

EXHIBIT “A” – for FORECLOSURE NON-JURY TRIALS

Guidelines for Division 35 Controlling Trial and Exhibit Testimony Judge Heather L. Higbee

This matter shall control all Non-Jury Foreclosure trials unless in conflict with a Case Management Order entered on the specific case.

A. REFERRAL TO MEDIATION; DEADLINE

- (1) If this matter has not been previously mediated, the matter must be mediated no later than two weeks prior to the trial date. Plaintiff shall have the responsibility for setting the mediation. If costs are incurred they shall be shared equally between the plaintiff and defendant.
- (2) Any party may move to defer or dispense with mediation upon good cause shown. However, mediation shall proceed unless a Court order specifically dispenses with mediation.
- (3) All parties and their counsel or authorized representative, with the authority to resolve this matter must appear in person. Telephone or video appearances are not permitted.

B. DISCOVERY PROVISIONS:

- (1) All discovery must be completed no later than one week prior to the trial in this matter.
- (2) Sanctions will be imposed for failure to comply with the *Florida Rules of Civil Procedure* and the *Administrative Rules of the Ninth Judicial Circuit*.
- (3) The filing of motions that are not set for immediate hearing and heard will not toll the compliance with a requirement.
- (4) “Compliance” with discovery and with the “Rules” means complete compliance. Failure to comply fully will constitute non-compliance.

C. EXCHANGE OF WITNESS LISTS AND EVIDENCE SCHEDULES.

No later than twenty (20) days before the trial, attorneys and *pro se* parties shall serve upon each other (but not file) the following:

(1) **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.

(2) **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.

D. REQUIREMENTS PRIOR TO TRIAL.

(a) MEETING OF ATTORNEYS, AND PRO SE PARTIES. No later than ten (10) 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 (or if plaintiff is pro se, defendant's attorney) 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; agree upon those which can be admitted as joint exhibits, those which can be admitted without objection, and identify those to which objection will be made and the grounds of each objection, and note this 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 no later than one week before the trial.
3. Review the witness lists and in good faith note on a separate copy which witnesses and depositions will actually be used at trial.
4. Discuss and stipulate as to those facts which will require no proof at trial.
5. Discuss, clarify and frame all factual issues of fact to be tried.
6. Identify all issues of law, procedure or evidence to be decided by the Court prior to or during trial.
7. 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.

E. All counsel and pro se parties are to be familiar with the following documents: *Division 35 Guidelines and Procedures; OCBA Standards of Professionalism, and the Ninth Judicial Circuit Court Decorum Policy.* It is further ordered that all counsel and pro-se parties are charged with reading and being familiar with the contents thereof and complying therewith.

F. 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 to be prepared for trial may result in either a dismissal of the action or a default being entered by the Court.