

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR HERNANDO COUNTY
FOR JUDGE PETER M. BRIGHAM

**ORDER REGARDING
ESTABLISHMENT OF UNIFORM MOTION PRACTICE PROCEDURE**

WHEREAS, the undersigned, having reviewed the matter and determining that there are new and uniform procedures necessary to facilitate an orderly progression of all civil matters before this Court, and to better inform this Court of the decisions to be made, it is

ORDERED AND ADJUDGED:

In all civil cases that are assigned to the **Honorable Peter M. Brigham** all motions filed in said actions shall be handled in the following manner:

1. **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 motion need not be accompanied by a memorandum of law:

- a. Motion for Continuance;
- b. Motion for Default Addressed to the Court;
- c. Motion for Confirmation of Arbitration Award;
- d. Motion for Extension of Time in which to complete discovery providing good cause is set forth in the motion; and
- e. Motion to Withdraw or Substitute Counsel.

2. **Timely opposing memoranda.** Each party opposing any written motion or other application **shall file and serve, withing 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 objections to a motion and does not intend to file a responsive memorandum, counsel shall file, withing ten days of service of said motion, written notice of no objection with the Clerk of the Court so indicating.*

3. **Replies.** If, upon receipt of an opposing memorandum, counsel determines further

argument of his client's position is required, s/he **must notify the trial court's judicial staff** that s/he intends to file and serve a reply memoranda. In such case, determination of the matter will be deferred by the Court for up to five (5) days pending preparation and filing of the reply.

4. **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 to compel pursuant to **Rule 1.180(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.

5. **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.

6. **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 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.

7. **Page Limitation.** Absent prior permission of the Court, no party shall file a legal memorandum in excess of fifteen (15) pages in length.

8. **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.

9. **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.

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

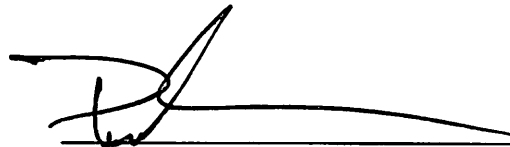
11. **In limine motions.** Unless oral argument is requested and granted, *in limine* motions shall be heard and disposed of prior to trial, without exception. Oral argument may be requested provided scheduling for the argument will not prevent the motions from being disposed of prior to trial.

12. **Emergency motions.** Motions of an emergency nature may be considered and determined by the Court at any time in its discretion.

13. **Effectiveness.** This Order shall become effective immediately upon the date it is signed, and shall remain in effect until vacated and/or amended/supplemented.

FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER BY ANY PARTY MAY RESULT IN THE STRIKING OF PLEADINGS OR PARTS OF THEM OR STAYING FURTHER PROCEEDINGS UNTIL THIS ORDER IS OBEYED OR DISMISSING THE ACTION OR RENDERING JUDGMENT BY DEFAULT AGAINST THE DISOBEDIENT PARTY.

IT IS SO ORDERED in chambers, Hernando County, Florida, on this 7 day of April, 2017.


Peter M. Brigham, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Courthouse mail delivery to: Hernando County Clerk of the Court and The Hernando County Bar Association; this 7 day of April, 2017.


Karen Plemmons, Judicial Assistant