

## **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 Rule 1.080(e), *Fla. R. Civ. P.*, 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. The Court, on its own, may schedule the hearing.

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.

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.

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.* EACH PARTY SHALL SUBMIT A PROPOSED ORDER TO THE COURT.

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.