

Indian River County Civil Procedures as of 9-15-11

Uniform Motion Calendar:

A Uniform Motion Calendar will normally be held Tuesday and Thursday from 8:45 a.m. to 9:15 a.m. All hearings must be scheduled to begin at 8:45 a.m. Please refer to the Judge Cox's calendar posted at https://slccjis.stlucieco.gov/attorney_calendar to confirm and schedule available dates. **You must give the opposing party notice of the hearing at least five (5) business days prior to the hearing unless otherwise agreed by the parties.** **RESIDENTIAL FORECLOSURE MOTIONS MAY NOT BE SET ON UMC.** All residential foreclosure motions must be set on residential foreclosure dates by using the website https://slccjis.stlucieco.gov/attorney_calendar. You must register to obtain your user id and password on the site. When registering on this site please include your e-mail address. *If you have an emergency in a residential foreclosure case, please e-mail a copy of the motion to lazard@circuit19.org for review.*

Appearance by telephone: Telephone hearings are permitted in non-evidentiary hearings. *No motion or order is necessary.* All telephone appearances must be made through CourtCall. When you know the date and time of your hearing, you must call CourtCall directly at **1-888-882-6878** to arrange for your appearance by phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing**

Hearings at UMC are limited to 10 minutes per case (not per motion). When you attend UMC, you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a "first come, first served" basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled. **At least five (5) business days prior to the hearing, counsel who filed the motion must email a proposed order in word format (generic orders granting/denying with at least five lines for additional provisions may be used).** **Copies of all hearing notices and relevant motions must be sent to the court's Judicial Assistant five (5) working days prior to the hearing (either by email or mail).** Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted. **Failure to comply with these rules and time deadlines will cancel your hearing.** **You must mail or bring self addressed, stamped envelopes for all parties.** If you want the court file at the hearing, you must call the Clerk at least five business days prior to the hearing and request that the file be brought to the hearing. The subject line of all emails must contain the DATE and STYLE of the case. **Emails shall be provided to Judge Cox's Judicial Assistant at: lazard@circuit19.org.** **Cancellation of your UMC hearings must be done online in advance.**

Summary judgment and evidentiary motions will not be heard at UMC nor via Courtcall without prior written approval or order of the Court. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions to strike affirmative defenses, to amend pleadings, discovery motions, protective orders, objections to CME, etc.

UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default, based upon a proper motion with supporting documentation unless a party appears to contest it. If that occurs, the Court will set an evidentiary hearing/trial on such matters as may be necessary. All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this

requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

YOU MUST SCHEDULE YOUR COURTCALL APPEARANCE AT LEAST FIVE (5) BUSINESS DAYS PRIOR TO THE HEARING – NO EXCEPTIONS OR YOU MUST APPEAR IN PERSON.

The Judicial Assistant does not track UMC hearings. As a result, we ask that you please not call the Judge's office to check if your case has been set on a UMC docket or if the Court has received a package from your office. All cancellations made online must be cancelled online in advance.

SPECIAL SET HEARINGS:

All Motions for Special Set Must Be Filed Prior To Requesting Hearing Time

If you have a motion or multiple motions that are not appropriate for UMC Calendar (because the motion(s) require more than 10 minutes), please look online for available dates, coordinate with opposing counsel or pro se parties and email **Judge Cox's Judicial Assistant at lazard@circuit19.org** with the dates and times you have chosen. Good faith cooperation is expected from counsel, their support staff, and pro se litigants. Should counsel, their staff, or pro se litigants fail to respond within three (3) business days or refuse to cooperate in obtaining or setting a hearing, the difficulty should be specifically be set forth in the Notice of Hearing and the requesting party may unilaterally set a hearing giving at least two (2) weeks' notice to the opposing counsel who failed to cooperate.

Once hearing time is scheduled with Judge Cox's Judicial Assistant, you may **not add** additional motions to the hearing time without agreement of opposing counsel and Judge Cox's Judicial Assistant. Whatever time is scheduled for the case on Judge Cox's calendar is all the time that will be allotted for the case. Make sure enough time is scheduled to hear whatever motions are noticed for hearing.

At least five (5) business days prior to the hearing, counsel who filed the motion must email a proposed order in word format (generic orders granting/denying with at least five lines for additional provisions may be used). Copies of all hearing notices and relevant motions must be sent to the court's Judicial Assistant five (5) working days prior to the hearing (either by email or mail). Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted. Failure to comply with these rules and time deadlines will cancel your hearing. You must mail or bring self addressed, stamped envelopes for all parties.

Emergency Hearings

If an emergency situation arises, counsel may request that a hearing be set forth in short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion should also indicate how much hearing time will be needed. The motion must be faxed to Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact the counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via telephone (Court Call) if their schedule will not allow them to appear in person.

Motion to Dismiss and/or Motion for More Definite Statement:

The Court will initially consider all non-dispositive Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall file the original with the Clerk and furnish a copy of the Motion to the Court's Judicial Assistant by U.S. Mail or by email (lazard@circuit19.org). The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and pro se parties; and a cover letter showing copies to all counsel of record and pro se parties. If the moving party fails

to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required, an appropriate order will be entered. **No case dispositive ruling will be made without a hearing.**

Honorable Cynthia L. Cox
2000 - 16th Avenue, Suite 383
Vero Beach, FL 32960
772-770-5231 (phone)
lazard@circuit19.org

Motions for Rehearing, Reconsideration or New Trial

Upon filing said Motion, the moving party shall send a copy to the Judge for review. The copy of the motion shall be accompanied by a generic order granting/denying the motion, with at least five (5) lines for additional provisions, a transmittal letter showing copies to all counsel and *Pro Se* litigants and stamped, self-addressed envelopes for all counsel of record and *pro se* litigants. The motion and proposed order shall be submitted by e-mail to Debbie Lazar, Judge Cox's Judicial Assistant, at lazard@circuit19.org. If the moving party fails to comply, any party may furnish a copy of the motion and required documents to the Court. If the Court determines that a hearing is necessary, the movant will be given dates and times to coordinate with opposing counsel or *pro se* litigants. The movant will need to file the appropriate notices. Do **not** file the Motion unless you can meet the legal standards for rehearing. Do **not** file the Motion if all you are doing is asking to reconsider what has already been presented and argued. **Please do not set a Motion for Rehearing or Motion for Reconsideration without first receiving permission from the Court.**

Phone Calls

Due to the overwhelming volume of cases in this assignment, please do not call the Judicial Assistant to ask if order have been entered or if the court has received your package. Please do not leave more than **one (1) message** for the Judicial Assistant. Please do not ask the Judicial assistant or other court personnel to communicate any message to the Judge. This is prohibited **ex-parte** communication. The Court's staff is not permitted to relay *ex-parte information to the Judge*.

E-mails

We prefer emails over phone calls. E-mails should contain subject matter and relevant dates. Please ensure that any and all e-mails sent to the Judicial Assistant are also sent and copied to all opposing counsel to prevent an *ex parte* communication.

Facsimile Transmissions

PLEASE DO NOT FAX THIS OFFICE WITHOUT PRIOR APPROVAL BY THE JUDICIAL ASSISTANT. DO NOT SEND any materials or motions by facsimile. They need to be sent by U.S. Mail, courier, overnight express, etc. The only exception is a letter to the Court advising that a case set on the Court's Calendar Call and/or weekly Trial Calendar has settled, emergency matters and materials requested by the Court although e-mail and pdf documents are preferred.