

HONORABLE THANE B. COVERT
315 COURT STREET, ROOM 413
CLEARWATER, FL 33756
727-453-3127

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JUDICIAL PRACTICES AND PREFERENCES CIRCUIT CIVIL SECTION 21

IF YOU DO NOT HAVE A LAWYER: The Judicial Assistant CANNOT answer your legal questions, and will not explain your situation to the Judge. Your opportunity to speak to the Judge happens in Court only. The Clerk of Court has a Self Help Program for self-represented litigants on the first floor in the courthouse at 315 Court Street, Clearwater, FL 33756. Gulfcoast Legal Services can be reached at (727)443-0657 in Clearwater and (727)821-0726 in St. Petersburg. Bay Area Legal Services is available at (800)625-2257. Community Law Program in St. Petersburg can be reached at (727)582-7480. Lawyer referral services can be contacted through the Clearwater Bar Association at (727)461-4880 and the St. Petersburg Bar Associations at (727)821-5450.

It is expected that all parties and attorneys will adhere to ADMINISTRATIVE ORDER NO. 2013-075 PA/PI-CIR RE: STANDARDS OF PROFESSIONAL COURTESY FOR THE SIXTH JUDICIAL CIRCUIT.

TO SCHEDULE HEARINGS:

Hearing times may be requested through the JAWS program and that is usually a very effective way to secure UMC calendar time and other 15 to 30 minute hearing times. We would prefer, and you may find it easier, to email the Section 21 email to secure hearing times to clear with opposing counsel for hearings you contemplate taking more than thirty minutes. For example: JAWS selections may not always allow setting back-to-back thirty minute hearing times to equal one full one hour hearing block. Often calendar times come available through cancelation of a scheduled hearing without that vacancy being updated to JAWS. You may call the Office Number 727-453-3127 or utilize our Section21@jud6.org email at any time.

In the body of the email please include:

- Motions to be heard
- Amount of time requesting
- Names of the Parties and their attorneys. Please include the name of the attorney that will be appearing at the hearing.

*After you have cleared a date with opposing counsel, please send an email to section21@jud6.org to confirm date to be set on our calendar. **DO NOT** file/send a notice of hearing until you receive confirmation from our office confirming the date/time.

A hard copy of the motion is not needed by the Court. Please make sure that the motion is viewable on the docket 48 hours prior to the hearing. If you wish to send a hard copy you may do so or a copy can be given to the Judge at the time of the hearing. Any supporting documents can be provided to the Judge at the hearing or sent in ahead of time.

TELEPHONIC HEARINGS:

Telephonic hearings may be permitted for most hearings that are thirty (30) minutes or less. **Prior approval from the Judge's office is helpful, although no actual Order Allowing Telephonic Appearance is required, unless there is an objection to the telephonic hearing ahead of time.**

Telephonic appearance for evidentiary matters will generally NOT be considered. Hearings by telephone should be set forth in the notice of hearing. It is helpful if the Party filing the notice be responsible for getting each participant on the line **BEFORE** calling the Judge.

JAWS:

*As of March 1, 2018 Section 21 will be utilizing the JAWS system for scheduling short hearings and for submitting Approved Orders. A fully explanatory SEPERATE Cover Letter is required for EACH Order that you are submitting. Please check your Orders and Pleadings presented to this Office for the correct County [Pinellas] of the case and for the proper Judge's Name [Thane B. Covert]. The Room number for Section 21 hearings is 413. Often times, the JAWS function provides an old room number and it is difficult to know where wrong input has been entered in JAWS providing a different room number.

There may be plans to conduct your hearing in the Judge's Chambers in Room 413, or the Judge may decide to hear your hearing or trial in one of the Clearwater Courtrooms. If you are noticed to 315 Court Street, Room 413, Clearwater, Florida, and the Judge plans to use a courtroom, the Bailiff will have that information prior to the hearing, and escort you to the proper courtroom prior to the start of the session.

When using JAWS to set hearings, it is the moving party's responsibility to confirm that all counsel/associated parties are in the JAWS database to ensure all parties receive emails regarding the scheduling and cancellation of hearings. Failure to comply with this procedure can result in cancellation of your hearing. Attorneys only should be added as Associated Parties. Additional email addresses for notification may be added for staff under email address.

Cancelling Hearings:

Filing a Notice of Cancellation does not cancel a hearing with Judge Covert. Please send a notice of cancellation via email to section21@jud6.org to cancel any hearings whether set through JAWS or email.

SUBMITTING ORDERS:

1. **JAWS:** APPROVED DOCUMENTS FOR SIGNATURE MAY BE SUBMITTED TO JUDGE COVERT THROUGH THE SIXTH JUDICIAL CIRCUIT COURT JAWS PROGRAM WITH AN EXPLANATORY COVER LETTER AND THE DOCUMENT(S) SUBMITTED SEPARATELY. PLEASE BE AWARE THAT DOCUMENTS SUBMITTED THROUGH JAWS CANNOT BE MODIFIED OR BLANKS FILLED IN SUCH AS: Granted/Dismissed; __ days. THESE DOCUMENTS SHOULD BE SUBMITTED THROUGH EMAIL AS INDICATED BELOW.
2. **EMAIL:** IT IS NOT NECESSARY TO USE THE JAWS PROGRAM FIRST. HOWEVER, SHOULD YOU EXPERIENCE A PROBLEM SUBMITTING DOCUMENTS THROUGH THE JAWS PROGRAM OR YOU SIMPLY PREFER THE EMAIL METHOD, YOU MAY SUBMIT DOCUMENTS SUCH AS NOTICES OF HEARING, CANCELLATIONS, MOTIONS AND ORDERS (IN WORD FORMAT) WITH AN EXPLANATORY COVER LETTER THROUGH EMAIL: Section21@jud6.org.

IF JUDGE COVERT APPROVES THE DOCUMENT, HE WILL SIGN THE DOCUMENT AND JUDICIAL ASSISTANT VALERIE WILL SCAN AND SEND A COPY OF THE SIGNED DOCUMENT TO THE PRESENTING PARTY VIA EMAIL. THE PRESENTING PARTY MUST THEN EFFECT SERVICE OF THE SIGNED DOCUMENT TO ALL INTERESTED PARTIES ON THE SERVICE LIST.

3. **US MAIL/PRIVATE COURIER:** YOU MAY ALSO SUBMIT DOCUMENTS USING THIS METHOD. IF YOU USE THIS METHOD, YOU MUST SEND COPIES TO BE CONFORMED WITH ADDRESSED AND STAMPED ENVELOPES TO BE MAILED BY VALERIE.
4. **DO NOT SUBMIT IDENTICAL DOCUMENTS THROUGH JAWS, EMAIL US MAIL/COURIER WITHOUT INFORMING US THAT YOU HAVE DONE SO AS THIS CREATES CONFUSION AND A WASTE OF TIME.**

IT IS THE DESIRE OF THIS SECTION TO GET YOUR DOCUMENTS REVIEWED AND SIGNED IN THE MOST EFFICIENT AND EFFECTIVE MANNER AS POSSIBLE.

THAT BEING SAID, DOCUMENTS SUBMITTED IN WHICH THE COVER LETTER STATES THERE IS AN AGREEMENT WITH THE OPPOSING PARTY, BUT NO ACCOMPANYING STIPULATION OR CONSENT MAY BE REJECTED BY THE COURT.

THESE PROCEDURES EXIST TO PROVIDE YOU WITH OPTIONS BUT IN NO WAY DIMINISHES THE REQUIREMENT THAT DOCUMENTS MUST BE LEGALLY SUFFICIENT AND SHARED WITH ALL PARTIES.

THE PHONE NUMBER FOR CIVIL SECTION 21 IS: **727-453-3127**, AND THE MAILING ADDRESS IS: 315 COURT STREET, ROOM 413, CLEARWATER, FL, 33758

FORECLOSURES:

Administrative Order 2017-007 is the most recent order on Mortgage Foreclosure Procedures for the 6th Circuit. Please review it carefully. Pretrial non-evidentiary motions will be subject to review

and ruling by a judge based only upon the motion along with written argument and any authority timely filed in the action, unless the Court desires a hearing, whereupon Counsel or any Pro-Se party will be notified. For all pre-trial non-evidentiary matters which have not yet been set for hearing, but have been filed, follow the procedures and time limits in Section III (B).

To CANCEL a Foreclosure Sale:

When a Motion to Cancel Sale is filed by the Plaintiff, this does not require a hearing (MUST comply with Administrative Order 2016-020). Please submit the following to our office via US Mail or hand delivery:

Copy of the Motion

Proposed Order

Postage – Paid, addressed envelopes for all parties on service list.

SCHEDULING NON-JURY FORECLOSURE TRIAL

Once Notice for Non-Jury Trial has been e-filed, please submit the following via **US Mail**:

1. Copy of the Notice for Non-Jury Trial (including the amount of time requested)
2. Copy of Certificate of Compliance Verifying Readiness for Foreclosure Non-Jury Trial (see attached – **NO OTHER FORM WILL BE ACCEPTED**)
3. The approved Section 21 Order Scheduling Non-Jury Trial (see attached – **NO OTHER FORM WILL BE ACCEPTED** with the date and time left blank. Once the Proposed Order is received, a time and date for the foreclosure hearing will be entered into the blank Order, Judge Covert will sign the Order Setting Non-Jury Trial, and the executed/dated/signed Order will be scanned by the Judge's JA Valerie, to the submitting parties' email. The submitting party will then be requested to serve a copy of the attached Order to all listed parties immediately.
4. Prior to the anticipated Final Non-Jury Trial, please send a packet by US MAIL, Package Service or Courier to Judge Covert's office in sufficient time that it will be available for the final hearing. The packet should contain the following:

Copy of the Notice for Non-Jury Trial (including the amount of time requested)

Copy of Certificate of Compliance Verifying Readiness for Foreclosure Non-Jury Trial (see attached – **NO OTHER FORM WILL BE ACCEPTED**)

Order Scheduling Non-Jury Trial (see attached – **NO OTHER FORM WILL BE ACCEPTED** with the dated and time left blank.

E-PORTAL FILINGS:

Documents filed through the e-portal are NOT provided to the Judge's office. If you want the Judge's office to receive it, you MUST SEND IT DIRECTLY TO THE JUDGE by regular mail.

NON-EVIDENTIARY MOTIONS:

The Court fully implements Administrative Order 2015-056 which permits the court to rule on non-evidentiary motions without oral argument. Strict compliance with the time limit in this AO

is expected. Proposed Orders should be provided to the Court. The Court will notify counsel if it desires oral argument after review of the motion and response.

EMERGENCY HEARINGS:

Motions are to be submitted to the Court for determination of emergency status via US Mail, courier, or hand delivery. Emergency motions WILL NOT be accepted via email. If the motion is granted, a hearing will be set at a date and time the Court dictates. Opposing counsel/party is to be provided with the Motion in the same manner as the Court, unless a reason for no notice is stated.

If the Judge is unavailable, the Motion will be reviewed by the Emergency/Duty judge regardless of whether or not the duty judge is assigned to a civil section.

MOTIONS FOR REHEARING AND/OR RECONSIDERATION:

Please submit a copy of the motion to the judge's office for review and entry of an order. If the Judge determines a hearing is required, your office will be contacted.

DEPOSITION DISPUTES:

If extremely critical, attempt an immediate telephone hearing. Otherwise, certify the question and set a hearing.

DISCOVERY CUT-OFF:

Generally discovery cut off is at pretrial, unless circumstances require an alternate period. May be handled on a case by case basis or by stipulation of the parties with Judge's approval.

PRE-TRIAL STATEMENTS:

Utilize uniform pretrial statement form. Attorney attending pretrial will be the attorney who will attend the trial. No motions will be heard at the pretrial conference without leave of the court.

MOTIONS IN LIMINE:

Very short motions in limine may be heard the morning of trial. Longer motions must be heard before trial at a scheduled hearing. Motions in limine must be related to the issues in the case being tried and not generic in nature.

IF CASE SETTLES:

Immediately call the Judge's office to cancel any hearings or trials that may have been scheduled.

SUBSTITUTION OF COUNSEL:

Rule of Judicial Administration 2.50(e)(2) REQUIRES that all substitutions of counsel contain the written consent of the CLIENT.

CONTINUANCES:

Motions must be signed by the CLIENT. Stipulations to continue a trial **must** be set for hearing.

ENSURING PROPER NOTICE:

Ensure proper notice is sent to all parties. Even with defaults, ensure all parties are copied on everything. NOTICE, NOTICE, NOTICE, and opportunity to be heard are KEY concerns for every Judge.

MOTIONS TO COMPEL:

1. Without hearing: ADMINISTRATIVE ORDER 2017-072 PA/PI-CIR – An ex parte order may be entered requiring compliance with the original discovery demand within ten days when a motion alleges a complete failure to respond or object, and no request for extension. No sanctions will be awarded ex parte. **(Use form of order provided by the above AO).**
2. With hearing: per Sixth Judicial Circuit Local Rule 5(c). Motions shall quote in full each interrogatory, question on deposition, request for admission or request for production to which the motion is addressed, and the objection and grounds therefore as stated by the opposing party.
3. With or without hearing: All motions must comply with Local Rule 5(c). Any motion not conforming to this rule will be returned to the moving party.

TRIAL SCHEDULING

MEDIATION:

Mediation is required except in some unique cases (ex-constitutional issue). Trials (jury or non-jury) will normally NOT be held unless mediation is completed. A case management conference may be set to discuss trial and mediation dates. The case must mediate within **one year** of the trial.

NON-JURY TRIALS:

Non-jury trials in excess of one hour should be set for a case management conference to discuss scheduling. Counsel may appear by phone if cleared to do so by the Judicial Assistant.

JURY TRIALS:

In most cases a Case Management Conference is required to set a jury trial. Approximately 15 jury trials are set each trial week. The Court generally tries the oldest cases first. When filing your motion for jury or non-jury trial, please submit a courtesy copy of your motion to the Judge's office. All juries are selected on the first day of the trial week. The Court may try 2 or 3 trials in one week.

VOIRE DIRE:

Attorneys will inquire of the entire jury panel seated in the gallery. A seating chart with jurors' names will be provided. The court will initiate voire dire questions and then counsel will follow with their inquiry. The time limit for voire dire will be set at the pre-trial conference.

PEREMPTORY CHALLENGES:

Generally 3 per party with total of plaintiff to match total of defense.

RESPONSE FROM COUNSEL WHEN BAILIFF BRINGS JURY IN: Please remain seated unless instructed otherwise by the bailiff or the Court.

COURTROOM TRIALS:

Defendants.



Time limits for openings and closings will be set at the Pretrial.

Request permission for the following:

To approach the bench.

No permission is necessary to approach the clerk or a witness with or for a document.

MARKING EVIDENCE TO BE USED AT TRIAL:

Exchange evidence prior to trial. All evidence is to be pre-marked in advance of its intended use by counsel. The clerk will mark exhibits as they are received into evidence. Counsel should not waste trial time looking at evidence for the first time.

SHOWING TANGIBLE EVIDENCE TO THE COURT:

After showing the exhibit to opposing counsel it may be shown to a witness without first showing it to the Judge, unless the Judge specifically requests to see the exhibit.

EXPERT WITNESS:

Except in ruling on an objection, the Court should not, in the presence of the jury, declare that a witness is qualified as an expert or qualified to render an expert opinion, and counsel should not ask the Court to do so. A judicial ruling that a proffered expert is “qualified” prior to the time that counsel has posed a precise question eliciting expert testimony is premature and, unless an objection is interposed, unnecessary. Experts should be prepared at trial to answer questions regarding the number of hours they have spent working on the case and the hourly rate charged as of the date of trial. Attorney calling the expert is responsible to relay this requirement to the expert.

COURTROOM DEMEANOR COMMENTS:

ADMINISTRATIVE ORDER NO. PA/PI-CIR-2013-075: this AO contains the STANDARDS OF PROFESSIONAL COURTESY FOR THE SIXTH JUDICIAL CIRCUIT which will be strictly enforced. No speaking objections. All argument is to be directed to the Court. Examine witnesses from the podium. Do not argue after the Court rules.

CASE LAW:

Paper copies of case law and other legal authority are welcomed by the Court. Pertinent portions may be highlighted. Copies provided to the Court (including any highlighting) shall be provided to opposing counsel before the start of the hearing

ATTORNEY FEES:

The issue of entitlement may be tried in the main action or at a subsequent hearing. Issues regarding the amount of attorney fees shall be left for a subsequent hearing. Fee affidavits are sufficient in lieu of expert testimony if all parties agree to their use. Parties can usually expect an additional referral to mediation post-trial regarding attorney’s fees & costs.

ORDER SETTING FORECLOSURE NON-JURY TRIAL

The Court has reviewed the Court file and considered the testimony of the attorneys/parties and is otherwise duly advised in the premises. Therefore, it is hereby

ORDERED as follows:

The foreclosure non-jury trial of this matter shall take place:

Date:

Time:

Multiple Non Jury Trials are set for this date and time. All parties are to appear at _____ to discuss the status of their trial. The court will handle all uncontested cases and motions to continue at that time. All contested trials will proceed at the end of the calendar.

ALL PARTIES MUST ATTEND

Judge: **Thane B. Covert, Circuit Judge**

Location: **Pinellas County Courthouse**

315 Court Street, Room 413

Clearwater, FL 33756

The following guidelines for Section 21 shall control the trial, exhibits and testimony of the foreclosure non-jury trial, unless otherwise specified by the Court in a separate Order. The parties shall proceed as follows:

1. **REFERRAL TO MEDIATION:**

If mediation has been requested or is being contemplated and it has not yet taken place or been scheduled, it must be completed no later than two weeks prior to the trial date. Plaintiff shall have the responsibility for setting the mediation, if necessary, and the costs incurred shall be shared equally between the Plaintiff and the Defendant(s).

2. **DISCOVERY PROVISIONS:**

- (a) All discovery must be completed not later than 60 days prior to the trial in this matter.
- (b) Sanctions will be imposed for failure to comply with the *Florida Rules of Civil Procedure* and the *Administrative Rules of the Sixth Judicial Circuit*.
- (c) The filing of motions that are not set for immediate hearing and heard will not toll the compliance with a requirement.
- (d) “Compliance” with discovery and with the “Rules” means complete compliance. Failure to comply fully will constitute non-compliance.
- (e) Any dispositive motions shall be filed and set for hearing no later than 45 days prior to trial.

3. **EXCHANGE OF WITNESS LISTS AND EVIDENCE SCHEDULES:**

No later than 30 days before the trial, attorneys and *pro se* parties shall serve upon each other (but NOT file) the following:

- (a) **List of All Witnesses** including known impeachment and rebuttal witnesses, which the party might call at trial. The list shall contain the name, address and telephone number of the witness and whether the witness is a liability or damage witness. Additionally, expert witnesses shall be designated as such.
- (b) **Schedule of All Exhibits** which a party may offer at trial numbered sequentially. The schedules will include all depositions to be offered in evidence at trial.
- (c) Any objections to witnesses or exhibits shall be in writing and filed within 20 days of the trial and written responses within 10 days of the trial.

4. **REQUIREMENTS PRIOR TO TRIAL**

- (a) **Unique Questions of Law.** Prior to trial, counsel for the parties are directed to exchange and simultaneously submit to the Court appropriate memoranda with citations to legal authority in support of any **unique** legal questions which may reasonably be anticipated to arise during the trial.
- (b) **MEETING OF ATTORNEYS AND PRO SE PARTIES.** No later than 10 (ten) working days prior to the trial, counsel who will try the case, and *pro se* parties, if any, shall meet. Attendance at this meeting is mandatory. Plaintiff's attorney and Defendant's attorney (or pro se Defendant) shall arrange a mutually agreeable time, date and place for this meeting.

At the meeting the attorneys and pro se parties shall:

1. Discuss and attempt to settle the case;
2. Produce, examine, and INITIAL every evidentiary exhibit intended to be offered at trial;
3. Agree upon those exhibits which can be admitted as joint exhibits;
4. Agree upon those which can be admitted without objection;
5. Identify those exhibits to which objection(s) will be made and the grounds of each objection and note the objections on a separate copy of each party's exhibit schedule;

Objections not reserved or grounds not noted on such separate schedule will be deemed waived at trial. Agreements and objections will be filed with the Court not later than 1 (one) week prior to trial.

6. Review the witness and exhibit lists and in good faith note on a separate copy which witnesses and depositions will actually be used at trial;

7. Discuss and stipulate as to those facts which will require no proof at trial;
 8. Discuss, clarify and frame all factual issues of fact to be tried;
 9. Identify all issues of law, procedure or evidence to be decided by the Court prior to or during trial;
 10. Discuss and attempt to agree upon any other matters, which will lead to a more orderly and expeditious trial, e.g., copies in lieu of originals, witnesses out of turn, which portions and how depositions will be presented, etc.
5. **PREMARKING EXHIBITS.** Prior to trial, each party shall mark for identification all exhibits.
6. **EXPECTATIONS:** All counsel and pro se litigants are expected to be prepared and ready for trial when the matter is called for trial. Witnesses must be present and under subpoena. Failure of a party to appear at trial and be fully prepared for trial may result in either a dismissal of the action or a default being entered by the Court.
7. **NON-COMPLIANCE:** Non-compliance with any portion of this Order may result in the dismissal or striking of the case, witnesses, or exhibits, or imposition of such other sanctions as are just.
8. **SETTLEMENT:** The parties will notify the Court immediately upon settlement by emailing the Judicial Assistant at section21@jud6.org and will state in the subject line of the email the words **(URGENT – SETTLEMENT)**.

ORDERED in Pinellas County, Florida, on _____, 2019.

Thane B. Covert
Circuit Judge

Copies to: