

Judge Declan P. Mansfield

Judicial Practice Preferences

Section H, J3 & J7

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Contact with this Court's office may be done by telephone, at (727) 847-8172, but E-mail communication is encouraged at dbelcher@jud6.org.

1. MOTION PRACTICE

Absent a stipulation or submission of an agreed order (agreement must be in writing), most motions must be set for hearing with the exception of those listed under Ex-Parte Orders below.

Once the Court has ruled on a motion, the prevailing party shall submit an order to the Court (via JAWS) after conferring with opposing counsel. If the parties cannot agree as to the language of the order, they are directed to advise the Court in writing, and each party shall submit its own proposed order, with a copy sent to the opposing side. The Court will then render the order it deems appropriate. If a transcript of the Court's ruling is available, the parties shall submit a copy to the Court.

2. EX-PARTE ORDERS

Rulings on all motions submitted ex-parte are at the discretion of the Judge reviewing the motions and orders. Upload into JAWS the following:

- (1) Cover letter
- (2) Copy of the motion
- (3) Proposed order

Please upload the proposed order in JAWS (Pasco) or email the proposed order (word and PDF format) to me. If you email it, you will need to pull it from the Clerk's website once they docket it, so there will be a delay.

The following is a non-exhaustive list of motions that may be submitted ex parte:

Motion for Substitution of Counsel
Motion to Compel Discovery (Pursuant to Administrative Order 2013-005 PA/PI-CIR)
Motion to Substitute Counsel
Agreed Orders
Joint Stipulations
Motions for Extension of Time to Serve
Motion to Appoint Guardian ad Litem/Attorney ad Litem
Motion to Reset Foreclosure Sale
Motion for Writ of Possession
Motion for Voluntary Dismissal

Motion for Rehearing/Reconsideration

Motion to Vacate Final Judgment and Return Documents

Motion to Recuse/Disqualify

Motion for Entry of Default Final Judgment

3. **JAWS (Pasco)** – All proposed orders are to be uploaded into JAWS (Pasco). Please include a cover letter and a copy of the motion or stipulation. These documents must be uploaded in PDF-A format. If they are not, they will be rejected.

Should you require technical assistance at any time during this process or if you want to offer feedback regarding your experience with JAWS, please contact the Pinellas County Business Technology Services Operations Center at 727.453.4357 or via email at supportctr@pinellascounty.org.

4. **SPECIAL SET HEARINGS**

Prior to setting a hearing, read below and determine if your matter can be addressed on a UMC calendar. To obtain hearing dates and times, please email Judge Mansfield's judicial assistant at dbelcher@jud6.org. Prior to confirming your hearing date and drafting a notice of hearing, you must clear the hearing date with all interested parties and have previously filed the Motion with the Clerk's office.

5. **RECORDING BY THE COURT**

At the Court's discretion, hearings will be subject to recording by the Court's digital court reporting service.

6. **EMERGENCY MOTIONS**

The Court will determine if a matter is an emergency. A copy of the emergency motion is to be e-mailed to my judicial assistant at dbelcher@jud6.org, who will present it to me.

7. **COPIES**

Once your pleadings have been e-filed, the Court is able to view the documents through the Clerk of the Circuit Court's Clericus program, and it is not necessary to e-mail or send by regular U.S. mail copies to this office.

8. **HEARING BINDERS/MEMORANDUM OF LAW**

Unless approved by Judge Mansfield, all hearing binders and Memorandums of Law will need to be received by the Judge **no later than 14 days prior to the scheduled hearing or trial** and will not contain more than 25 pages (not counting case law included).

9. FORECLOSURES

The Court refers you to www.jud6.org, Administrative Order 2019-004PA/PI-CIR. This is the procedure the Court will use as its foreclosure practice.

Plaintiff's Motion to Cancel and Reschedule Sale must be e-filed and a copy of the motion and proposed order are to be emailed to the judicial assistant, sent to the Court **NO LATER THAN 5 BUSINESS DAYS** prior to the date of the previously scheduled sale date.

Defendant's Motion to Cancel Sale must be filed and scheduled for hearing **NO LATER THAN 5 BUSINESS DAYS** prior to the previously scheduled sale date.

THESE MOTIONS ARE NOT CONSIDERED EMERGENCIES AND WILL NOT BE TREATED AS SUCH.

10. CIVIL JURY TRIALS, CIVIL NON-JURY TRIALS AND FORECLOSURE NON-JURY TRIALS

You may contact the Court to request a trial date once the notice (that case is at issue) has been filed. If there is an objection on the docket, it will need to be set for hearing prior to a trial order being issued.

Email the JA with the following information, requesting a trial date and pretrial date (Civil Jury Trial dates are listed in a separate link within our Practice Requirements), Foreclosure Non-Jury Trial dates will be provided upon request. If the parties wish to stipulate to a specific docket, please include that information. If there is not a stipulation, the JA will select the next available docket. One party in a matter cannot decide on a trial date. Either the parties agree, or the Court will select a date for you:

Case Number & Style of the Case
Length of the Trial (how many hours or days?)
Plaintiff's attorney name and phone number
Defendant's attorney name and phone number
Jury Trial or Non-Jury Trial?

The JA will respond with the trial order template. You should complete the trial orders by filling out the highlighted portions. A hard copy of the completed trial order should be mailed to our office, please remember to include in your packet:

1. Sufficient copies of the trial order (enough for the service list plus one for the clerk/original)

2. Self-addressed stamped addressed envelopes to the service list. (Be sure that postage paid is sufficient for the trial order)

Once the packet is received, the Court will enter the trial order and mail out copies.

If the case has not been mediated, it will be referred to the Mediation Office for scheduling.

Any case which requires a trial of more than a week, if not settled at mediation, will be sent to non-binding arbitration.

Any suit for damages, in which a jury trial is requested and the defendant has either been defaulted or is appearing pro se, shall be sent to non-binding arbitration. If the defendant does not request a trial de novo, the arbitration award will then be reduced to a judgment upon motion by the plaintiff.

Bifurcation of liability and damages will be considered on a case by case basis. If a case has been bifurcated, liability established, and there is a need for a damages trial, the case is to be re-noticed for jury trial to be set on a future trial week before a newly seated jury.

11. **COMPULSORY OR INDEPENDENT MEDICAL EXAMINATIONS:**

In order to resolve most CME or IME issues, the Court has a standard Order which can be submitted with a Motion on an ex parte basis with a cover letter setting forth that opposing counsel has reviewed it and has no objection to the form or entry. Attached is a copy of the form Order preferred by Judge Mansfield.

12. **FORM ORDER ON MOTIONS TO COMPEL COMPULSORY OR INDEPENDENT MEDICAL EXAMINATIONS ORDER COMPELLING RULE 1.360 EXAMINATION**

Pursuant to Florida Rule of Civil Procedure 1,360, ("Examinations of Persons"), Defendant's counsel has notified Plaintiff's counsel that the Plaintiff, _____, is requested to be present for a non-invasive medical examination as follows:

Examiner:
Address:
Date:
Time:
Scope:

THE FOLLOWING CONDITIONS ARE TO BE OBSERVED BY ALL PARTIES INVOLVED:

1. This examination is not a deposition so the examiner shall be limited to that information reasonably necessary to conduct the specialty-appropriate examination and evaluation of an individual, including a brief medical history as well as present complaints (15 – 20 Minutes). The examination is to be limited to the specific medical or psychological conditions in controversy and unless modified by another court order, such examination will be the only exam for the specific condition(s) or issues in controversy (without limiting the possibility of multiple specialties). No invasive testing shall be performed without informed consent by the Plaintiff/examinee, or further Order of Court.

2. This examination shall commence in a timely manner. If it is not commenced by the examining physician within 20 minutes of the originally scheduled appointment time, it will be deemed waived by the defense unless good cause is shown. A patient backlog will not be considered good cause.

3. The examinee will not be required to complete any lengthy information forms upon arrival at the examiner's office. The examinee will furnish the doctor with name, address, and date of birth. Questions pertaining to how the Plaintiff was injured, and where and how the Plaintiff sustained the injuries complained of, are permitted. Questions pertaining to "fault," when the Plaintiff hired his/her attorney, who referred the Plaintiff to any doctor, and what the Plaintiff told his attorney or any investigators are NOT permitted.

4. It shall be the defense attorney's responsibility to provide the examiner with all medical records, imaging studies, test results, and the like, which the defense wants the examiner to review and rely upon as part of the examination. Unless he or she has exclusive control of any original records or imaging studies, Plaintiff shall not be required to bring anything to the exam other than valid identification (e.g., Driver's License, Official Florida Identification Card or government-issued Passport).

5. Plaintiff is permitted to have his/her attorney (and spouse or parent, or other representative) present for the examination, provided that only one of these listed non-attorney persons may attend. Such person(s) may unobtrusively observe the examination, unless the examiner or defense counsel establishes a case-specific reason why such person's presence would be disruptive, and that no other qualified individual in the area would be willing to conduct the examination with such person present. In the case of a neuropsychological exam, all observers shall watch and listen from an adjacent room if available, or by video feed. If the examination is to be recorded or observed by others, the request or response of the examinee's attorney

shall include the number of people attending, their role, and the method(s) of recording.

6. Plaintiff's counsel may also send a court reporter or a videographer to the examination, provided that claimant's counsel notifies defense counsel at least 10 days in advance of the identity, either by proper name or by title (e.g., videographer from XYZ Reporting Service). It is the duty of the defense counsel to relay this information to the examiner's office personnel.

7. Neither Defendant's attorney nor any of Defendant's representatives may attend or observe, record or video the exam. Only if the video is identified as impeachment material for use at trial may the defense counsel obtain a copy. The medical examiner shall not be entitled to any payment of an additional or accommodation fee from the Plaintiff or his/her counsel, simply because of the presence of legally permitted third parties or recordings. The Court shall reserve ruling as to whether such costs, if imposed by an examiner, may be properly recoverable by the Defendant as a taxable cost, or otherwise awarded by the Court.

8. If a videotape or digital recording is made of the examination by counsel for Plaintiff, it is considered work-product, and neither the defense nor the examiner is entitled to a copy, unless and until same is designated as (or reasonably expected to become) trial evidence, subject to discovery only upon a showing of need and undue hardship. Use of the video or DVD is limited specifically to the instant litigation. At the close of litigation, including any appeal, all copies shall be destroyed – unless

counsel convinces the Court (and an order is entered) that there is some compelling reason for either party, or the examiner, to retain a copy.

9. Neither Plaintiff's counsel, nor anyone else who is permitted to be present, shall interject themselves into the examination unless the examiner seeks information not permitted by this Order. If Plaintiff's counsel speaks openly or confers privately with the examinee, and this disrupts the exam or causes the examiner to terminate the examination, counsel may be subject to sanctions.

10. The report of the examiner shall be sent to Plaintiff's counsel, as required by Rule 1.360(b), within 30 days of the examination – but in no event less than 21 days before the beginning of trial, unless otherwise agreed between counsel for the parties or ordered by the court due to special problems. Unless a Plaintiff's treating or retained expert has revised or supplemented an opinion after his/her report or deposition, the examiner shall not change, amend, or supplement the opinions set forth in said report during any testimony (deposition or trial) he may give in reference to his examination of the Plaintiff, without providing a supplemental report, which must be provided to Plaintiff's counsel at least 15 days before trial. Violation of this provision may result in the limitation or striking of the examiner's testimony.

10(a) If the examination involves neuropsychological testing: In addition to the report, the examiner shall provide all raw data, including copies of all notes, tests, tests results, scoring, and test protocols, to Plaintiff's treating or retained psychologist or neuropsychologist, who must return them to the defense examiner at the conclusion of the case.

11. All protected health information generated or obtained by the examiner shall be kept in accordance with HIPPA requirements and shall not be disseminated by the examiner or defense counsel to any other person or entity not a party to this case without a specific order from this Court.

12. Defense counsel must provide the examiner with a copy of this Order and explain the need for the examiner's compliance. As a condition of performing the examination, the examiner shall agree to provide responses to FRCP 1.280(b)(4)(A) inquiries, once such interrogatories or Requests to Produce are propounded by Plaintiff.

ORDERED at New Port Richey, Pasco County, Florida, on this ____ day of _____, 20__.

Declan P. Mansfield
Circuit Judge

Copies furnished to: