

**UNIFORM ADMINISTRATIVE POLICIES AND PROCEDURES
OF THE CIVIL DIVISION OF THE CIRCUIT COURT
ORANGE COUNTY, FLORIDA**

Revised November 2006

SECTION 1. EFFECTIVE DATE; SCOPE; PURPOSE.

(A) These administrative policies and procedures are in effect and apply to all cases filed in the Civil Division.

(B) The purpose of these administrative policies and procedures is to supplement the Florida Rules of Civil Procedure and Judicial Administration, and applicable statutory and case law. In some instances, they track existing administrative orders and statutes. They are intended to furnish all system users with a guide to the administrative policies and procedures of the Civil Division of the Circuit Court of Orange County, Florida.

**SECTION 2. ORGANIZATION OF THE DIVISION; PRESIDING JUDGES;
SUPPORT STAFF.**

(A) Division 2 is the General Civil Division is presently comprised of six (6) subdivisions which are designated as follows:

Division 33
Division 34
Division 35
Division 37
Division 39
Division 40

(B) The Complex Business Litigation Court is presently comprised of two (2) subdivisions which are designated as follows:

Division 32
Division 43

(1) Business Court was established pursuant to Administrative Order 2003-17-1 and is governed under Administrative Order 2003-17-3.

(2) The procedures for Business Court are established in Administrative Order 2004-03.

(C) Each division is presided over by a Circuit Judge who is assigned to that division by the Chief Judge. The names, business addresses and telephone numbers of the currently assigned presiding Judges can be obtained on the Court's web site www.ninja9.org.

(C) Each Judge has a Judicial Assistant. The names of the current Judicial Assistants can be obtained on the Court's web site www.ninja9.org.

(D) The Civil Division has one Magistrate assigned to hear matters referred by the Judge. The Magistrate generally hears all discovery matters and motions to dismiss but can hear other matters that are agreed upon by the Judge and the parties. Once a referral Order is signed by the Judge, if agreed upon, the parties shall sign a consent to use of the Magistrate. The hearing shall be scheduled with the Magistrate using the Judicial Automated Calendaring System. After the hearing, the Magistrate shall issue a report on the hearing. The parties have ten (10) days to file an exception to the hearing. If no exception is filed within ten (10) days, the Magistrate's assistant shall forward an order to the Judge to approve the report. If an exception is filed, the Magistrate's assistant shall forward the exception along with a copy of the report to the Judge for review and action. If a hearing is set on the exception, the hearing is only on the exception filed, not on the motion itself.

(E) Each Judge is assigned a Trial Clerk by the Clerk's office. The address of the Trial Clerk's office is 425 North Orange Avenue, Orlando, Florida 32801, telephone 407/836-2055.

(F) Each Judge is assigned a Court Deputy by the Sheriff's Office. The address and telephone number of the Court Deputy's office is 425 North Orange Avenue, Orlando, Florida 32801, telephone 407/836-6060.

(G) The court does not employ in-house court reporters for civil cases. A party desiring that the proceedings be recorded must hire a court reporter at that party's initial expense. The cost of court reporter per diem and transcripts may be taxed at the conclusion of the case as prescribed by law. Court reporters when taking a deposition in a pending case, a hearing or trial are considered officers of the court and are governed by the provisions of Florida Rules of Judicial Administration 2.070 (b) (e), (f) and (h), and 2.075 (e). The Court does not allow court reporters during exparte unless permission is obtained from the presiding Judge.

SECTION 3. ADMINISTRATIVE JUDGE; ALTERNATE JUDGES; DUTY JUDGE.

(A) Administrative Judge. One of the presiding Judges of the division is appointed Administrative Judge by the Chief Judge to serve at his pleasure. Unless specifically reserved, the Administrative Judge has all of the powers of the Chief Judge with respect to cases assigned to the Civil Division. The Administrative Judge shall be responsible for generally overseeing the operation and functioning of the Civil Division.

(B) Alternate Judge. Each Judge of the Civil Division has an assigned alternate Judge. A list of the Judges and their alternates is maintained in the Court Administrator's office. This list may also be obtained on the Court's web site under Administrative Orders. In the event the assigned Judge is absent or otherwise unable to take action in the case, time-sensitive and emergency matters will be handled during business hours by his or her alternate, or, if the alternate is not available, by a Judge designated by the Administrative Judge or the Chief Judge. The alternate Judge may, but is not required to, hear routine matters not of a true time-sensitive or emergency nature.

(C) Duty Judge. There is a duty Judge on duty after hours and on weekends and holidays on a continuous basis. True emergency matters arising on weekends, holidays or after business hours which can not await hearing during regular business hours should be referred to the duty Judge. The duty Judge must be contacted through the Orange County Sheriff's Communications Section, telephone 407/836-3980.

SECTION 4. ASSIGNMENT, REASSIGNMENT AND TRANSFER OF CASES.

(A) Initial Assignment.

(1) All new cases filed in the Civil Division will be assigned to the Civil Judges by the Clerk by use of a random electronic data assignment system.

(2) The docket, file folder and initial pleading shall have the case number and division number affixed to it by the Clerk. A copy of the Clerk's receipt for the filing fee or original insolvency papers showing the division number will be placed in the file.

(B) Reassignment of Cases.

(1) **After Recusal or Disqualification.** After entry of an order of disqualification on a motion of a party or an order of recusal on his or her own motion, the

Judge will forward the file with the order attached to the Administrative Judge. The Administrative Judge will sign and file the order and serve copies on the affected Judges, counsel of record and unrepresented parties.

(2) Related Cases. When there are two or more cases assigned to different divisions which might be more efficiently handled by the same Judge, such related cases should be brought to the attention of the Judge with the lower case number by a motion to transfer. After the hearing, if the Judge believes that the higher numbered case should be transferred, he or she will contact the Judge to whom the case is assigned to determine if the latter agrees. If there is agreement, the Administrative Judge will enter an order transferring the case. If there is a disagreement, the matter will be referred to the Administrative Judge who, after examining the files and consulting both Judges, will determine whether to transfer the case.

(3) Refiled Cases. Whenever a case is terminated by voluntary dismissal, dismissal for lack of prosecution or involuntary dismissal without prejudice, and is refiled without substantial change in claims or parties, the attorney refiling the case should notify the Administrative Judge who will reassign the new case to the same division to which the prior case was assigned. If this procedure is not followed, counsel for the opposing party shall notify the Administrative Judge.

(4) Reassignment to Complex Business Litigation Court. If a case is filed and qualifies for Complex Business Litigation Court pursuant to Administrative Order 2003-17-3 but is not filed directly into Complex Business Litigation Court, the file may be reassigned by the Administrative Judge either by request of the assigned Judge or by Motion of a party. If contested, the Motion must be set for hearing before the Administrative Judge during *exparte*. If the parties agree that the case should be reassigned, the parties may file a Stipulated Motion and send a copy to the Administrative Judge for review along with a proposed order. The order must include language that requires the parties to bring all pending motions into compliance with the Complex Business Litigation Court rules.

(5) By Chief Judge Or Administrative Judge For Any Reason. The Chief Judge or Administrative Judge may reassign any case for any good and sufficient reason.

(C) Transfer Of Cases To Or From Other Courts.

(1) To Another Circuit Court. Where an order has been entered transferring a case from this court to another Florida circuit court on grounds of improper venue or forum non conveniens, the party designated in the order to pay the transfer costs shall within thirty (30) days of the date of the order deliver to the Clerk of this court the filing fee for the other

court to accompany the file being sent to the other court.

(2) Transfer To Or From Orange County Court. Whenever this court or the county court finds the other court has subject matter jurisdiction, the assigned Judge shall enter an order transferring the case to the other court and specifying which party shall pay the filing fee for the court to which the case is transferred. When the case and filing fee has been received, the Clerk shall assign the case to a Judge as if it was a newly filed case. If a counterclaim or cross-claim is filed in a county court case which exceeds the subject matter of that court, upon transfer the Circuit Judge will sit as a County Judge to hear any other claims of which the county court has exclusive jurisdiction.

SECTION 5. COURT FILES AND RECORDS.

Pursuant to Florida Statute 28.13 and Florida Rule of Judicial Administration 2.050, the following procedures apply to court files.

(A) The Clerk is required by statute to keep all papers filed in the Clerk's office with utmost care and security.

(B) No person, other than a Judge or the Clerk or a Deputy Clerk shall insert, delete, destroy or make an entry on any paper filed with the Clerk or the file folder in which it is placed unless authorized by a Judge to do so.

(C) Removal, Maintenance and Return of Files.

(1) See Administrative Order 07-98-02 for procedures for removal of court files.

(D) Violations of Removal Procedures. The Clerk is authorized to suspend or revoke removal privileges for violation of paragraphs (B) and (C) and shall report all violations of paragraph (B) and any failure to return a file to the Judge to which the case is assigned.

SECTION 6. APPEARANCE, SUBSTITUTION AND WITHDRAWAL OF ATTORNEYS.

(A) Every appearance of an attorney either by filing a paper or by oral announcement at the commencement of a hearing or trial shall be considered a general appearance, except that a limited special appearance may be made for the purpose of filing a motion to dismiss

for lack of jurisdiction over the person, or from insufficiency of process or insufficiency of service of process.

(B) Appearance of attorneys from other states (pro hac vice), appearance of additional counsel, substitution and withdrawal of attorneys are governed by the Florida Rule of Judicial Administration 2.060 and strict adherence to those procedures is required.

(C) Every Order of Withdrawal as counsel of record must contain an address for service of papers upon and telephone number for the client.

SECTION 7. UNREPRESENTED (PRO SE) PARTIES.

(A) Every party to a legal proceeding has the right to appear and prosecute a claim or maintain a defense without being represented by an attorney. There are three exceptions where a party must be represented by an attorney.

(1) Corporations and limited liability companies must be represented by an attorney and may not represent themselves through non-lawyer employees, officers, directors or shareholders, even where such non-lawyer person is the sole shareholder. The only exception is that a corporate landlord may bring an action through its non-lawyer managing agent to evict a tenant for nonpayment of rent.

(2) A guardian of a minor or incompetent must be represented by an attorney unless the guardian is an attorney.

(3) A personal representative of a decedent's estate must be represented by an attorney, unless the personal representative is an attorney or unless the personal representative is the sole person to receive assets from the estate.

(B) The court strongly urges that every party retain an attorney to represent them. However, if a party entitled to represent himself or herself chooses not to retain an attorney, he or she is hereby advised:

(1) Neither the Judge nor his or her Judicial Assistant nor employees of the Clerk's office will give an unrepresented party legal advice.

(2) The unrepresented party will be governed by the same rules of law, procedure, and evidence that attorneys are required to follow.

(3) There is a full service law library available to unrepresented parties at no

cost located on the fourth floor, Orange County Public Library, 101 East Central Avenue, Orlando, Florida.

(4) An unrepresented party may not communicate privately with the Judge either by letter, telephone, in person or otherwise. Copies of legal papers or other written materials should not be sent to the Judge unless specifically requested by the Judge or required by these administrative procedures. Any unrequested or non-required papers or materials sent to a Judge may not be read but may be returned to the sender or placed unread into the court file.

(5) An unrepresented party must file his or her papers with the Clerk and send copies to other attorneys or unrepresented parties. All such papers must be typed double-spaced on plain white 8 1/2 X 11 paper, with the name of the case and case number at the top and the party's mailing address, telephone number and FAX number, if any, below his or her signature at the end of the paper. Such unrepresented party must immediately notify the Clerk and all other counsel or parties of record in writing of any change in mailing address or telephone or FAX number. Failure to promptly notify of change of address could result in a dismissal or default entered against such party.

SECTION 8. INDIGENT PARTIES

(A) Original Proceedings In Circuit Court. A party claiming financial inability who desires to have certain Clerk's and Sheriff's fees and cost waived will complete and file an affidavit on a form provided by the Clerk. If the affidavit is sufficient, the Clerk will issue and file a written certificate and provide copies of the certificate to the insolvent party. If the Clerk deems the affidavit insufficient, the party may file a motion to have the assigned Judge determine whether the affidavit is sufficient for a waiver of costs and fees. Only a party to a legal action which is presently pending and undisposed of is entitled to a certificate waiving costs and fees. If a party is represented by an attorney the attorney shall make a written certificate as required by Florida Statute 57.018 (1).

(B) Appeal From County Court to Circuit Court Or From Circuit Court to District Court of Appeal. A party claiming financial inability who desires to have Clerk's fees and costs waived in connection with an appeal from Orange County Court to the Civil Division of this court or from the Civil Division of this court to an appellate court must file a motion accompanied by affidavit and serve copies on the opposing parties. If no written objection is filed by an opposing party within five (5) days of the filing and service of the motion and affidavit, the movant must then promptly present a proposed order to the presiding Judge either at ex parte hour or by mail. If a written objection is to be filed, the objecting party must obtain hearing time within not less than four (4) nor more than seven

(7) working days and file and serve notice of hearing simultaneously with the objection.

SECTION 9. ASSISTANCE FOR DISABLED PERSONS.

Attorneys, parties, witnesses, jurors and other persons with speech, hearing, sight impairments or other physical disabilities who need special accommodation to participate in legal proceeding should contact the Court Administrator's Office, Room 2130, 425 North Orange Avenue, Orlando, Florida, 32801, telephone 407/836-2303, not later than two (2) days prior to the proceedings. If hearing or voice impaired, contact (TDD) 1-800-955-8771.

SECTION 10. HEARINGS.

(A) Regularly Scheduled Hearings.

(1) Each attorney shall utilize the courts web page, www.ninja9.org under Judicial Automated Calendaring System, for available hearing time and the Judge's schedule before telephoning the Judicial Assistant.

(2) The hearing will be scheduled with the Judge's Judicial Assistant. Written or fax notice must be received in opposing counsel's office at least four (4) working days before the hearing.

(3) Moving counsel must present a proposed order with space for ruling left blank at the conclusion of the hearing and must serve conformed copies on all other counsel and unrepresented parties.

(B) Ex Parte Matters. Ex parte matters are heard by all civil divisions. Times and availability can be located on www.ninja9.org under Judicial Automated Calendaring System. Contested matters generally will not be heard during this time unless the Judge's approval has been obtained in advance through his or her Judicial Assistant. Counsel should check out the court file from the Clerk's office and return it after the matter has been heard unless the Judge wishes to retain the file. If the Judge is unavailable, simple matters requiring no explanation by counsel may be left together with the file with the Judge's Judicial Assistant for later consideration by the Judge. An order should be brought to the hearing for the Judge to sign.

(C) Uniform Motion Calendar.

(1) Contact the Judge's office to ascertain whether short matters are heard by the specific division.

(2) Types of motions suitable for hearing on the motion calendar are simple motions to dismiss complaints with only one or two counts, to strike one or two affirmative defenses, for more definite statement, to amend pleadings, to compel discovery, for protective order, objections to IME, etc. Complex motions, motions requiring testimony or motions for summary judgment (except uncontested mortgage foreclosures), or more than two motions to be heard at one time should not be scheduled on this calendar and will not be heard by the Court.

(D) Other Motion Hearings. All other motions should be specially set through the Judge's Judicial Assistant for a date and time certain. Requests for hearing time in excess of one (1) hour will require special permission of the Judge obtained through the Judicial Assistant or by personal appearance of counsel at ex parte time.

(E) Telephone Appearances. Counsel or unrepresented parties may arrange through the Judge's Judicial Assistant to appear by telephone at a scheduled time and date certain hearing. The published practices and procedures of the individual Judge should be reviewed or if not available, the Judge should be contacted to determine the policy on telephonic appearances. If two or more attorneys are to appear by telephone, one of them should arrange to connect the other attorney or attorneys on a conference call.

(F) Hearings On Motions For Rehearing, Reconsideration or New Trial. Motions for rehearing, reconsideration or new trial will not be set for hearing unless the Judge so directs. Counsel filing such a motion should simultaneously send a chambers copy directly to the Judge with a cover letter requesting a hearing if one is desired. The Judge will then either rule upon the motion without a hearing and serve copies of his or her order on all parties or have his or her Judicial Assistant contact moving counsel and to obtain hearing time to be noticed by moving counsel.

SECTION 11. MOTION PRACTICE GENERALLY.

(A) Form of Motions.

(1) Every written motion shall cite the particular rule or statute and/or leading case upon which the motion is based.

(2) Fla.R.Civ.P. 1.140(b) relating to motions to dismiss requires that the "grounds...and the substantial matters of law to be argued shall be stated specifically and with particularity."

(3) Fla.R.Civ.P. 1.510(c) relating to motions for summary judgment requires

that “the motion shall state with particularity the grounds upon which it is based and the substantial matters of law to be argued.” To comply with this rule, every such motion must contain (a) a concise, non-argumentative statement of all material facts as to which movant contends there are no genuine issues for trial and (b) a brief statement of the legal proposition(s) relied upon.

(B) Chambers Copies of Memorandums, Etc. Legal memorandums in support of or opposition to motions are optional. But if filed, counsel must furnish the Judge with chambers copies of the memorandum and highlighted copies of primary legal authorities cited therein. As an alternative to a memorandum, a list of primary legal authorities with highlighted copies attached may be submitted. Chambers copies and authority lists must be under cover letter referencing the case style and number and stating the date and time of the hearing. Counsel who serves a memorandum or authority list first should also include a copy of the motion, any papers to which it is addressed, and the response, if any. In order for the Judge to properly review a submission in advance, it must be received in the Judge’s office at least three (3) working days before the hearing.

(C) Obtaining Hearing Times.

(1) If the motion is one which might be resolved by stipulation or agreed order, moving counsel must explore that possibility with opposing counsel before reserving hearing time.

(2) If at all possible, hearing time for complex motions or several motions to be heard at one time should be cleared with all affected counsel so as to avoid calendar conflicts.

(3) If hearing time cannot be coordinated with opposing counsel, attorneys shall appear at ex parte to resolve the issue.

(D) Notices of Hearing.

(1) Every notice must specify the motions to be heard. A notice calling up “all pending motions” is insufficient.

(2) Additional motions should not be “piggy-backed” by cross-notice unless counsel first confirms with opposing counsel and the Judge’s Judicial Assistant that there can be sufficient additional time reserved in which to hear them.

(E) Canceling Hearings. Only the attorney who noticed a hearing may cancel it.

If a hearing becomes unnecessary after it has been noticed, the Judge’s Judicial Assistant and all other counsel must be notified immediately and effectively that the hearing is canceled.

SECTION 12. ORDERS AND JUDGMENTS.

(A) Who Is To Prepare.

(1) Proposed orders and judgments will be prepared by the prevailing attorney unless the Judge designates some other attorney or states that he or she will prepare the order or judgment.

(2) When submitting proposed orders or judgments, counsel shall also include sufficient copies and self address stamped envelopes for all parties.

(B) Requirements For Orders.

(1) All orders will be on 8 1/2 X 11 plain white paper (not lined paper or letterhead paper) and be double spaced.

(2) The order must contain a title indicating what matter the order pertains to, e.g., “Order On Defendant Smith’s Motion To Dismiss.”

(3) The preamble of the order should include the date of the hearing and what motions were heard.

(4) The adjudication portion of the order should state what relief is ordered. Simply stating that “the motion is granted” without more is insufficient.

(5) The order should indicate the specific time period of any act ordered to be done and should state whether the time period runs from the date of the hearing or the date the order is signed or some other specified date.

(6) The order should contain a full certificate of service with the complete names and addresses of the attorneys and unrepresented parties to be served. Merely showing “copies to” is insufficient.

(7) If an order of dismissal is final (i.e., it disposes of the entire case) the title should contain the word “Final.” When the order is not final but leaves other counts or claims against other defendants pending, it should so state in a separate paragraph.

(8) When submitting stipulations, orders shall be by separate order, not attached to the stipulation.

(C) Requirements For Judgements.

(1) Every judgment will indicate whether it is a “Final Judgment” (i.e., the judgment disposes of the entire case) or “Partial Final Judgment,” and if the latter, it should specify in a separate paragraph what other counts or claims against other parties remain pending.

(2) All judgments should contain the address and the social security number of the judgment debtor, if known.

(3) All judgments which award accrued interest or pre-judgment interest must be accompanied by a writing showing in detail how the amount of interest was computed.

(4) All judgments must contain a certificate of service showing the names and addresses of all attorneys and unrepresented parties to be served.

(5) Copies of default judgments must be mailed by the Judge’s Judicial Assistant to the parties against whom the judgment is entered if the address is known.

(D) How Presented.

(1) Counsel preparing the Final Judgment or order should draft and circulate copies within two (2) working days of the ruling or jury verdict.

(2) If counsel preparing the Final Judgment or order gets approval as to form of the order from all counsel, the original with copies and envelopes should be sent directly to the Judge with a cover letter stating all counsel agree to the form of the order or judgment. If other counsel objects to the form or cannot be reached for approval, counsel preparing the judgment or order shall notice a motion for entry of the order or judgment. If objecting counsel does not furnish the Judge prior to or at the hearing with a proposed judgment or order version with copies under cover letter stating the reasons for the objection, all objections will be deemed waived. Orders and judgments should not be submitted to the Judge to hold waiting for an objection.

(3) Unsigned orders or judgments should not be sent to the Clerk’s office for transmission to the Judge.

SECTION 13. GENERAL DISCOVERY GUIDELINES.

(A) General Principles. Counsel should be guided by courtesy, candor and common sense and conform to the Florida Rules of Civil Procedure and any applicable orders. In particular, counsel should have in mind the broad scope of discovery allowed by the Civil Rules of Procedure. **Direct and informal communication between counsel is encouraged to facilitate discovery and resolve disputes.**

(B) Timeliness. The time limit specified in the rules and applicable orders must be observed. If additional time is needed, an extension must be sought before the time limit expires by stipulation, or failing that, by motion and order.

(C) Filing of Motions. Interrogatories and answers thereto, copies of documents produced in response to a request and depositions are not be filed with the Clerk unless they are needed for a hearing or trial.

(D) Discovery Motions. Before requesting hearing time on a Motion to Compel or for Protective Order, the moving attorney must contact the opposing attorney and attempt to resolve the dispute or narrow the issues to be decided. If a hearing is set, the notice of hearing must contain or be accompanied by a certificate of the noticing attorney that reasonable efforts have been made to contact opposing counsel and failed; or that counsel have conferred, failed to resolve all issues; and that a hearing is necessary. A copy of the certificate will be handed to the Judge at the beginning of the hearing.

SECTION 14. DEPOSITION GUIDELINES.

(A) Scheduling. If the time for taking a deposition cannot be coordinated with other counsel in advance, at least ten (10) working days notice should be given. Note that it is often less expensive to bring the witness to the deposition (and for the parties to share the expense) than for the lawyers to travel. Likewise, a telephone deposition of a secondary witness will save expense.

(B) Questioning. Questions should be brief, clear and simple. Each question should deal with only a single point. Argumentative or unnecessary embarrassing questions are out of order. The purpose of a deposition is not to harass or intimidate, but simply to make a clear and unambiguous record of what the witness' testimony would be at trial or to locate other witnesses or admissible evidence.

(C) Documents And Exhibits. Normally, a witness should be shown a document or exhibit and given a reasonable opportunity to examine it before being questioned about

it.

(D) Objections. Objections to the conduct of counsel or other persons present should be noted on the record. Objection to the form of a question should state the specific grounds, i.e., leading, compound, etc., but the question should be answered unless the examiner rephrases the question. In the absence of a good faith claim of privilege, violation of a protective order, or other appropriate ground, instruction not to answer are rarely justified and may lead to sanctions. Speaking objections and frequent recesses or other tactics to coach a deponent are improper and may also be cause for sanctions. If counsel believes that a motion to terminate or limit the examination would be warranted, the deposition should be recessed and counsel should promptly initiate a telephone conference call to the presiding Judge to attempt to resolve the problem or obtain a ruling, or, if the assigned Judge is unavailable, promptly file a motion and set a hearing.

(E) Multiple Depositions of Same Witness.

Generally, a witness or party should be deposed only once in a given case. All counsel of record should be given notice of the deposition and an opportunity to examine. Counsel who fail to attend or fail to examine a witness after notice shall be deemed to have waived their right to depose the witness. A second deposition may be taken of a witness only upon stipulation of counsel or court order, and if allowed will generally be limited to new matters occurring after the first deposition.

SECTION 15. ALTERNATIVE DISPUTE RESOLUTION.

It is the policy of the Civil Division Judges to maximize the use of alternative dispute resolution procedures. Except where prohibited by statute, mediation will be ordered in all cases where jury trial is requested and in selected cases which are to be tried non-jury. Also, selected cases will be referred for court-annexed non-binding arbitration through the Orange County Bar Association Arbitration Service. Counsel may move to dispense with or defer mediation or arbitration or move to modify the referral order for good cause. (See form mediation order in Appendix hereto.)

SECTION 16. SETTING CASES FOR TRIAL.

When a party files with the Clerk a Notice for Trial pursuant to Fla.R.Civ.P 1.440, there shall be included therewith a sufficient number of stamped addressed envelopes for all counsel and unrepresented parties of record. The Clerk will staple the envelopes to the inside of the case file folder, then forward the file to the assigned Judge's Judicial Assistant for preparation of the order setting the case for trial. The notice must correctly indicate whether

the case is to be tried by jury or non-jury and estimate the total number of days or hours needed for the trial.

SECTION 17. SETTLEMENTS.

(A) Immediate Notice. Counsel will **immediately** notify the Judge's Judicial Assistant by telephone of the settlement of any case scheduled for trial so they can be removed from the trial docket.

(B) Settlement of Cases Involving Minors or Incompetents.

(1) Court approval of settlement is required where (a) the gross settlement of a minor's claim for the minor's own injury exceeds \$15,000; (b) in a wrongful death case where there are multiple claims including a claim on behalf of a minor survivor or (c) in a case where there are multiple claims including a claim by a minor for permanent injury to a parent; or (d) where the minor is one of several plaintiffs or defendants and only equitable relief is to be granted.

(2) A legal guardianship shall be required when the amount of the net settlement exceeds \$15,000, pursuant to section 744.387, Florida Statutes. In any case which the gross settlement for the claim of the minor exceeds \$15,000, the court may, prior to the approval of the settlement, appoint a guardian ad litem to represent the minor's interests, pursuant to section 744.301 (4)(a). After the guardianship is established and the attorney's trust account is in receipt of the funds, the Probate Division Judge shall then direct further disbursement of the minor's funds from the attorney's trust account to the guardianship

(3) A guardian ad litem must be appointed to represent a minor and protect the minor's interests where the gross settlement exceeds \$25,000, pursuant to section 744.301 (4)(a).

(4) If there is no case pending, the petition for approval of settlement shall be filed in the Probate, Guardianship and Mental Health Division (Division 01). If there is a personal injury or wrongful death case pending in a Civil Division, the petition for approval of the settlement (and for apportionment) shall be filed in that pending case.

(5) If a guardian has been appointed, petition for approval of settlement of the claim will be filed in the pending civil case, or, if no civil case is pending, in the guardianship case.

(C) Settlements by Governmental Agencies. Florida Statute 69.081, known as the “Sunshine in Litigation” law, requires that a governmental agency which settles a tort claim for an amount in excess of \$5,000 shall provide notice in accordance with Chapter 50 or have the settlement approved by a court. As a matter of policy, the Civil Division Judges will approve governmental agency settlements of tort claims of minors but will decline to entertain any petitions to approve settlements with adults and will require that the governmental agency utilize the notice provision.

(D) Written Stipulations With Default Judgment Provisions. There are certain cases in which the parties enter into a written stipulation which provides for one party to make periodic payments of money and in default, that a judgment be entered against that party. In such cases, the Judge will enter a Final Order of Dismissal with prejudice but retaining jurisdiction to enforce the stipulation. (See form order in Appendix hereto.) Counsel should deliver to the assigned Judge an executed copy of the stipulation, the order with copies and pre-addressed envelopes. All stipulations will be deemed to provide that reasonable notice shall be given to the defaulting party of any application for default judgment. The application for default judgment may be noticed for ex parte time, but if contested, the matter will be reset for hearing at a later time.

SECTION 18. PROMPT CLOSURE OF CASES.

When a case had been finally disposed of by Final Judgment, Final Order of Dismissal or Notice of Voluntary Dismissal, counsel for prevailing party or counsel preparing settlement papers **must** promptly file with the Clerk **Final Disposition Form 1.998** (found in the forms appended to the Florida Rules of Civil Procedure). The form may accompany the proposed final order of Final Judgment and the Judge will send it to the Clerk for filing along with the signed Final Order or Final Judgment.

SECTION 19. REMOVALS TO FEDERAL COURT.

Whenever a petition has been filed to remove a case from a Civil Division to federal District Court, the Clerk will remove the case from the Judge’s active case list. If there is a remand of the case back to this court, counsel who sought the removal will notify the assigned Judge by letter and the Clerk will reinstate the case on the Judge’s active case list upon the filing of a copy of the remand order. If, however, the case is finally disposed of in federal court, including all pendent claims, counsel who sought the removal will file with the Clerk of this Court a copy of the Final Order or judgment of the federal district court together with Final Disposition Form 1.998 and the clerk will close the case.

SECTION 20. JUDICIAL SALES.

Unless the order or judgment providing for a judicial sale specifies otherwise, the sale will be conducted pursuant to Florida Statute 45.031 and the following additional procedures.

(A) The time of sale shall be scheduled at 11:00 a.m. on the day of the week assigned to the division for sales and may be continued until no later than 2:00 p.m. at the discretion of the Clerk for the purpose of allowing bidders to produce payment. Sales for time share cases shall be scheduled for 11:00 a.m. on Wednesday.

(B) The highest bidder shall identify himself or herself by individual name, and, if in a representative capacity, the name of the corporation, partnership or individuals (s) represented.

(C) Payment shall be made in cash, bank cashier's check, or practicing attorney's trust account check. Personal checks and fiduciary's trust account checks cannot be accepted.

(D) At the conclusion of the sale the successful high bidder shall post with the clerk a deposit equal to five percent of the final bid or \$1,000, whichever is less. If the balance of the bid is not paid by 2:00 p.m., the clerk shall readvertise the sale and pay all costs of the sale from the deposit and apply any remaining funds from the deposit towards the judgment.

(E) A party obtaining an order of sale may move the court for an order requiring the deposit at the sale to be greater than five percent of the final bid or \$1,000 upon a showing of good cause.

SECTION 21. ENFORCEMENT OF POST JUDGMENT DISCOVERY.

Upon the filing of a verified motion by a judgment creditor that a judgment debtor has wholly failed to respond to interrogatories, a request to produce documents and/or notice of taking deposition in aid of execution, the court will issue an ex parte order compelling the judgment debtor to furnish such discovery or attend a deposition by or on a certain date, or, upon failure to do so, to appear before the court on a date and time certain and show cause why the judgment debtor should not be held in contempt. (See form order in Appendix hereto). The order with copy of interrogatories or request to produce attached must be personally served upon the judgment debtor if he or she is an individual. If after personal service the individual judgment debtor fails to make the ordered discovery or attend the ordered deposition and fails to appear at the show cause hearing, the judgment creditor may present ex parte an affidavit to that effect and a proposed order of arrest for civil contempt.

The order may contain a provision for bail. When the judgment debtor is taken into custody, the judgment creditor's attorney will be notified by the Judge's Judicial Assistant of the time of the contempt hearing. The attorney must bring a court reporter to the hearing.

SECTION 22. PROCEDURES FOR APPEAL FROM COUNTY TO THE CIVIL COURT

The administrative procedures for appeals from County Court to the Civil Division are set forth in a separate publication entitled "County Court Appeal Procedures," which appears in the Appendix hereto.

SECTION 23. PROFESSIONALISM.

As a matter of policy, the Civil Division Judges endorse the Ninth Judicial Circuit Courtroom Decorum Policy and the concepts contained in the "Orange County Bar Association Standards of Professional Courtesy" dated November 13, 1990 and the Guidelines for Professional Conduct prepared by the Trial Lawyers Section of the Florida Bar and approved by the Florida Conference of Circuit Judges in September 1995. All attorneys are urged to familiarize themselves and their office staff with these standards and to adhere to them. (A copy of these Standards appears in the Appendix hereto.)

APPENDIX

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| FORM 1 | Order of Referral to Mediation |
| FORM 2 | Final Order of Dismissal With Prejudice
(Written Stipulation of Settlement) |
| FORM 3 | Order to Comply with Post-Judgment Discovery or Show Cause |

Amended Local Rule #6 on County Court Appeal Procedures

Administrative Order 07-98-02 regarding removal of court files

Ninth Judicial Circuit Courtroom Decorum Policy

Orange County Bar Association Standards of Professional Courtesy