



The Honorable John E. Jordan

A Judge's Perspective: Top Mistakes Attorneys Make in Civil Litigation

- Forgetting that you are a member of The Florida Bar and opposing counsel is your **colleague** not your adversary. Guard your reputation. Count to 10 before you speak or respond to an attack. Be careful when emailing, and ask yourself whether you would say those things to the recipient in person. **Professionalism demands courtesy.**
- When dealing with an unfamiliar judge, failing to talk to attorneys who have appeared in front of the judge. Every judge has his or her own style of running a courtroom.
- Failing to account for traffic, parking, security, and elevator gridlocks. Expect delays and arrive early. This includes your client and witnesses as well.
- Failing to check in with the court or checking in and leaving the area. If you are not present, the judge will likely proceed without you.
- Failing to know the rules. Administrative orders such as 2012-03 Meet and Confer, individual judge's procedures, Courtroom Decorum, and Florida Rules of Civil Procedure. Go to the 9th Judicial Circuit website (www.ninthcircuit.org) to download the rules.
- Showing up *without* a proposed order, sufficient copies for all parties, and stamped, pre-addressed envelopes. If you are not sure how the judge will rule, leave space on the order for the judge to write additional rulings. Need a stamped envelope? Purchase one at the clerk's office.
- Disrespecting court personnel, such as judicial assistants, clerks, and deputies. They work very hard and deal with a large volume of telephone calls, emails, in-person contact from *pro se* litigants, attorneys, legal assistants, family members of litigants, etc.
- Calling or emailing the judicial assistant to set a hearing *before checking available hearing times on JACs and before clearing the hearing time with opposing side.*
- Scheduling a hearing *before* filing the motion. Likewise failing to schedule a timely hearing when you file a motion.
- Failing to file a Notice of Change of Address with the clerk. Court mail, emails, and e-filings and Notices of Hearing/Trial are sent to the last address in the clerk's case management system. If your address changes, you will not receive these documents unless you alert the clerk of your new address.
- Attempting to "piggyback" motions. Do not cross-notice additional motions unless you first confirm with opposing counsel/litigant and the judge's judicial assistant that sufficient additional time can be reserved in which to hear the additional motions.
- Calling the judicial assistant about a matter that is a clerk issue or which you can check for yourself by accessing the court or clerk's websites.
- Emailing, faxing, or mailing *ex parte* communications to judge/judicial assistant. If you want the court to act on a matter, **file a written motion and schedule the motion for hearing.** The court will sanction parties/attorneys for abusive emails, faxes, letters, and telephone calls.
- Failing to call the court/opposing counsel/*pro se* party when a scheduled hearing is cancelled or a dismissal filed. It is unprofessional to cause an attorney/party to make a needless court appearance or have the court wait for the parties to appear.
- Failing to read, calendar, and follow a Pre-Trial Order. Failing to follow the Pre-Trial Order can result in a case being stricken from trial docket or limitations placed on the evidence or witnesses that will be allowed at trial. Complete proposed Jury Instructions and Verdict Form before pre-trial conference.
- Failing to get with the trial clerk to pre-mark evidence. Consider Juror Notebooks Fla. R. Civ. P. 1.455. Remember to move into evidence your exhibits marked for identification. Test your computer/video equipment in the actual courtroom before trial. Confer with the IT department at the courthouse prior to trial.
- Failing to bring an interpreter. The court does not provide interpreters in civil cases. Caveat: Under the ADA, court administration will provide sign language interpreter in civil matters. Contact court administration no later than two working days in advance to arrange accommodation for hearing or voice impairment. See Administrative Order 07-97-32-04.
- Arguing with the judge, especially after a ruling. Take a deep breath. You can always file a Motion for Rehearing, Reconsideration, New Trial, or Alter/Amend/Relief from Judgment, or file an appeal.

The Honorable John E. Jordan, Ninth Judicial Circuit Court, has been a member of the OCBA since 1984.