

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

CASE NO.: 2018-CA-

Plaintiffs,

vs.

Defendant

MOTION PRACTICE ORDER

That to facilitate an orderly progression of this matter and better-informed decisions by the Court, all future motions shall be filed with the Clerk of the Court pursuant to Rule 2.516, *Fla. R. Jud. Admin.*, and 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 motions 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 sale;
- d. motion to withdraw or substitute exhibits;
- e. motion to proceed *informa pauperis*;

f. motion for extension of time in which to complete discovery, provided good cause is set forth in the motion; and

g. motion to withdraw or substitute counsel.

2. Timely opposing memoranda. Each party opposing any written motion or other application shall file and serve, within twenty (20) 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 or for the Court to construe that there is no objection to the motion. If a party has no objection to a motion and does not intend to file a responsive memorandum, counsel should file a written notice 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, counsel shall file a reply within five (5) days of the receipt of opposing memorandum.

4. Discovery motions accompanied by good faith certification. Before filing a motion to compel pursuant to Rule 1.380, *Fla. R. Civ. P.*, or a motion for protective order pursuant to Rule 1.280(c), counsel shall confer and correspond 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 and shall attach to the motion a copy of the correspondence with opposing counsel of the good faith effort to resolve the discovery dispute. The failure to comply with this paragraph may result in the Court entering an order striking, without prejudice, the discovery motion.

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. If there is an allegation in the motion to compel of a complete failure to respond or object to discovery and there has been no request for an extension of time, then the Court may enter an ex parte order compelling discovery. *See Waters v. American General Corporation*, 770 So. 2d 1275 (Fla. 4th DCA 2000).

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 Rule 1.510, *Fla. R. Civ. P.*, **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, *Fla. R. Civ. P.*, 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 or the Court, on its own, may schedule the hearing.

ORAL ARGUMENT FOR DISPOSITIVE MOTIONS (including but not limited to motions for summary judgment) MUST BE HELD NO LESS THAN SIXTY (60) DAYS PRIOR TO THE PRETRIAL CONFERENCE.

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.

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, should not be addressed or presented to the Court in the form of a letter or the like. Ex parte letters will be returned by the court.

10. Time calculations. All time calculations herein shall be subject to Rule 1.090, *Fla. R. Civ. P.*

11. In limine motions. Unless oral argument is requested and granted, or otherwise ordered by the Court, in limine motions will be resolved without a hearing. All motions in limine must be filed no later than 15 days before the start of the trial term or the Court may deny the motion as being untimely. The parties shall confer and attempt to reach an agreement to as many issues as possible as are raised by Motions in Limine.

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

13. Proposed Orders. IN THE EVENT ONE PARTY IS DRAFTING A PROPOSED ORDER AT THE REQUEST OF THE COURT, THE PARTY SHALL PRESENT THE PROPOSED ORDER TO THE OTHER PARTY OR PARTIES AND ADVISE THE COURT WHETHER THERE IS AGREEMENT TO THE FORM OF THE CONTENTS OF THE PROPOSED ORDER. IF THERE IS NO AGREEMENT, EACH PARTY SHALL SUBMIT A PROPOSED ORDER TO THE COURT NO LATER THAN 20 DAYS OF THE HEARING.

FAILURE OF EITHER PARTY TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN THE STRIKING OF PLEADINGS AND/OR THE MOTION(S) OR PARTS OF THEM OR STAYING FURTHER PROCEEDINGS UNTIL THIS ORDER IS COMPLIED WITH OR DISMISSING THE ACTION OR RENDERING JUDGMENT BY DEFAULT AGAINST THE NONCOMPLIANT PARTY.

PLEASE NOTE, THAT IF A MOTION HAS BEEN FILED AND THERE HAS BEEN NO RESPONSE FROM THE COURT WITHIN 60 DAYS, ANY PARTY MAY NOTIFY THE COURT THAT AN ORDER HAS NOT BEEN ENTERED. THE MATTER WILL BE PROMPTLY ADDRESS.

DONE AND ORDERED in Chambers, Ocala, Marion County, Florida this _____ day of January, 2019.

EDWARD L. SCOTT
Circuit Court Judge

Copies to:

Becky Knipe, Judicial Assistant

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Marion County Judicial Center, 110 NW First Avenue, Ocala, Florida 34475, Telephone (352) 401-6710, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.