicial time, helps the Court stay within the time standards established by the Florida Supreme Court and counsel to be better prepared; and further, such written briefs allow the Court the opportunity to consider the motion in more measure and render an opinion after review of the supporting briefs. Although use of written briefs does not alleviate the necessity for all hearings, there are certain motions that simply do not require hearings in many cases and can be more expeditiously determined by utilization of written briefs; and in consideration thereof, it is :

**ORDERED AND ADJUDGED:**

1. **Scope:** This administrative Order shall apply to all foreclosures in Hernando County except for any foreclosure presently designated in the “ Senior Judge Foreclosure Backlog Program.” The Court may issue a specific order requiring a different procedure for any particular case.
2. **Legal memorandum required.** 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 citations to authority in support of the relief requested. A supporting memorandum may be incorporated into the body of the motion but should be clearly titled, “Motion to/for-----and Memorandum of Law.”

The following motions need not be accompanied by a memorandum of law:

- a. motion for continuance;

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- b. motion for default addressed to the court;
- c. motion for confirmation of sale;
- d. motion to withdraw or substitute exhibits;
- e. motion to proceed in *forma pauperis*;
- f. motion for extension of time in which to complete discovery (provided good cause is set forth in the motion);
- g. motions for extension of time to respond to pleadings or to effectuate service of process.
- h. motion to withdraw or substitute counsel;
- i. motion to deposit funds with the Court; and
- j. Stipulated motions with accompanying proposed orders.

3. **Timely opposing memoranda.** Each party opposing any written motion or other application shall file and serve, within **fifteen (15) days** after being served with such motion or application, a legal memorandum with citations to authority in opposition to the relief requested. Failure to respond within the time allowed may be deemed sufficient cause for granting the motion by default. *If a party has no objection to a motion and does not intend to file a responsive memorandum, counsel shall file a written notice with the clerk of the court so indicating.*

4. **Replies.** If, upon receipt of an opposing memorandum, counsel determines further argument of his client's position is required, s/he **must** file and serve a reply memoranda which must be filed with the Clerk of Court within **five (5) days**.

5. **Discovery motions accompanied by good faith certification.** Before filing a motion to compel pursuant to the Florida Rules of Civil Procedure, Rule 1.380, or a motion for protective order pursuant to Rule 1.280(c), counsel shall confer with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised, and shall certify to the court at the time of filing the motion that s/he has conferred with opposing counsel and has been unable to resolve the dispute.

6. **Content of discovery motions.** Except for motions grounded upon a complete failure to respond to discovery, **discovery motions 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 given therefore; and (3) state (with citations to authority) the reasons such objection should be overruled or sustained.

7. **Oral argument.** Motions and other applications will ordinarily be determined by the court on the basis of motion papers and legal memoranda **unless a hearing is required by rule or law.** (For example, under the rules, **summary judgment motions must be set for hearing**). This would not, however, extinguish the requirement that the motion be accompanied by and

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responded to with memoranda taking into consideration the time frame under Rule 1.510(c) Florida Rules of Civil Procedure for filing supporting and opposing affidavits, etc.

The court **may** permit oral argument upon the **written request of any interested party** or upon the court's own motion. Requests for oral argument must accompany the motion or opposing legal memorandum and must estimate the time required for argument. When a request for hearing is granted, counsel for the requesting party will be asked to coordinate the calendars of the court and counsel.

8. **Page limitation.** Absent prior permission of the court, no party shall file a legal memorandum in excess of five (5) pages in length.

9. **Motions to be filed with the clerk.** All original pleadings and papers shall be filed with the clerk of the court **and** a courtesy copy **shall** be provided to the court or the trial court's staff attorney contemporaneous with said filing.

10. **Form of motions.** All applications to the court requesting relief in any form, or citing authorities or presenting argument with respect to any matter awaiting decision, shall be made in writing in accordance with this order and in appropriate form pursuant to the Florida Rules of Civil Procedure, and unless invited or directed by the court, shall not be addressed or presented to the court in the form of a letter or the like.

11. **Time calculations.** All time calculations herein shall be subject to Rule 1.090, Florida Rules of Civil Procedure.

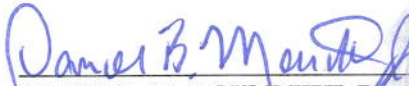
12. **In limine motions.** Unless oral argument is requested and granted, *in limine* motions shall be heard and disposed of prior to trial, without exception. Oral argument may be requested provided scheduling for the argument will not prevent the motions from be disposed of prior to trial.

13. **Emergency motions.** Motions of an emergency nature may be considered and determined by the court at any time in it discretion.

14. **EFFECTIVE DATE:** The procedures set forth in this Order shall be effective immediately upon the signing of this Order.

**FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER BY ANY PARTY MAY RESULT IN STAYING FURTHER PROCEEDINGS UNTIL THIS ORDER IS OBEYED OR IMPOSITION OF OTHER APPROPRIATE SANCTIONS.**

**IT IS SO ORDERED** in chambers, Hernando County, Florida, on this 26<sup>th</sup> day of March, 2013.

  
**DANIEL B. MERRITT JR.**  
Administrative Judge  
Hernando County

