

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

X,

Case No.: _____

Plaintiff,

vs.

X,

Defendant.

_____ /

ORDER ESTABLISHING MOTION PRACTICE PROCEDURE

It is ORDERED 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 Fla. R. Jud. Admin. 2.516, and shall be handled in the following manner:

A. 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 a legal memorandum with citations of 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:

1. motion for continuance;
2. motion for default addressed to the Court;
3. motion for confirmation of sale;
4. motion to withdraw or substitute exhibits;
5. motion to proceed *informa pauperis*;

6. motion for extension of time in which to complete discovery, provided good cause is set forth in the motion; and
7. motion to withdraw or substitute counsel.

B. Timely opposing memoranda. Each party opposing any written motion or other application to the Court shall file and serve, within ten (10) days after being served with such motion or application, a legal memorandum with citations of 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.

C. 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 the opposing memorandum.

D. Discovery motions accompanied by good faith certification. Before filing a Motion to Compel pursuant to Fla. R. Civ. P.1.380, or a Motion for Protective Order pursuant to Fla. R. Civ. P. 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 the filing of the motion that she/he has conferred with opposing counsel but has been unable to resolve the dispute. In addition, counsel shall attach a copy of the correspondence to the motion as an exhibit, thus providing proof that a good faith effort to resolve the discovery dispute was made. The failure to comply with this paragraph may result in the Court entering an order striking, without prejudice, the discovery motion.

E. 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 of authority) the reason such objection should be overruled or sustained. If the allegation in the motion to compel that there has been a complete failure to respond or object to discovery, and there has been no request for an extension of time, then the Court will enter an *ex parte* order compelling discovery.

F. Oral argument. Motions and other applications will ordinarily be determined by the Court on the basis of the motion, exhibits and legal memoranda unless a hearing is required by rule or law.

For example, under Fla. R. Civ. P. 1.510, Motions for Summary Judgment must be set for hearing. However, this would not negate the requirement that the motion be accompanied by and responded to with memoranda taking into consideration the time frames set forth in Fla. R. Civ. P. 1.510, 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 with all counsel and the Court the time, date and time required for argument. Further, the Court on its own may schedule a hearing.

ORAL ARGUMENT FOR DISPOSITIVE MOTIONS (including, but not limited to, Motions for Summary Judgment) MUST BE HELD NO LESS THAN 60 DAYS PRIOR TO THE PRETRIAL CONFERENCE.

G. Page limitation. Absent prior permission of the Court, no party shall file a legal memorandum in excess of 15 pages in length.

H. Motions to be filed with the Clerk of Court. All original pleadings and papers shall be filed with the Clerk of the Court.

I. Form of motions. All applications to the Court requesting relief in any form, the citation of authority and argument shall be made in writing and in compliance with this Order and in appropriate form pursuant to the Florida Rules of Civil Procedure. Unless directed by the Court, memoranda or argument shall not be presented in "correspondence form". All *ex parte* correspondence will be returned by the Court.

J. Time calculations. All time calculations herein shall be subject to Fla. R. Civ. P. 1.090.

K. 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 Motion(s) in Limine shall 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 as to the issues raised in the Motion(s) in Limine filed.

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

M. 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 as to whether there is an agreement as to the form and content of the

proposed order. If there is no agreement, each party shall submit a proposed order to the Court no later than 20 days following the hearing.

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

DONE AND ORDERED in Chambers, at Bushnell, Sumter County, Florida, on this ____ day of _____ 20__.

Mary P. Hatcher
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following by electronic service through the Florida Court's e-filing portal on this ____ day of _____ 20__.

Susan Shaw
Judicial Assistant