

# JUDICIAL PRACTICE PREFERENCES

## CIVIL SECTION 19

**Jack Day, Circuit Judge**

545 First Avenue North, Room 200  
St. Petersburg, FL 33701

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727-582-7874  
[sisaksen@jud6.org](mailto:sisaksen@jud6.org)

*Written suggestions or questions regarding these Practice Preferences are welcome. They were last updated in April, 2017. Counsel are encouraged to acquaint themselves also with the Standards of Professional Courtesy for the Sixth Judicial Circuit [ADMINISTRATIVE ORDER 2008-077](#) and the [Sixth Judicial Circuit Local Rules](#).*

*Judge Day's vita is attached as [Appendix A](#).*

### **2017 JURY TRIAL WEEKS**

*June 5 (10 day docket), July 10, September 11, October 9 (8 day docket)*

### **2018 JURY TRIAL WEEKS**

*February 5 & 12, March 5 & 12, April 2, May 7, June 4 & 11, July 9, August 8, September 10, October 8 & 15, November 5, December 3*

Jury selection is on the first Monday of the jury trial docket.

### **HELP FOR PARTIES WITHOUT ATTORNEYS**

**The Judicial Assistant CANNOT answer legal questions, or “explain” things to the judge. Your opportunity to speak to the Judge happens in Court only.** The Clerk of the Court has a Self Help Program for self-represented litigants in the St. Petersburg Judicial Building. Gulfcoast Legal Services can be reached in Clearwater (727) 443-0657 or St. Petersburg (727) 821-0726. Bay Area Legal Services is available at 1-(800)-625-2257. Lawyer referral services of the Clearwater and St. Petersburg Bar Associations are at (727) 461-4880 and (727) 821-5450 respectively.

### **MORTGAGE FORECLOSURE CASE PROCEDURE**

Please visit the Sixth Judicial Circuit website at [www.jud6.org](http://www.jud6.org) for the latest information regarding foreclosure cases. The procedures established in [Administrative Order 2017-007](#) should be followed in mortgage foreclosure cases filed in Pinellas County.

**Foreclosure Motions for Summary Judgment.** Hearings are to be scheduled in JAWS at [https://jawspinellas.jud6.org/jaws\\_attorney/login.aspx](https://jawspinellas.jud6.org/jaws_attorney/login.aspx). To schedule hearings of 15 minutes or less, please use the UMC Foreclosure MSJ calendar.

**Foreclosure Non-Jury Trials.** To schedule a non-jury trial in an uncontested residential mortgage foreclosure case (15 minutes or less), please schedule your hearing in JAWS at [https://jawspinellas.jud6.org/jaws\\_attorney/login.aspx](https://jawspinellas.jud6.org/jaws_attorney/login.aspx) on a UMC Foreclosure NJT Calendar (15 Minutes or Less). Plaintiff is responsible for preparing a copy of the Notice that Cause is at Issue, proposed Order Scheduling Non-Jury Trial with the scheduled date and time, and sufficient copies of the order and postage-paid envelopes for all parties. Attendance in person is required.

Courtesy copies of the Notice and all supporting documentation must be provided directly to Judge Day, 545 1st Avenue N., Room 200, St. Petersburg, FL 33701 via U.S. Mail/Fed Ex/UPS at least five (5) business days prior to the Non-Jury Trial. The order must include the following information, prominently displayed: UNIFORM FORECLOSURE NON-JURY TRIAL CALENDAR – 15 MINUTES OR LESS.

Commercial foreclosure non-jury trials and highly contested non-jury trials of more than 1 hour will be scheduled for case management conferences on the Section 19 calendar by the JA. Please submit a copy of the Notice that Cause is at Issue and postage-paid envelopes for all parties.

**Sale Cancellations.** Parties shall comply with the provisions of AO 2017-007. For text of entire AO [click here](#).

### **MOTIONS WITHOUT HEARING (AO 2015–056)**

In addition to motions that have been customarily considered *ex parte* (e.g., motions for judicial default, motions to compel pursuant to Administrative Order 2013–005, etc.), certain other motions may be decided based solely on written submissions pursuant to [ADMINISTRATIVE ORDER 2015-056](#) and [ADMINISTRATIVE ORDER 2017-007](#). As provided by the AOs, after being served with such motions, the nonmoving opposing party shall have 10 days to file any written response, after which the court may rule without further notice or hearing.

**The following motions shall generally be considered on written submissions:**

**Motions to Dismiss, to Strike, for Leave to Add Parties, to File Amended Complaint, to File Supplemental Complaint**

Parties may, by stipulation only, waive hearing on other non-evidentiary motions and request the court to rule on written submissions alone. Conversely, parties may by stipulation, or motion, request oral argument on any motion otherwise subject to this procedure. The court will consider such requests without hearing and advise the parties if a hearing should be scheduled.

#### **Procedure:**

File and serve motions *without contacting the court* initially. When ten days have passed *after* service on opposing parties, *then* send the court:

- (1) a courtesy copy of the motion
- (2) any supporting material of record

(3) copies of *any material served in response* by another party

(4) a simple form of proposed order with stamped envelopes for distribution of conformed copies

(5) an appropriate cover letter (with cc to other parties)

- Remember the court needs hard copy. Electronic filings do not come to the judge's attention.
- Nothing herein shall be deemed to limit the court's ability to require a hearing on any matter.

## JAWS

**Setting Hearings.** All hearings are to be scheduled by the moving party in JAWS. The website is [https://jawspinellas.jud6.org/jaws\\_attorney/login.aspx](https://jawspinellas.jud6.org/jaws_attorney/login.aspx). Please select the "Section 19 – Day" calendar to schedule your hearing. A Uniform Motion Calendar (UMC) is available to schedule hearings of 5 minutes or less directly online. Hearings of 15 or 30 minutes may also be scheduled directly online. **ALL AVAILABLE HEARING TIME WILL BE POSTED IN JAWS SO PLEASE DO NOT CALL THE JA FOR OTHER HEARING DATES UNLESS YOUR MOTION IS AN EMERGENCY OR SO DIRECTED BY JUDGE DAY.**

**Setting 45 Minute or Longer Hearing.** For hearings which require additional time, adjacent hearing time slots may be combined to create the amount of time required **provided you first call the JA to create the time slot prior to scheduling your hearing.** You may also use this procedure for 30 minute hearings.

**All Counsel/Associated Parties.** It is the moving party's responsibility to confirm that all counsel/associated parties are in the JAWS data base 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.** Additional email addresses for notification may be added for staff.

**Orders.** Proposed orders may now be uploaded to JAWS to be entered using Judge Day's electronic signature. You must also upload an explanatory cover letter. All documents are to be uploaded as PDF documents. **The electronically conformed copies will only be provided to the email addresses which have been associated to the case in JAWS. It is the responsibility of the party uploading the proposed order to confirm all email addresses have been added to JAWS. The JA and the clerk DO NOT maintain the associated party data base.**

## OTHER MOTION PRACTICE

**Emergency Motions.** When attorneys e-file an emergency motion, the documents will be processed by the Clerk and will appear on the case docket in Odyssey faster.

However, the Clerk does not forward it to the Judge's office and accordingly, the Judge and JA are not aware of the filing. It is the attorney's responsibility to contact the Judge's office and provide the Judge with a copy of the motion. Emergency motions will not be set for hearing on an emergency basis unless the court deems it to be an emergency.

*Pro se* emergency motions **only** are forwarded to the Judge's office by the Clerk.

**Telephonic Hearings.** Telephone attendance is allowed for non-evidentiary hearings of up to 15 minutes. The notice of hearing shall state that it is telephonic and identify all parties appearing by telephone. If more than one party is attending by telephone, one attorney shall be designated to coordinate the conference call and have all parties on the line prior to calling in. ***Counsel shall call the Judge's hearing line, 727-582-7875, 5 minutes before the scheduled hearing time.*** The judicial assistant will place the call on hold until the judge is ready to hear the case. Telephonic appearance is not allowed for summary judgment hearings. Also, the Court does not have the equipment to effectively conduct phone hearings for (UMC) mass motion calendars.

**Courtesy Copies of Motions.** **Our system is not paperless! E-filing with the clerk does not put anything into the judge's hands.** Courtesy copies of the Motion, Notice of Hearing, and all supporting documentation (including any prior pleading to which a motion is directed) must be provided directly to Judge Day, 545 1st Avenue N., Room 200, St. Petersburg, FL 33701 via Hand/U.S. Mail/Fed Ex/UPS (**not email or fax**) to be received at least three (3) business days prior to the hearing. **THIS IS THE RESPONSIBILITY OF THE PARTY SETTING THE HEARING. FAILURE TO COMPLY WITH THIS PROCEDURE MAY RESULT IN CANCELLATION.** Originals should be filed with the Clerk. Copies provided to the court will be presumed to be courtesy copies. Please break up lengthy submissions into subparts (cases, exhibits, etc.) that are stapled or otherwise divided separately.

**PLEASE DO NOT EMAIL DOCUMENTS TO THE JA UNLESS THAT IS SPECIFICALLY REQUESTED.**

**Ex Parte Motions.** Counsel seeking consideration of a matter ex parte should always include courtesy copies of a motion and any supporting materials such as affidavits with their proposed orders, service copies, postage-paid envelopes, and an appropriate cover letter signed by a member of the Florida Bar, not a staff member.

**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.

**Cancellation of Hearings.** **If you are unable to cancel your hearing in JAWS, telephone notice to the judicial assistant is necessary. (UNDERSTAND THAT FILING A "NOTICE OF CANCELLATION" IS NOT A REQUIREMENT OF LAW AND DOES NOT CANCEL THE HEARING WITH THE JUDGE'S OFFICE.)** If your case settles, call the office immediately to cancel any hearings that may be scheduled. The mere filing of a Stipulation of Dismissal is not adequate notice to the court that a case set for trial has been resolved.

### **Motions to Compel.**

(1) *Without Hearing:* [ADMINISTRATIVE ORDER 2013-005](#) - 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 Local Rule 5 [Sixth Judicial Circuit Local Rules](#). 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 therefor as stated by the opposing party.

**Withdrawal or Substitution of Counsel.** Rule of Judicial Administration 2.505 requires a “motion and hearing” for withdrawal of counsel. Judge Day will forego a live hearing and deem this requirement adequately complied with if, and only if, there is filed a Stipulation for Withdrawal **signed by both the client and all counsel**. The same rule requires that all substitutions of counsel be “signed off” by the client. Orders granting withdrawal must include the complete address and telephone number where future correspondence and pleadings may be sent to the client.

**Proposed Orders After Hearing.** As provided by the Standards of Professional Courtesy for the Sixth Judicial Circuit [ADMINISTRATIVE ORDER 2008-077](#) proposed orders shall be submitted to the judge with a cover letter stating whether opposing counsel agrees, or objects, to the proposed Order – or, that opposing counsel was given the opportunity to object to the proposed Order, but did not. Transmittals of proposed orders should always reference the date of hearing. Draft orders should have page breaks such that part of the body of the order is included on the signature page. The Court *will not hold* orders pending objections. *Sufficient copies and stamped, addressed envelopes must be provided.* If only the original is submitted, copies will not be provided. **If the parties cannot agree on a proposed order, they should submit all the proposed orders simultaneously in one combined mailing.**

**Motions for Rehearing/Reconsideration.** Will not be set for hearing unless the court decides one is required.

## **PRETRIAL AND TRIAL PRACTICE**

**Scheduling Jury Trials.** Copies of motions to set jury trial should be provided to the court. (When e-filed they do not come to the judge.) Mediation should be attempted in all cases unless excused by the court upon motion and hearing; cases that have not been mediated will be referred for mediation and usually not set for trial until mediated. In setting trial, counsel are encouraged to coordinate a trial date among the parties using the available trial dockets. When a trial docket is agreed upon, contact the judicial assistant to calendar the trial and prepare the order setting jury trial. If the parties cannot agree on a trial date, schedule a hearing in JAWS for that purpose.

**Order Setting Pretrial Conference and Jury Trial.** [ADMINISTRATIVE ORDER 2013-064](#) The discovery cutoffs and deadlines provided by this order are binding, as are the provisions for counsel to meet to resolve minor evidentiary problems and to provide the court a proposed Pretrial Conference Order prior to the PTC.

**Motions to Continue Trial.** Absent very good cause, such motions must be signed by the client, as provided by Rule 1.460, and will require a hearing even if stipulated to by counsel.

**Motions in Limine.** Time will normally be provided for motions in limine to be heard after pretrial and before the week of trial. Counsel will confer before that hearing so that only items

actually in dispute will be put before the judge. The court has no time for “boiler plate” issues such as forbidding Golden Rule arguments.

**Conduct of Trial Generally.** Counsel will adhere to the Circuit’s Standards of Professional Courtesy [ADMINISTRATIVE ORDER 2008-077](#). Examine witnesses from the podium. There will be no speaking objections. That means objections should be three (3) words or less, simply stating the legal ground (e.g. “relevance,” “hearsay,” etc.) invoked, or if elaboration is necessary, counsel should approach the bench. All argument is to be directed to the court. Do not argue after the Court rules, and do not “thank” the Court for a ruling after a bench conference in the presence of the jury.

**Voir 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 voir dire questions and then counsel will follow with their inquiries.

**Response From Counsel When Bailiff Brings Jury In.** Counsel may stand if they wish, or sit if they wish, but counsel should be consistent, either all standing or all sitting.

**Permission to Approach.** Only request to approach the bench or an adverse witness.

### **OTHER PRACTICE AND PROCEDURE POINTERS**

**Correspondence to the Court.** Communications to the court should come from members of the Bar, not staff.

**Deposition Disputes.** The court will hear deposition disputes telephonically – immediately if the judge is available, otherwise as can be scheduled.

**Attorneys 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.

## **APPENDIX A ----- JUDGE DAY’S VITA**

### **RESUME – JUDGE JACK DAY**

#### **JUDICIAL EXPERIENCE:**

<b>2013-Present</b>	<b>Pinellas County, Civil Section 19</b>
<b>2010-Present</b>	<b>Sixth Circuit Civil Appellate Panel (current chair)</b>
<b>2016</b>	<b>Judicial Appreciation Award, St. Petersburg Bar Association</b>

**2012** Nominee, William E. Gladstone Award  
(judicial advocacy for children)

**2011** Circuit Six Excellence in Child Welfare Services Award

Task Force on Disruptive Behavior, Pinellas County Schools

**2009 – 2012** Pinellas County, Unified Family Section 1  
Chair, Dependency Court Improvement Committee  
Board of Directors, Florida Council of Family and Juvenile Court  
Judges

**2008** Pasco County, Felony Section 3

**2007** Pinellas County, Felony Section B

**2006** Elected Circuit Judge, Sixth Judicial Circuit

**CERTIFICATIONS:** Board Certified Civil Trial Lawyer, Florida Bar Board of Legal  
Specialization and Education (1996 - 2014)

Certified Circuit Court Mediator (1991 - 2007)

**LAW PRACTICE EXPERIENCE:**

**2000 - 2006** John W. Day, P.A. and Of Counsel,  
Rahdert, Steele, Bryan, Bole & Reynolds, P.A. –  
St. Petersburg, Florida.

**1996 - 2000** Skipper & Day - St. Petersburg, Florida.

**1991 - 1996** CIGNA Companies - Tampa, Florida.

**1985 - 1991** Lyle & Skipper, P.A. - Tampa and St. Petersburg , Florida

**1983 - 1985** Carey & Harrison - St. Petersburg, Florida.

**1978 - 1983** Sole Practitioner - St. Petersburg, Florida.

**1977 - 1978** Louis De La Parte, P.A. - Tampa, Florida.

**1977** State Attorney's Office - Sarasota, Florida.

**MARTINDALE-HUBBELL RATING:** "AV"

**ADR TRAINING:** Citizen Dispute Program (1980)  
American Arbitration Association - *Mediator Training (1990)*,  
*Auto Claims Supplementary Course (1991)*, *Commercial Arbitration (1999)*, *Advanced Case Management (2002)*  
Florida Dispute Resolution Conference (1999)  
U.S. Postal Service REDRESS Mediation (1999)

**ADR EXPERIENCE:** Pinellas County Citizen Dispute Settlement Program  
(Assistant Director, 1982-84)  
Private mediation of insurance claims  
Certified circuit civil mediator  
AAA - Panel of Neutrals, Commercial Panel  
The Florida Bar Grievance Mediation Program  
U.S. Postal Service REDRESS Program (Employment Disputes)  
Certified Mediator, Federal District Court, Middle District of Florida

**Presenter:** ADR Courses, Stetson University College of Law  
Continuing Mediator Education/St. Petersburg Bar Association  
ADR Section

**PROFESSIONAL ACTIVITIES:**

**Current:** **The Florida Bar, St. Petersburg Bar Association;  
Clearwater Bar Association; Fred G. Minnis Sr. Bar  
Association; Barney Masterson Inn of Court;**

**Member of American Board of Trial Advocacy (ABOTA)**

**Member of Supreme Court Committee on Standard Jury  
Instructions-Civil**

**Fellow, ABOTA Foundation**

**As practicing attorney:**

Florida Bar Foundation; Pinellas County Trial Lawyers Association;  
Florida Academy of Professional Mediators;  
Volunteer Attorney, Community Law Program;  
**(2000 Law Firm Award for Outstanding Dedication);**  
ATLA; Florida Defense Lawyers Association; Academy of Florida  
Trial Lawyers; American Bar Association; Inter-American Bar  
Association



**The Florida Bar:** Judicial Administration Selection and Tenure Committee, Sixth Circuit Grievance Committee, Advisory Committee for Florida Prepaid Legal Services Corp., International Law Section, Quality of Life and Career Committee. Trial Lawyers Section

**St. Petersburg Bar Association:**

Diversity Committee  
Professional Responsibility Committee  
Trial Lawyers Section

**Offices:**

Secretary; Executive Committee;  
Chair, ADR Section  
Chair, Young Lawyers Section.  
Chair, Medical - Legal Committee.  
Chair, Process Service Committee.  
Chair, Professional Responsibility Committee

**CIVIC:**

**Current:** Directions for Living (Board Member)  
Ready for Life (Volunteer Mentor)

**Past:** Gulf Coast Legal Services, Inc. (Charter Board Member)  
Suncoast Epilepsy Association (Past President)  
Pinellas Opportunity Council (Board Member)  
St. Thomas Episcopal Church (Chair of Church Council)

**FOREIGN LANGUAGE:** Spanish