

HONORABLE JOHN A. SCHAEFER
315 COURT ST, ROOM 421
CLEARWATER, FL 33756
727-464-3548

**Judicial Practice Preferences
Circuit Civil**

TO SCHEDULE HEARINGS:

E-mail your requests to: Section20@jud6.org

Please put the case number and the style of the case in the Subject line.

In the body of the email:

- Motions requesting to be heard.
- Amount of time you are requesting.
- Names of the attorneys and the parties they represent and/or pro se parties.
- Whether or not this is a telephonic hearing.

SETTING HEARINGS:

After you have obtained hearing time please email Section20@jud6.org to set on my calendar. **DO NOT** just send in a notice.

FORECLOSURES

Administrative Order [2015-043](#) is the most recent Mortgage Foreclosure Procedures for the 6th Circuit. Please review it carefully. **This Court is implementing Section III (B): Motions decided on Written Submissions.** Pretrial non-evidentiary matters will be decided without a hearing, 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).

UNIFORM MOTION CALENDAR:

1. A Uniform Motion Calendar is established for Section 20 from 9:00a.m. until 10:00a.m on non-jury trial weeks, unless holidays, vacations, or other circumstances prevent such hearings. It shall be the responsibility of the attorney setting any UMC hearing to ascertain that the judge will be available **BEFORE** sending notice. This may be done by emailing Section20@jud6.org

2. Hearings are held in the Judge's Chambers in Room 421 and are limited to a total of five (5) minutes per case. Telephone hearings are permitted, but must be scheduled with the judicial assistant.

3. Counsel setting the hearing shall notice opposing counsel in accordance with the applicable rules of procedure. A copy of the notice of hearing (with the appropriate pleadings attached) shall be forwarded to the judge's judicial assistant via **regular mail**, marked "Uniform Motion Calendar", at least five (5) business days before the hearing. Cancellation of UMC hearings **REQUIRES** notification to the court.

4. Hearings will be conducted on a "first come, first served basis". Failure of any party to appear at 9:00 a.m. shall not prevent a party from proceeding with the hearing when the case is called. If a party chooses to wait for his/her adversary, the case will be heard as soon as practicable.

5. All proposed orders shall be submitted to the judge with a cover letter stating that opposing counsel agrees that the proposed order accurately reflects the court's ruling, or that opposing counsel was given the opportunity to object to the proposed order, but did not. The attorneys may also bring a proposed order to the hearing.

6. Non-routine evidentiary matters shall **NOT** be heard on the Uniform Motion Calendar. Contempt matters also shall not be heard on these calendars.

7. Ensure in the appropriate motion that counsel for the moving party certifies in the motion that a good faith effort has been made to contact opposing counsel to resolve by agreement the issues raised.

8. The judge will require counsel to reschedule any matter that the judge considers too complex to handle on the Uniform Motion Calendar.

TELEPHONIC HEARINGS:

Telephonic hearings are permitted. Evidentiary matters will generally **NOT** be considered. Hearings by telephone **MUST** be set forth in the notice of hearing. The party filing the notice shall be responsible for getting each participant on the line **BEFORE** calling the Judge. Attorneys may attend in person.

FAX POLICY:

Prefers all materials mailed to office. Contact the judicial assistant to obtain fax number for urgent matters.

MOTIONS:

Motions must be filed **before** requesting hearing times.

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.

PROPOSED ORDERS:

Proposed orders shall be submitted to the judge with a cover letter stating that 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. If there is an objection the objecting party must provide their proposed order within 3 business days. Sufficient copies and stamped, addressed envelopes must be provided.

DEPOSITION DISPUTES:

If extremely critical, attempt an immediate telephone hearing. Otherwise, certify question and set 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 pretrial conference without leave of 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.

TRIAL SCHEDULING:

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.

JURY TRIALS:

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.

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 inquiry. The time limit for voir dire will be discussed 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:

No preference. Counsel may stand if they wish. All counsel should be consistent, either all standing or all sitting.

COURTROOM TRIALS – 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.

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.

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. Don't waste trial time looking at evidence for 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 number of hours they have spent working on the case and hourly rate charged as of date of trial. Attorney calling expert is responsible to relay this requirement to expert.

MEDIATION:

Mediation is required unless unique case (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.

COURTROOM DEMEANOR COMMENTS:

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

OTHER PRACTICE AND PROCEDURE POINTERS:

MOTIONS FOR REHEARING AND RECONSIDERATION, ETC.:

Will not be set for hearing. Please submit a copy of the motion to the judge’s office for entry of an order. If the Judge determines a hearing is required, your office will be contacted.

EMERGENCY HEARINGS:

Motions are to be submitted to the Court for determination of emergency status. If granted, a hearing will be set at date and time the Court dictates. If counsel is not available at the time the Court picks for hearing then it is not an emergency. Opposing counsel/party is to be provided with Motion in same manner as the Court, unless reasons for no notice stated.

If the judge is unavailable, the attorney should go to the Emergency/Duty judge regardless of whether or not the duty judge is assigned to the civil section.

IF CASE SETTLES:

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

SUBSTITUTION OF COUNSEL:

Rule of Judicial Administration 2.505(e)(2) **REQUIRES** that all motions for substitution of counsel have the written consent of the **CLIENT**.

CONTINUANCES

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

ORDERS:

Orders should **NOT** have the “**DONE AND ORDERED**” and Judge’s signature standing alone on a separate page. Some part of the body of the Order should be included on signature page.

ENSURING PROPER NOTICE:

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