

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IN
AND FOR BREVARD COUNTY,
FLORIDA

DIVISION: D

IN RE: ALL PENDING CIVIL CASES
ASSIGNED TO DIVISION D

STANDING ORDER ON MOTIONS IN LIMINE (MIL)

1. MIL may not be scheduled for a hearing unless counsel have complied with the “Meet and Confer Requirement” (See ***Judicial Practices and Procedures*** Section B.1), and such MIL must contain a certification of a good faith attempt as to each item to resolve the matter without court action in the form of a Certificate of Compliance (attached hereto as “Exhibit A”) that the conference has occurred in the Notice of Hearing¹ filed with the Court. (Notices of hearing on MIL must identify the specific issues which remain in controversy after counsel have met and conferred.) MIL will not be heard during the trial, except for extreme circumstances.

¹ In compliance with **Section III.K.&L.**, *supra*.

2. All case-specific² MIL shall be filed, served, noticed, and heard or agreed to by the parties no later than the deadline set forth in the Court's Case Management Order or the order setting case for jury trial.

3. The MIL shall state with particularity the grounds upon which it is based and the substantial matters of law to be argued and shall identify any evidence or supporting material on which the movant relies. Opposing counsel shall have five (5) business days to file a written response if they wish. Courtesy copies of such MIL, Notices of Hearing, written response(s), hearing notebooks, legal memorandums and citations are governed by **Judicial Practices and Procedures** Section E.

4. The Court may summarily rule on any MIL not written with particularity as described above.³ Any MIL not timely filed and/or not discussed by counsel at the meet and confer and (if unresolved) not set for hearing before trial will be considered abandoned.

² "Omnibus" and "boilerplate" motions in limine are discouraged. *Boyles v. A&G Concrete Pools, Inc.*, 149 So.3d 39, 43-44 (Fla. 4th DCA 2014) ("Motions in Limine can serve an important function in streamlining a trial. The excessive use of them, however, can clog the docket and become a trap. Boilerplate motions in limine filed early in a case have dramatically increased since the amendment of section 90.104, Florida Statutes in 2003. This amendment modified the rule requiring a contemporaneous objection to preserve an objection to the admission of evidence on appeal.... Civil litigants now attempt to obtain blanket rulings well in advance of trial on every conceivable reason to object to evidence at trial, whether or not those matters apply to the facts of the case. Therefore, when the trial is held later, litigants believe that they do not have to object at all, and appellate issues will still be preserved. Trial judges may be put in the position of having to sua sponte strike evidence or hazard an appellate reversal with the requirement of a new trial.... Trial judges do not have to consider such motions well in advance of trial. Many times, they should not rule in advance. Evidentiary issues often depend on the context in which they are raised or the other evidence which is admitted or developed through discovery. Where evidence excluded by a prior order in limine is admitted inadvertently, simply because it was not pointed out to the trial court that the evidence violated the order, this provides an appealable issue and an opportunity for a new trial, even though the error could have been easily corrected had it been pointed out by the parties. To prevent that from occurring in this case, the trial judge astutely required the parties to object to any evidence sought to be excluded. Because the Plaintiff did not object, this issue was not preserved for appeal.").

³ See **Judicial Practices and Procedures** Section B.2.9.

5. The party filing the MIL will prepare the proposed order⁴ on any contested hearing reflecting the Court's rulings(s). All counsel are reminded that rulings on MIL are non-final orders subject to modification during trial as evidence is presented. Therefore, the parties are notified that despite the court's ruling on a MIL, the parties are still required to make a contemporaneous objection should the excluded matter be offered at trial. Likewise, a party seeking to offer at trial a matter that was previously excluded (or allowed) by the court, that party is required to bring such matter to the court's attention at sidebar before such matter is attempted to be offered.

DONE AND ORDERED in Chambers, at Viera, Brevard County, Florida, this



SCOTT BLAUE
CIRCUIT JUDGE

⁴ In compliance *Judicial Practices and Procedures* Section D.