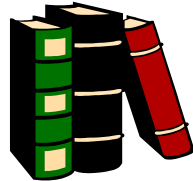


**EIGHTEENTH JUDICIAL CIRCUIT
SEMINOLE COUNTY
CIVIL DIVISION W**



**ADMINISTRATIVE
POLICIES AND PROCEDURES**

JUDGE STACY

(Updated July 2024)

TABLE OF CONTENTS

<u>HEARINGS</u>	<u>PAGE</u>
1. SCHEDULING-----	2
2. VIDEO HEARINGS-----	3
3. CONTINUANCES-----	3
4. CANCELLING-----	3
5. CROSS-NOTICING/PIGGY-BACKING-----	4
6. NOTICE OF HEARING-----	4
7. MATTERS NOT REQUIRING A HEARING-----	4
8. EMERGENCY HEARING-----	4
9. SHORT MATTERS/ <i>EX PARTE</i> -----	5
10. RULE TO SHOW CAUSE-----	5
11. CONTEMPT-----	5
12. MOTION TO WITHDRAW AS COUNSEL-----	5
13. MOTION FOR SUMMARY JUDGMENT — RESIDENTIAL FORECLOSURE-----	6
14. MOTION FOR REHEARING/RECONSIDERATION and MOTION TO DISMISS-----	6
15. PROPOSED ORDERS-----	7
16. HEARING MATERIALS-----	7
TRIALS	
. CIVIL DIVISION-----	8
. FORECLOSURE DIVISION/ CONTINUANCES-----	9
<u>INSTRUCTIONS</u>	
1. HELPFUL NUMBERS.....	10
2. EFILE INSTRUCTIONS.....	11
3. EXAMPLE OF ORDER/ICMS/CODES.....	12
4. COURTROOM DECORUM.....	13
5. VIDEO CONFERENCE HEARING INSTRUCTIONS.....	15
6. CASE MANAGEMENT PLANS AND ORDERS.....	17
7. GUIDELINES REGARDING COMPULSORY MEDICAL EXAMINATIONS.....	26

HEARINGS

1. SCHEDULING: All parties are required to give a good faith assessment of the time needed for the hearing. If other parties are waiting for their hearing, and your case goes over the time limit, your hearing will be terminated and rescheduled for a subsequent hearing. Fifteen (15), thirty (30) or sixty (60) minute hearing times are to be identified and scheduled online by using JACS. To use JACS, go to www.flcourts18.org, click on Schedule a Hearing(JACS) under Attorney & Citizen Resources. You will then see a spot that says click here for instruction on how to schedule hearing through the JACS calendaring system. Print out this document and follow to schedule. If you do not find hearing time on JACS, check again after a few days as hearings cancel and time opens up on JACS. If you still do not find time, please contact the Judicial Assistant via email at Anne.Brezina@flcourts18.org. The Judicial Assistant often has the most up to date information on hearings that cancel.

If you need a hearing for more than one (1) hour, your motion will have to be placed on the **trial docket**. To be placed on the trial docket you need to contact the trial coordinator. Charlotte Legette (407) 665-4222 or DivisionWCM@flcourts18.org

Coordinating: Reasonable attempts need to be made to clear a date with opposing counsel or pro se litigant before scheduling on JACS. Several attempts on the same day is insufficient. Do not contact the JA to determine what a reasonable attempt is or how much time is reasonable. JA cannot approve unilaterally set hearings. Three (3) “good faith” attempts over a one month period of time must be made before unilaterally setting a hearing. The Judge will determine “good faith” and failure to act with professionalism will be addressed by the Judge upon the Motion and Request for Relief Hearing.

Pro se parties only: If the opposing party is *pro se* and a telephone number or email address is listed on any of their pleadings, you must make three (3) attempts to coordinate on three (3) different days over a three (3) week period of time. A message needs to be left on those days requesting them to call your office by the end of that business day to coordinate the hearing. If at the end of the third business day you do not receive a call back, then you may set a hearing unilaterally online at least fourteen (14) days from the current date. If no phone number or email address is listed in the court file then a hearing cannot be scheduled sooner than one (1) month. A notice of Hearing must be sent to the address on record for the Pro-Se litigant.

Once your hearing is set on JACS, you will receive a confirmation number. Please print that confirmation page and attach it to your copy of the Notice of Hearing for your file. Please do not send a copy of the Notice of Hearing to the Judge, file the original Notice in the court file.

Motions: If you do not see the subject of your motion that you are trying to set for hearing listed in the drop down box when scheduling a hearing on JACS, please contact the JA for assistance. JACS will only allow you to select one motion in the drop down box. If you have more than one motion you wish to address on that date then the other motions need to be listed in the box that says “Additional Motions to be Addressed”. Please send a copy of the Motion to the JA after you e-file the original.

Courtroom: Judge Stacy is generally in **Courtroom G for hearings and Courtroom A for Trial**, but occasionally the Judge holds Court in a different courtroom. If the Judge is

not holding Court in in Courtroom F, there will be a sign on the courtroom door directing the parties where to go.

- 2. VIDEO HEARINGS:** Video Hearings via Microsoft Teams are available per the Civil Rules of Procedure by stipulation of the parties/counsel. A joint stipulation must be Efiled at least 7 days prior to the hearing date and include email addresses and direct dial phone numbers for the parties attending the hearing. If a party objects to the virtual hearing, they must show good cause with regard to the use of a video hearing. The attorney's first and last name, along with a direct contact number and email address must be listed in the Notice of Hearing. The attorney/parties needs to stand by in the virtual waiting room for three (3) hours from the time the hearing is set for the Judge's phone call. ***A camera and the ability to be seen by video is required for all evidentiary hearings.***

All parties and counsels appearing by video must download Microsoft Teams application and practice to become proficient in appearing via audio and video, and in sharing the screen. All proposed evidence or exhibits must be exchanged among the parties. One hard copy of the proposed evidence or exhibits must be provided seventy-two (72) business hours in advance to the Judicial Assistant for the Court and one copy for the Clerk of Court to utilize as they do not have an electronic system in place for evidence at this time.

Parties will utilize the link in the invitation to access the hearing. Use this link to download Microsoft Teams to your computer.

<https://teams.microsoft.com/downloads>. (Additional instructions on page 17&18)

- 3. CONTINUANCES:** If a continuance of a hearing is requested by a party who did not set the hearing and the party who scheduled the hearing will not reschedule, then a Motion for Continuance may be presented at a noticed Short Matters hearing or at the time of the hearing. (*See below re: Short Matters/Ex Parte hearings*)

The attorney who scheduled the hearing needs to go on JACS and click on "Attorney & Citizen Resources" and then "Available Hearing Times (JACS)." Clear a new date with the opposing side. When you're ready to reschedule, go on JACS and click "To Re-Schedule a Hearing" (*see above re: Scheduling*). Type in your confirmation number and hit "Reschedule." Click the new coordinated date, and the hearing will be rescheduled and you will receive a new confirmation number for your records. An Amended Notice of Hearing needs to be prepared. Attach a copy of the confirmation page to your copy of the notice of hearing for your file copy of the Amended Notice of Hearing to the Judge, please file the original Notice of Hearing in the court file.

- 4. CANCELLING:** Only the party who scheduled the hearing can cancel the hearing. The attorney who scheduled the hearing needs to go on JACS and click "To Cancel a Hearing." Enter your confirmation number and click "Cancel Hearing." You must follow up with the filing of a Notice of Cancellation in the court file. Attach a copy of the confirmation page to your Notice of Cancellation for your file. Please send a copy of the Notice of Cancellation to the Judge. **IF A HEARING IS CONTINUED OR CANCELLED, IT IS THE**

RESPONSIBILITY OF THE SCHEDULING ATTORNEY TO ADVISE THE JUDICIAL ASSISTANT THAT THE SCHEDULED HEARING IS CONTINUED OR CANCELLED SO THAT IT IS REMOVED FROM THE COURT'S CALENDAR.

- 5. CROSS-NOTICING/PIGGY-BACKING:** If you wish to add a motion to a previously set hearing date and do not need more time, you must contact the party who set the hearing and obtain permission to share their time. If you need additional time, you can either set a new hearing on JACS for that same date and time, if available, or have the party who set the original hearing cancel theirs and reschedule it for a timeslot with sufficient time for both hearings. Please make sure that Amended Notices and/or Cross-Notices of Hearing are filed with the Clerk to keep the file updated, and email a copy of your Amended Notice or Cross-Notice of Hearing to the Judge.
- 6. NOTICE OF HEARING:** A Notice of Hearing must specifically state the matter(s) to be heard, the date the Motion was filed, and the time frame reserved i.e. 15 minutes, 30 minutes etc. A Notice of Hearing that states "All Pending Motions" is a nullity. Any party scheduling a hearing must provide notice to the other parties even if defaulted by the Court. If a Guardian Ad Litem is appointed in the case is not given notice of the hearing, the hearing may be subject to cancellation by the Court pending proper notice to the Guardian Ad Litem. Please do not send a copy of your Notice of Hearing to the Judge. Please file the original Notice of Hearing with the Clerk of Courts.
- 7. MATTERS NOT REQUIRING A HEARING:** The following matters do not require a hearing and may be submitted through the Eportal to the court, stating that opposing counsel has reviewed the proposed order or stipulation and does not object to the court entering the relief requested.

 - Appointment of Special Process Server
 - Appointment of Special Magistrate to hear Uncontested Dissolution of Marriage
 - Stipulated Modifications
 - Stipulated Orders/Agreed Orders and Judgments
 - Motion for Substitution of Counsel (signed by attorney and party)
 - Motion to Enter an Agreed Order
 - Uncontested Cancellation and Rescheduling a Foreclosure Sale
 - Motion to Vacate Foreclosure Judgment Because of Re-Instatement
 - Default Judgment of Liquidated Amounts
 - Motion to Withdraw (with signed consent from client)
 - Motion to Dismiss- *Set Hearing with General Magistrate as required by the Chief Judge.*
 - Uncontested Final Judgment of Foreclosure
- 8. EMERGENCY HEARING:** If you believe your motion is an emergency and need the Judge to hold a hearing on an Emergency Basis please file your emergency motion with the Clerk and email to the Judicial Assistant. You may also send a copy to the Judicial Assistant via e-mail with a Proposed Order. Once the emergency motion is reviewed by the Court, the Judicial Assistant will contact you to set the motion for hearing.

***Expedited Hearing:** If you need a hearing within five (5) business days, then your motion is not an emergency but an expedited motion, and you must contact the Judicial Assistant for hearing dates.

** An example of an emergency issue is a matter with irreversible consequences.*

9. SHORT MATTERS/EX PARTE: Short Matters/*Ex Parte* hearings are **five (5) minutes** or less. These hearings are scheduled on JACS. For specific dates, see JACS.

Short Matters are not heard when the Judge presides over Civil Jury Trials.

Unless the opposing side agrees to your motion and will not be appearing, it must be coordinated like any other hearing. Please contact the JA if you are setting a virtual hearing. Testimony is NOT permitted during Short Matters without prior Court approval.

Do not schedule contested residential foreclosure Motions for Summary Judgment for Short Matters.

10. RULE TO SHOW CAUSE: A Verified Petition for Rule to Show Cause or a Petition for Order to Show Cause, with accompanying Affidavit, can either be presented at Short Matters/*Ex Parte* or can be forwarded through the Eportal. If the Petition is granted at Short Matters/*Ex Parte*, the attorney may obtain a date for the Order to Show Cause on JACS. If the Petition is granted you will be notified via the Eportal and you may then schedule a hearing on JACS.

11. CONTEMPT:

Civil: Motions for Contempt in civil cases are scheduled on JACS Hearings before the Judge will be limited to 30 minutes.

12. MOTION TO WITHDRAW AS COUNSEL: If the attorney is able to obtain a signed consent from their client, then the proposed order is to be sent via the Eportal for signature. The motion and signed consent are to be Efiled as well. If a signed consent is unable to be obtained, then the Motion is to be set at Short Matters with at least five (5) days' notice to the parties. The proposed order allowing withdrawal of counsel must reflect the following:

- a) The client's name, address, telephone number and email address;
- b) Statement that all pleadings are to be furnished to the client;
- c) New counsel shall be retained within 30 days or the parties may presume the party is proceeding pro-se,
- d) Statement that the client is responsible for notifying the Clerk, in writing, within ten (10) days of any changes of address.
- e) The matter is or is not on the trial docket.

- f) The Party is responsible for notifying the Clerk, in writing, within five (5) days of any changes of address.
- g) All parties are required to follow Court orders. Failure to follow a Court order may result in the case being dismissed without a decision on the merits, or the case being decided on procedural issues and not on the substance of the merits.
- h) The Party is presumed to be representing themselves unless and until a Notice of Appearance by subsequent counsel is filed. and;
- i) Petitioner/Plaintiff is responsible to prosecuting the case to its conclusion. If the case is not prosecuted, that is no actions are taken to prosecute the case within ten (10) months, the case will be dismissed without a decision on the merits of the case.

13. FORECLOSURE HEARINGS AND TRIAL: Mortgage foreclosure Hearings and Trials shall be set before Civil Magistrate Paulter. See Foreclosure Procedures located on the 18th Circuit website at <http://flcourts18.org> under “Attorney & Citizen Resources.” Parties may now attend by Video Conference provided arrangements are made seven (7) days in advance of Trial. Contact Trial Coordinator Savannah Hudson 407-665-4239 for civilgmdept@flcourts18.org Trial dates and hearing time.

14. MOTION FOR REHEARING/RECONSIDERATION and MOTION TO DISMISS: Once a Motion for Rehearing/Reconsideration is filed with the Clerk’s office, you must also efile your Motion and a Proposed Order. The Judge will either make a ruling on the motion without a hearing, and copies will be sent out, or the Judicial Assistant will contact your office to let you know to set a hearing on JACS. Do not set a hearing unless you receive approval first. The hearing is first the argument on the Motion for rehearing of the issue and; if the Motion is granted, the rehearing if time permits.

Once a Motion for Dismiss is filed with the Clerk’s office, you must set a hearing before Civil Magistrate Paulter pursuant to the direction of the 2024 18th circuit Chief and Deputy Judges. The Motion will be referred to the Civil General Magistrate Paulter. Once you have received the Order of referral you are required to set a hearing within 20 days of the date of the Order, or it will be unilaterally set by Civil Magistrate Paulter.

15. PROPOSED ORDERS: Proposed orders are to be submitted through the e-portal with a corresponding cover letter. If the opposing party/counsel agrees or does not object to the entry of the order this must be contained in the cover letter. All proposed orders will need to be submitted in **WORD FORMAT and with the correct ICMS codes (see page 14 for example)**. If the order is not submitted in word format the order may not be entered and may be rejected without notice.

If there is an objection and no agreement can be reached, the parties shall specifically detail in the cover letter what the dispute is in the wording of the Order/Judgment. Do not ask opposing counsel to contact the Judge's office with objections to a proposed order. If opposing counsel has been forwarded a copy of the proposed order, but has not responded within a reasonable timeframe, you may efile the proposed order to the Court with a cover letter so stating, if the motion was already heard before the court. If the motion has not been heard before the court and you have not received a response from opposing counsel as to their position, then a hearing must be set. If a matter has been ruled upon, and the parties disagree to what the Judge ordered, please list the issues clearly in the cover letter. If a transcript of the ruling exists, please include the transcript of the ruling only in the court file .

If the other party is *pro se*, a copy of the proposed order is to be sent simultaneously to the *pro se* party. Any objections to the proposed Orders must be in writing to the court.

If the opposing party does not respond to the proposed Order within five (5) business days, please forward the cover letter and Order indicating no response from the opposing party.

15. MOTION FOR JUDICIAL DEFAULT: If you are unable to obtain a Clerk's default, then a hearing must be set. Judicial defaults should only be sought if you're unable to obtain a Clerk's default. When filing the cover letter, motion and proposed order please indicate in the motion why you are/were unable to obtain a Clerk's default. The Court may require a hearing after review of the motion.

16. HEARING MATERIALS: For online hearings, please provide written hearing materials to the Court and opposing party in hard copy form at least two (2) Business days before, but not more than one (1) week before the hearing. Relevant portions of case law submitted to the Court may be highlighted if opposing counsels copies are as well. Please inquire about the Attorney upload system for pro se litigants (representing themselves) and attorneys. The Judicial Assistant will send instructions regarding utilizing this system to save expense and avoid preparing one (1) of the hard copies. Attorney upload instructions are included at the end of this document.

CIVIL DIVISION:

COORDINATOR

Charlotte Legette (407) 665-4222

DivisionWCM@flcourts18.org

(Contact regarding Case Managements, Pretrial Conferences, & Trials)

Notice for Trial: A Notice for Trial stating that the cause is at issue must be filed with the Clerk's office, and must contain complete, current e-mail addresses to all counsel of record or pro se parties. The notice shall include an estimate of the time required, whether the trial is to be by a jury or non-jury trial, and whether the trial is on the original action or a subsequent proceeding. The case will then be forwarded to the Civil Division Coordinator for review. The Court via the Trial Coordinator will issue an Order Setting Pre-Trial Conference, which is required for all cases requiring one day or more to complete. Cases requiring less time will simply be placed on a one or two-week trial docket.

Case Management Conference: Available upon request.

Pretrial Conference: Pretrial conferences are automatically set for all cases that file a notice for trial or the date is listed in the Case Management Order. The Court will expect full compliance with the Order Setting Pretrial Conference and Trial Date. Unless specifically excused by the Judge, all attorneys/or Pro-Se parties are required to attend the pretrial conference even if a time certain for trial has been set. The Court may designate counsel to send written notice of the trial date to the opposing counsel or *pro se* party who did not appear at the pretrial conference. Failure to appear at the Pretrial conference and/or failure to abide by this Court's orders subjects the party and potentially the attorney and their case to sanctions including dismissal with prejudice.

Our Pre-Trial and Trial dockets are online at www/FLcourts18.org

The docket's are under the "Resources" tab. Resources--> Attorney Resources (from the drop down menu) --> Civil Pre-Trial/Trial docket (menu on side of page). From there is where you click on the month under the judges name to view the Pre-Trial/Trial docket.

FORECLOSURE DIVISION:

FORECLOSURE COORDINATOR **COORDINATOR**

Savannah Hudson 407-665-4239

civilgmdept@flcourts18.org

(Contact to schedule Foreclosure hearings and Trials)

ALL FORECLOSURE HEARINGS SHALL BE SET BEFORE CIVIL GENERAL MAGISTRATE

Notice For Trial: A Notice for Trial stating that the cause is at issue must be Efiled with the Clerk's office and must contain complete, current e-mail addresses to all counsel of record or pro se parties. The notice shall include an estimate of the time required. The case will then be forwarded to the **Foreclosure Division Coordinator** for review. The Court via the trial coordinator will issue an Order Setting the case for trial which is required for all cases. Should case be need more than two hours, it may be rescheduled to the Court's Civil trial docket to complete. Otherwise, cases will simply be placed on a single docket for all foreclosure trials to be heard by any of the civil/family division Judges. The Court will expect full compliance with the Order Setting Foreclosure Trial.

CONTINUANCES: Opposed Motions for Continuance of Case Management, Pretrial, and/or Trial may be heard at Short Matters/*Ex Parte*. Any Motion for Continuance must be made in writing, signed by counsel for the parties, and shall state when the cause will be ready for trial. In ruling upon such motions, the Court will weigh the following factors:

- What are the legal grounds?
- When was the case filed?
- When was the case noticed for trial?
- Will the parties be prejudiced?
- Has the case been previously continued and, if so, how many times?
- Has there been compliance with the temporary support order?
- What is the condition of the Court's calendar?
- When did the parties become aware of the need for a continuance?

General Magistrate Paulters Online Procedures :
<https://flcourts18.org/policies-and-procedures/>

HELPFUL PHONE NUMBERS

Judicial Assistant- Anne Brezina 407-665-4048 Anne.Brezina@flcourts18.org

Trial Coordinators:

CIVIL: Charlotte Legette (407) 665-4222 DivisionWCM@flcourts18.org

FORECLOSURE: Savannah Hudson (407) 665-4239 civilgmdept@flcourts18.org

Clerk- Civil Division: 407-665-4378

Civil General Magistrate Assistant: Savannah Hudson civilgmdept@flcourts18.org

EFILE INSTRUCTIONS

The Seminole County Clerk of the Courts has an E-Portal for filing all court documents, the address is <https://www.myflcourtaccess.com>. All documents must be filed in WORD format using the portal, eliminating the need to send anything to Judge Stacy or the Judicial Assistant via U.S. Mail or email.

If there is a **pro se litigant** then **you** are responsible for distributing copies to them after they are returned to you via the portal.

Please be advised that **orders must be submitted** via the Clerk of the Court's E-Portal and paper submissions via the **U.S. Mail will be returned**. All documents are visible online and the Court will view and access them there.

Guidelines for submitting online:

- **Please do not submit orders prior to a hearing (if one is set) unless it is an Emergency.**
- **Cover letters are required when e-filing Proposed Orders.**
- **Order must have the correct ICMS codes when submitting (See page 12 for example)**
- **If Proposed Order is not an Agreed Order, All cover letters explaining objections to Proposed Orders and Letters to the Judge can be Efiled or can be emailed to the Judicial Assistant anne.brezina@flcourts18.org.**

If you have any questions about e-filing please address them to the Clerk of the Court, who has requested all Motions, Orders, and Notices be filed through the Eportal.

EXAMPLE ORDER WITH ICMS CODES

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

CASE:

Plaintiff(s)

vs.

Defendant(s)

ORDER

THIS CAUSE came to be heard before the Court and the Court being fully advised in the matter, finds as follows

IT IS ORDERED and ADJUDGED:

DONE and ORDERED in Chambers, Sanford, Seminole County, Florida this **DDDD**

JJJJ

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by US Mail/Email or e filing portal to the following on MMMM

CCCC

AAAA

JUDGE STACY'S COURTROOM DECORUM POLICY

The purpose of this policy is to state certain basic principles concerning courtroom behavioral and decorum. When appearing in this Court, unless excused by the presiding Judge, all counsel (including all persons at counsel table) shall abide by the following:

1. If able, Stand when Court is opened, recessed or adjourned. Stand when addressing, or being addressed by the Court. Stand when the jury enters or retires from the courtroom. When making opening statements, closing arguments or examining witnesses, do not approach either the jury or the witness without the Court's permission. Remain at the lectern unless using exhibits or charts. Always keep approximately 2-3 feet between you and the jury box unless leave has been requested and granted by the Court.
2. Address all remarks to the Court, not to opposing counsel or the opposing party.
3. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
4. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names unless the permission of the Court is sought in advance.
5. Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.
6. Counsel should request permission before approaching the bench. Any documents counsel wishes to have the Court examine should be handed to the Deputy, then marked by the Clerk if it has not already been marked. Any paper or exhibit not previously marked for identification should first be handed to the clerk to be marked before it is tendered to a witness for his examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
7. No exhibit, whether marked for identification or not, shall be held in any manner, or placed in any position in the courtroom, that would allow the trier of fact to see the exhibit unless it has been admitted into evidence and permission to publish the exhibit to the jury has been obtained from the Court.
8. In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Court.
9. In examining a witness, counsel shall not repeat or echo the answer given by the witness.
10. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the trier of fact.
11. In opening statements and in arguments to the trier of fact, counsel shall not express personal knowledge or opinions concerning any matter in issue. Opening statements should include only what the evidence is expected to show.
12. Counsel shall admonish all persons at the counsel table who make gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses or at any other time. This behavior is absolutely prohibited.
13. Counsel shall refrain from attempting to make a re-argument after the Judge has ruled.
14. Counsel shall complete resolution negotiations and advise clients of their settlement options in advance of court hearings.

15. No smoking is permitted at any time. No bottles, beverage containers, paper cups, food or edibles are allowed in the courtroom, except permitted by the Court. No gum chewing is permitted.
16. Cell phones and pagers should be turned off or in a vibrate mode. Computers should be used with audio off.

ACCOMODATIONS WILL BE CONSIDERED UPON REQUEST

PLEASE INFORM THE COURT OF A NEED FOR ACCOMODATION AND THE COURT WILL BE HAPPY TO OBLIGE IF IT IS ABLE AND LAWFUL TO DO SO

**Video conference hearings are via Microsoft TEAMS and are not set as Special Set hearings.
Do not come to the Courthouse for hearing**

PROPER COURTROOM DECORUM IS EXPECTED DURING ALL HEARINGS.

We have docket at 9am (Short Matters), 9:30am and 1:30pm with *multiple hearings being set at the same time*. Parties will need to be available from the start time of your hearing until approximately 11:30am for morning hearings and approximately 4:30pm for afternoon hearings. Please efile your Notice of hearing which should include email addresses for all the parties who will be attending the hearing.

This includes any Pro-Se parties, witnesses and court reporters.

Parties will receive an invitation to the hearing 1 week prior to the scheduled hearing and additional instructions.

Download Microsoft Teams prior to accepting invitation if hearing is by VIDEO

Please accept the invitation which will be sent to you.

Check your spam folder as well.

The invitation will be added your TEAMS calendar and disappear.

IF TELEPHONIC - Copy the phone and ID number prior to accepting the invitation if by phone.

When you log in or call into the hearing, you will need to say or enter your name when prompted. **You cannot appear by phone if there will be testimony taken.**

If you do not and are listed as an unknown user in the hearing, you may be removed by the Court.

On the day of the hearing, once you have logged into the system, you will wait in a virtual waiting room until the Judge is ready to address your case.

VIDEO HEARINGS Do not use the web browser version.

YOU MUST DOWNLOAD THE PROGRAM TO YOUR COMPUTER OR THE APP TO YOUR PHONE FOR VIDEO HEARING

Use this link to download the app to your computer - <https://teams.microsoft.com/downloads>.

Once the app is downloaded and installed on your device, simply use the Teams link in the invitation email to join.

You will need to have a computer with a built in or external video camera and a microphone. Headsets or earbuds with microphone can be used as well.

We suggest that you go to a quiet room at the start of the hearing.

Have proper form of ID available.

Select Audio and Video

Video Conferencing (Continued)

OR

You can use your mobile phone.

When calling in via Mobile phone or device, there should be an option to allow video/camera. The camera should then be on along with audio.

You can also download a TEAMS App.

Android phone-via Google Play

Iphone- iOS App Store

In setting you will need to allow camera.

PLEASE TEST THIS SYSTEM PRIOR TO THE HEARING, DO NOT WAIT UNTIL THE DAY OF THE HEARING.

When all parties enter the hearing, you must enter your name, or you may possible be removed from the hearing by the Court.

Binders, packets and/or materials are to be mailed or hand delivered.

Documents are not to be emailed to the Judicial Assistant unless specifically instructed to do so by the Court.

This includes any case law

We do not need additional copies of documents that are already in the case file unless being utilized as an exhibit or the document is more than 35 pages.

The clerk does not need a copy of any case law.

For All Non Jury Trials, and Evidentiary hearings, two (2) copies of all proposed documentary or audiovisual evidence are required to be submitted 72 business hours in advance of the hearing to the Judicial Assistant. Failure to submit within the required timelines may result in the hearing being cancelled or the exclusion of the proposed evidence from consideration by the Court.

The parties must prepare an Exhibit List, with pre-marked agreed to exhibits. Exhibit's must be clearly marked as A, B, C, D, etc.

Please provide a copy of all exhibits to the opposing party in advance of the video conference hearing.

If you have a large quantity of documents, please provide the Courts copy in a binder with dividers.

If you have a video, you will need to bring a device to play the video and a cd or flash drive to provide to the clerk if it is entered into evidence.

NOTE Documents for the clerk are to be provided to the Judicial Assistant as well.

<https://flcourts18.org/case-management/>

**THE EIGHTEENTH JUDICIAL CIRCUIT, IN AND FOR SEMINOLE AND BREVARD
COUNTIES, FLORIDA**

Plaintiff,

vs

Defendant.

CASE NO:

_____ /

CASE MANAGEMENT

PLAN (STREAMLINED)

The parties are to meet, review, and discuss the Case Management Plan to agree upon dates according to the guidelines set forth in the above Case Management Plan. The parties are to sign the certification below and submit the proposed Case Management Order with the agreed upon dates to the Court for approval and signature. This is required to be submitted to the court or filed in the court file for approval of the Case Management Order.

1. Date of First Response (i.e., Answer, Notice of appearance, Motion for Extension of Time, Motion to Dismiss)	The date of the first filing
2. Deadline for adding new parties, amendment of pleadings	Should be 45-60 days since response date
3. Deadline for Witness & Exhibit List (Witnesses MUST be listed by actual NAME of the witness, and not by designation (i.e., use of such designations as “Corporate Representative,” “Records Custodian,” “Adjustor,” or “IME Doctor” standing alone is insufficient)	Should be 45-60 days before Trial
4. Deadline for Expert Disclosure	Should be 90-120 days prior to projected trial date for Plaintiff

(Parties should furnish opposing counsel with the names and addresses of all expert witnesses under Rule 1.390(a) to be called at trial and all information regarding expert testimony that is required by Rule 1.28(b)(5). Each party is limited to one expert per specialty. No other expert testimony should be permitted at trial. Information furnished pursuant to this paragraph should be timely filed with the Clerk of the Court.)	Should be 60-90 days prior to projected trial date for Defendant
5. Objections to pleadings	Should be resolved 120-150 days prior to projected trial date
6. Deadline for Discovery Completion (including Depositions)	Should be 30 days prior to projected trial date
7. Deadline for Dispositive Motions, including <i>Daubert</i> Motions-Failure to do so shall constitute a waiver at Trial of any <i>Daubert</i> related evidence objection or issue Responsibility for scheduling of the Hearing shall be upon the party filing the Motion or Objection.	Should be heard 15-30 days prior to projected trial date
8. Deadline for Mediation:	Should be 45-60 days prior projected trial date
9. Trial Date	Must include length of trial period and projected date trial is desired to commence approximately 12 months from date of the Case Management Plan and submission of Case Management Order to Court

I hereby certify that all parties have met and conferred regarding all proposed dates for the Case Management Plan and Case Management Order and certify that all dates proposed in the Case Management Order have been agreed to by the parties.

Date: _____

Signature of Counsel and Unrepresented Parties. Counsel must state FL Bar number. Unrepresented parties must include email address for service.

IN THE EIGHTEENTH
JUDICIAL CIRCUIT, IN AND
FOR SEMINOLE AND
BREVARD COUNTIES,
FLORIDA

CASE NO:

_____,
Plaintiff,

vs

_____,
Defendant.

_____ /

**CASE MANAGEMENT
ORDER
(STREAMLINED)**

Pursuant to the dictates of Administrative Order AOSC20-23 of the Florida Supreme Court, and AO 21-24, Eighteenth Judicial Circuit, it is, hereby,

ADJUDGED that the following deadlines are applicable to this action, and that same will be strictly applied by the Court:

The projected date of trial for this matter is the trial docket beginning **Insert month day and year***. A firm trial date will be ordered by the presiding judge when this matter is at issue and notice as to same is filed in accordance with Rule 1.440, Fla. R. Civ. P.

Any request(s) for the addition of new parties, or amendments to the pleadings, shall be served within ___ days from the response date.

The fact witnesses of all parties shall be disclosed to all other parties no later than ___ days prior to the above projected trial date.

All of Plaintiff's Expert Witnesses shall be disclosed to all other parties no later than ___ days prior to the above projected trial date. Defendant's Expert Witnesses shall be disclosed to all other parties within 30 days thereafter.

All fact AND expert discovery shall be completed no later than ___ days prior to the above projected trial date.

All objections to the pleadings, and all pre-trial motions shall be resolved no later than ___ days prior to the above projected trial date.

Mediation shall be completed no later than ___ days prior to the above projected trial date.

ORDER

THE COURT, having reviewed the preceding Case Management Dates finding them to be satisfactory. Accordingly, it is hereby **ORDERED** that

1. COMPLIANCE WITH THIS CASE MANAGEMENT ORDER: The parties shall strictly comply with the terms of this Case Management Plan and Case Management Order unless otherwise ordered by the Court. **FAILURE TO COMPLY WITH ALL REQUIREMENTS OF THIS ORDER WILL RESULT IN THE IMPOSITION OF SANCTIONS.**

2. ADDITIONAL EIGHTEENTH CIRCUIT AND DIVISION SPECIFIC GUIDELINES: All counsel and unrepresented parties shall familiarize themselves and comply with the requirements of the following: (i) **Amended Administrative Order Establishing the Eighteenth Judicial Circuit Courtroom Decorum Policy (AO 09-06)**; and (ii) **any division-specific guidelines and policies that may be applicable.**

3. MODIFICATION OF THIS ORDER: The parties may not, individually or by agreement, alter or extend the deadlines in this Order, or waive any of the provisions of this Order. The provisions of this Order may be modified only upon motion/stipulation and Court order in accordance with applicable law.

4. NOTICES FOR TRIAL: Within ten (10) days of the case being at issue as defined by Rule 1.440, Fla. R. Civ. P., or when the case is ready to be set for trial, the Plaintiff shall confer with opposing counsel/party regarding the anticipated length of trial and file a Notice for Trial. The Plaintiff shall forward a copy of the Notice for Trial to the Case Manager at the email address noted on the Eighteenth Judicial Circuit website.

5. DISCOVERY: All counsel and unrepresented parties shall familiarize themselves with the current edition of the Florida Handbook on Civil Discovery Practice and seek to resolve discovery issues without court intervention whenever possible.

6. SERVICE OF THIS ORDER: Counsel is ordered to promptly serve and file proof with the Clerk, no more than five (5) business days from the date of this Order that all *pro se* parties, subsequently named or appearing herein, have been served copies of this Order. In the event a party is unrepresented and has not designated an email address for purposes of electronic service, counsel for Plaintiff shall be responsible for serving this Order and all future orders of the Court via a non-electronic means (U.S. mail, Federal Express or the equivalent) and shall file a Certificate of Service with the Court indicating who was served, the date of service, and the method of service (including any address or email used) within three (3) business days. If Plaintiff is unrepresented, Counsel for the

Defendant shall have this same obligation. If all parties are unrepresented, the Plaintiff shall provide stamped addressed envelopes to the Court with submission of this and any other proposed Order.

7. **SETTLEMENT:** *The case will not be removed from the docket until all documents necessary for closure of the case are filed with the Clerk and notification has been provided to the judicial assistant. A notice of settlement is not sufficient to remove the case from the trial docket.*

DONE AND ORDERED Sanford, Seminole County, Florida on DDDD

JJJJ

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by US Mail/Email or efilng portal to the following on MMMM

CCCC

AAAA

A true and correct copy of the foregoing was distributed to all parties by filing and service via the eportal to all attorney(s)/interested parties identified on the eportal Electronic Service List.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator in your county at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711

***The 1st of the month should be included as a placeholder if the actual date of the trial docket is unavailable.**

IN THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR
SEMINOLE COUNTY, FLORIDA CASE NO:

_____,
Plaintiff(s),

v.

_____,
Defendant(s).
_____ /

AGREED CASE MANAGEMENT PLAN AND ORDER
(GENERAL)

According to the dictates of Administrative Order AOSC20-23 of the Florida Supreme Court and AO 24-06 3rd Amended, Eighteenth Judicial Circuit, it is hereby stated that the parties hereby submit this agreed upon Case Management Plan for approval by the Court. All parties have signed the plan to indicate that the deadlines and projected trial date have been stipulated.

CASE MANAGEMENT PLAN

Projected trial date, jury or non-jury indication, and estimated length of trial <i>Should not exceed 18 months from the date of service of initial process on the last defendant or 120 days after the commencement of the action, whichever occurs first.</i>	Projected trial (month/day/year) _____ Jury/non-jury _____ Length of trial _____ hours/days <i>Actual trial date to be set by Trial Order</i>
Deadline for service of process	120 days from the initial filing of the complaint
Deadline for adding new parties or amendments to the pleadings	____ days since the first response date (i.e. Answer, Notice of Appearance, Motion to Extend Time, Motion to Dismiss, etc.)
Deadline for fact witnesses and exhibit disclosure from all parties	____ days before the projected trial date

Deadline for Disclosure of Plaintiff's expert witnesses	____ days before the projected trial date
Deadline for Disclosure of Defendant's expert witnesses	____ days before the projected trial date
Deadline for the completion of all fact AND expert discovery, including all Motions to Compel being FILED and HEARD	____ days before the projected trial date
Deadline for all objections to the pleadings and all pre-trial motions FILED and HEARD	____ days before the projected trial date
Deadline for all dispositive motions (including Daubert Motions) FILED and HEARD	____ days before the projected trial date
Deadline for mediation	____ days before the projected trial date

We hereby certify that all parties have met and conferred regarding all proposed deadlines in the Case Management Plan and certify that all deadlines have been agreed to by the parties.

Signature of Counsel: Plaintiff(s)/
Pro Se Litigant

Signature of Counsel: Defendant(s)/
Pro Se Litigant

Printed name of Counsel/Pro Se Litigant
Florida Bar Number:
Email address

Printed name of Counsel/Pro Se Litigant
Florida Bar Number:
Email Address

ORDER APPROVING CASE MANAGEMENT PLAN

ORDERED that the preceding deadlines apply to this action and that the same will be strictly applied and enforced by the Court:

1. **COMPLIANCE WITH THIS CASE MANAGEMENT ORDER:** The parties shall strictly comply with the terms of this Case Management Plan and Order unless otherwise ordered by the Court. **FAILURE TO COMPLY WITH ALL THE REQUIREMENTS OF THIS ORDER MAY RESULT IN THE IMPOSITION OF SANCTIONS.**

2. **ADDITIONAL EIGHTEENTH CIRCUIT AND DIVISION SPECIFIC GUIDELINES:**
All counsel and unrepresented parties shall familiarize themselves and comply with the requirements of the following: (i) Amended Administrative Order Establishing the Eighteenth Judicial Circuit Courtroom Decorum Policy (AO 09-06); and (ii) any division-specific guidelines and policies that may be applicable.

3. **MODIFICATION OF THIS ORDER:** The parties may not, individually or by agreement, alter, extend, or waive the deadlines in this Order. The provisions in this Order may only be modified upon motion/stipulation and Court order approving the modification.

4. **NOTICES/MOTIONS FOR TRIAL:** Parties may file a Motion or Notice for Trial if they are ready for trial more than 120 days before the above-projected trial date. The Plaintiff shall confer with opposing counsel/party regarding the anticipated length of the trial and file a Motion or Notice for Trial. The Plaintiff shall forward a copy of the Motion or Notice for Trial to the Case Manager at the email address noted on the Eighteenth Judicial Circuit website.

5. **DISCOVERY:** All counsel and unrepresented parties shall familiarize themselves with the current edition of the Florida Handbook on Civil Discovery Practice and seek to resolve discovery issues without court intervention whenever possible.

6. **SERVICE OF THIS ORDER:** Counsel is ordered to promptly serve and file proof with the Clerk, no more than five (5) business days from the date of this Order that all pro se parties, subsequently named or appearing herein, have been served copies of this Order. In the event a party is unrepresented and has not designated an email

address for purposes of electronic service, counsel for Plaintiff shall be responsible for serving this Order and all future orders of the Court via a non-electronic means (U.S. mail, Federal Express or the equivalent) and shall file a Certificate of Service with the Court indicating who was served, the date of service, and the method of service (including any address or email used) within three (3) business days. If Plaintiff is unrepresented, Counsel for Defendant shall have this same obligation. If all parties are unrepresented, the Plaintiff shall provide stamped addressed envelopes to the Court with submission of this and any other proposed Order.

DONE AND ORDERED this DDDD. in Seminole County, Florida.

JJJJ

A true and correct copy of the foregoing was distributed to all parties by filing and service via the eportal to all attorney(s)/interested parties identified on the eportal Electronic Service List.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator in your county at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing or voice impaired, call 711

**EIGHTEENTH JUDICIAL CIRCUIT COURT
DIVISION W
UNIFORM GUIDELINES
REGARDING
COMPULSORY MEDICAL EXAMINATIONS**

CONDUCTED PURSUANT TO *FLA. R. CIV. P.*
1.360(a)(1)(A) & IF ORDERED (B), AS WELL AS
1.360(b) AND 1.390(b) & (c)¹

(We gratefully acknowledge that these Guidelines were prepared by the Honorable John Kest 9th Circuit Court and adopted by Judge Stacy 2021)

In order to assist counsel for all parties seeking to invoke the privileges and protections afforded under *Fla. R. Civ. P.* 1.360, the Court herein addresses the most frequently disputed matters that are brought before the Court.

The examination under the Rule is a Compulsory Examination and not an Independent Examination. The physician or healthcare provider was not chosen by the Court. The examination must not be referred to in front of the jury as an “independent medical exam.”

Request for, Objections to and Hearings on

Requests for an examination must set forth the time, place, manner, conditions and scope of the examination as well as the name of and the qualifications of the person conducting the examination with specificity. **If examinations under these rules are requested such written request should be made no later than 70 days before the pretrial date to allow time for objections, hearings on same and an opportunity to reset the examination.** Objections to “Examination of Persons” under *Fla. R. Civ. P.* 1.360(a)(1)(A) must be filed no later than 30 days from the written request assuming service of process has occurred at least 15 days prior to the request being served. The objections must state the specific reasons for the objections. A hearing must be immediately requested on any objection filed. Failure to set the objection for immediate hearing will be deemed an “Abandonment of the Request” under the rules.

Examinations sought under *Fla. R. Civ. P.* 1.360(a)(1)(B) [non-physical condition] must be obtained with an order from this Court, or with a written agreement of all parties. Please make certain the time, place, manner, conditions and scope of the examination as well as the name of and the qualifications of the person conducting the examination are set forth with specificity. See, Maddox v. Bullard, 141 So.3d 1264 (Fla. 5th DCA July 11, 2014) [Order on psychological

¹ These “Guidelines” are published to assist trial counsel with issues that routinely come before the Civil Courts involving expert examinations of injured parties and discovery of those expert opinions. Counsels are not precluded from filing the appropriate motions and obtaining a hearing before the Court on a particular case should the facts of that case, in good faith, suggest that these standard provisions should not control.

examination reversed because specifics were not set forth in the order including the “manner, conditions or scope of the examination thereby, in effect, giving the psychologist ‘care blanche’”]

The date and time of the examination must be coordinated with opposing counsel. If the attorneys cannot agree on a mutually convenient date for the examination to occur within 45 days of the request, the Court, upon written motion, will pick the date without consultation with counsels’ calendars.

Location of Examination

The examination should occur in the county where the case is being tried absent agreement of counsel to the contrary. An out-of-county examination must be approved by the Court after an evidentiary hearing and the proper record having been made. While requiring an in-county exam is not a hard and fast, inflexible rule, it is generally well within the Court’s discretion. See *McKenney v. Airport Rent-A-Car*, 686 So. 2d 771 (Fla. 4th DCA 1997). Generally, if an out-of-county examination is to be conducted, the transportation and loss of work expense will have to be born by the party requesting the examination.

A plaintiff who was a resident of Florida and who has now moved out of State, or who was a guest in State may be requested to undergo a CME. Knowing that such a request is permitted under the rules and is a normal process of litigation, attorneys for the Plaintiff should notify opposing counsel when they learn that their client is going to move out of State to allow for an examination before the party moves. A request that an out-of-state examination be done if not agreed to, will require a hearing.

Multiple factors will be considered by the Court, not the least of which is whether or not opposing counsel was notified that plaintiff was permanently moving before he/she moved. While it may be an inconvenience and an expense to plaintiff to return to Florida for an examination, it is also an inconvenience and an expense to defendant to have the defendant’s examining doctor have to travel to Florida for the trial to testify. Factors such as the cooperation of Plaintiff, timeliness of the requested examination, type and availability of the physician or expert needed for the condition, whether it is an initial or subsequent or updated examination, whether it is in conjunction with a deposition or mediation that is also scheduled, and the cost as well as who will be paying the cost will be considered and evaluated. See, *Goeddel v. Davis*, 993 So.2d 99 (Fla. 5th DCA 2008) [clarifying *Tsutras* to say that the examination must be at a “reasonable place,” not that it required Plaintiff to return to forum especially after he had already come to Florida for a deposition]; See also, *Tsutras v. Duhe*, 85 So2d 979 (Fla. 5th DCA 1997) If Plaintiff is out-of-state, the CME should be coordinated with a trip to Florida either for his/her deposition or mediation. The Court can award the reasonable expense of the travel if deemed appropriate.

Persons Who May Be Present at the Examination

One of Plaintiff's counsel or a representative thereof, a videographer, a court reporter, an interpreter, if necessary, and/or if a minor, a parent or guardian, may attend the compulsory medical examination. *See Broyles v. Reilley*, 695 So. 2d 832 (Fla. 2d DCA 1997). Audio tape recordings are also permitted by Plaintiff. *See Palank v. CSX Transp. Inc.*, 657 So. 2d 48 (Fla. 4th DCA 1995). No other persons may attend without specific order of the Court. **Plaintiff's counsel will notify, in writing within 7 days of the examination, the names, relationship to the plaintiff, and number of persons who will be present so that an examining room of sufficient size can be reserved.** The presence of these third parties is premised upon a requirement that they will not interfere with the doctor's examination. *See Bacallao v. Dauphin*, 963 So. 2d 962 (Fla. 3d DCA 2007). **To that end, no person present may interrupt, enter or leave the examining room during the examination, or vocalize in any matter.** No communication vocally, in writing, or in any other manner may occur between or amongst the party being examined and anybody else in the examining room except the examiner or individuals that she/he deems necessary for the examination.

If the person to be examined is not fluent in English and if the examiner is not fluent in the language of the person being examined a certified interpreter must be utilized to interpret the examination. The expense of the interpreter will be born by the party requesting the examination.

Number of Examinations

Generally a party will be limited to one examination in a specialty. A second examination will only be allowed upon good cause being shown. *Royal Caribbean Cruises, Ltd. V. Cox*, 974 So2d 462 (Fla. 3rd DCA 2008). However, when there are multiple defendants, from separate accidents, and the allegation alleges that the injuries from the three accidents are "indivisible and superimposed upon one another and the plaintiff is unable to apportion her damages between them" each defendant may be entitled to a separate CME. *Goicochea v. Lopez*, 39 Fla. L. Weekly D1245b (Fla. 3rd DCA June 11, 2014) [noting that plaintiff had "pitted codefendant against codefendant."]

Videotape and Stenographic Record of Examination

As noted above, a person being examined may be accompanied by a videographer, certified court reporter, and/or interpreter. The recordings are the property of the legal representative of the person being examined and are not discoverable without further order of this Court. The party requesting the examination is not permitted to record or video tape the examination.

Items and Information to Be Brought

The person being examined is not required to bring any medical records, diagnostic films or studies or aids or reports with him/her.² See *Franklin v. Nationwide Mut. Fire Ins. Co.*, 566 So. 2d 529 (Fla. 1st DCA 1990) (requesting party must obtain records through normal discovery process). See also *Rojas v. Ryder Truck Rental, Inc.*, 641 So. 2d 855 (Fla. 1994) (proper for injured party to sign appropriately limited release for out-of-state medical records where subpoenas have been ignored). The person being examined should have a form of identification to verify their identity if requested. If a patient information sheet was forwarded to counsel for the party to be examined at least 7 business days before the examination, the party to be examined should bring the completed information sheet with them.

Written intake forms or histories that are deemed necessary by the examiner must be provided to counsel for the party to be examined no later than 7 days prior to the exam. These forms can be reviewed by counsel and completed by the party to be examined and **must be brought to the office of the examiner on the day of the exam.** The examining physician may question the party about entries made on the form regarding medical issues. See *Bozman v. Rogers*, 640 So. 2d 180 (Fla. 1st DCA 1994) (court could require party being examined to provide all “appropriate” information by filling out forms and answering questions at CME).

The party being examined will not be required to provide information as to when or why they retained counsel. Further, while they will be not be required to respond to questions regarding who was a fault in the accident, they will need to respond to inquiry from the healthcare provider regarding the mechanics of the accident and their body movements within the vehicle or at the time of the incident. They will be required to provide their medical history without limitation as to time frame and a work history with regard to the physical attributes and activities of their present and past occupations and hobbies.

Limitations on Examination

The examiner will be limited to non-invasive procedures unless a prior order from the court has been obtained, and will further be limited to the extent of the examination that was set forth in the “Request for Examination” and/or Order allowing the examination. Neither an examination nor subsequent opinions resulting from the examination outside of the examiner’s specialty will be permitted.

Times for the Examination

While an expert’s time is valuable, so is the time of the party who is being examined. The party being examined should arrive no later than 15 minutes before the start time of the examination. Examinations which have been scheduled for a specific time should commence within 30 minutes of that time. The party who was to be examined will be free to leave the examiner’s

² If the original records, films or other diagnostic aids are in the actual possession of the party, or his/her guardian, being examined, those records would have to be produced at the time of the examination upon proper written request.

office if she/he has not been called in for the examination after having waited for 30 minutes from the published start time of the examination.

Expert Reports and Anticipated Discovery and Testimony

Subpoenas

Retained experts must be produced for discovery deposition without the necessity of a subpoena. If specific items are to be brought to the deposition by the retained expert witness, opposing counsel must be notified well in advance of the deposition.

All experts should be under subpoena for trial. The Court cannot force a witness to appear who is not under subpoena.

Written Reports

Pursuant to *Fla. R. Civ. P.* 1.360(b) a “**detailed written report**” will be issued by the examining physician or healthcare provider **and provided to all counsel no later than 14 business days after the day of the examination.** As noted in the rule, “...if an examiner fails or refuses to make a report, the court may exclude the examiner’s testimony if offered at the trial.”

The party requesting the examination shall also provide to opposing counsel, at the time the examination is scheduled, no less than three dates when the examiner will be available for oral deposition. Should any of the dates be within 14 days of the examination the above referred to report shall be provided to deposing counsel no later than 5 days before the deposition date.

No report under *Fla. R. Civ. P.* 1.360 will be admissible at trial absent a stipulation by the parties.

Opinions Not Contained in Written Reports

Experts rendering opinions under this rule will be prohibited from expressing opinions, diagnostic impressions, causation opinions and other conclusions that are not contained within the written report. Any changes of opinions or conclusions based on new information must be made known to opposing counsel immediately, a revised or supplemental report provided and dates for updated depositions must also be provided. At trial, failure to have taken all immediate, timely and reasonable steps to advise opposing counsel of changes in experts opinions or conclusions will mitigate against allowing such testimony. *See Office Depot v. Miller*, 584 So. 2d 587 (Fla. 4th DCA 1991).

Expert Fees and Charges

The Court will not require counsel to tender fees for discovery or trial testimony in advance of or as a condition of the examiner appearing. However, the Court does require full payment to be

remitted to the examiner no later than 10 business days from receipt of the invoice from the examiner's office.

The retaining party is free to compensate an expert witness any amount they deem appropriate or any amount which they have agreed by contract to pay. The Court will only require opposing counsel to pay a reasonable fee for the time reserved or the time used whichever is less. If counsel and the examiner can agree on such a fee, that fee will apply. If no agreement can be reached, the Court will, upon proper motion and hearing and notice to all parties of interest, including the examiner, establish a reasonable fee for the services. In some cases, this may involve an evidentiary hearing as to the reasonable amount of the fee and the time expended. Be sure to advise the Judicial Assistant as to how much time will be needed. See *Fla. R. Civ. P.* 1.390(c)

We gratefully acknowledge that these Guidelines were prepared by the Honorable John Kest 9th Circuit Court and adopted by Judge Stacy 2021