

**MARTIN COUNTY
FORECLOSURE
PROCEDURES**

Updated
01/20/2023

**NINETEENTH JUDICIAL CIRCUIT
COURT OF FLORIDA**

MARTIN COUNTY

CIRCUIT JUDGE ELIZABETH A. METZGER'S FORECLOSURE PROCEDURES

COMPLIANCE WITH AO 2021-05 MANDATORY/ CIVIL CASE MANAGEMENT AND RESOLUTION: Please see [Administrative Order 2021-05](#); **Compliance is required.** The party initiating a civil action in this division must serve a case management plan and order with the summons and complaint. A fillable case management order is available on Judge Sweet's web page. The complete case management plan and order must be submitted to Judge Sweet by Plaintiff/Plaintiff's counsel for final approval no later than thirty (30) days after the last defendant is served with the complaint. For cases filed before April 30, 2021, the completed case management plan and order must be submitted to Judge Sweet by Plaintiff/Plaintiff's counsel for final approval no later than December 3, 2021. For cases subject to a statutory stay or moratorium that prevents prosecution of the case, the completed case management plan and order must be submitted to Judge Sweet by Plaintiff/Plaintiff's counsel within forty-five (45) days after the stay or moratorium ends or within thirty (30) days after service of the complaint or the last of all defendants (whichever date is later).

FORECLOSURE SUMMARY JUDGMENTS
(MARTIN COUNTY)

Hearings on motions for Summary Judgments in person or by CourtCall will be conducted:

February 16, 2023, March 16, 2023, April 13, 2023.

- 9:00 am – 10:00 am MSJ Hearings

All MSJ hearings will be scheduled on-line. These hearings are scheduled on-line at https://slccjis.stlucieco.gov/attorney_calendar/. You may not schedule a hearing unless the motion has first been e-filed and docketed with the clerk of court. If you cancel a hearing, please cancel the hearing on the scheduler in addition to filing a notice of cancellation of hearing.

1. Login
2. Hover over Calendar Assignments and Click on Case Assign.
3. Using the Dropdown Menus SELECT Martin County, and Judge Metzger, Click on submit.
4. Click on date.
5. Click on ASSIGN (for 09:00 am, 09:30 am) **MC FORECLOSURE MSJ Assignment**) to enter case details.

YOU MUST EMAIL the proposed Final Judgment in Word format to Foreclosure@circuit19.org at least 10 business days prior to the hearing.

PLEASE SEE Second Amended Administrative Order 2017-05 for the latest form of Final Judgment required in the 19th Circuit. This form is available online at www.circuit19.org.

Please include the following language under the service list on the proposed Final Judgment:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL: (Include parties with e-mail addresses)

COUNSEL FOR (Insert the moving party, e.g. PLAINTIFF, DEFENDANT, etc.) SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE: (Include parties with physical addresses)

You may appear remotely for **all non-evidentiary proceedings using Courtcall**. Should any lawyer or party wish to participate remotely at any non-evidentiary proceeding before Judge Metzger, contact courtcall directly **at least 3 business days before the hearing date**.

If you do not contact CourtCall within 3 business days prior to your hearing, remote attendance will not be permitted.

These hearings are for Motions for Summary Judgment that require 5 minutes. If more time is needed, you must schedule your matter for a special set.

At the time you file your Motion for Summary Judgment, if you have not already done so, please file the ORIGINAL PROMISSORY NOTE AND MORTGAGE WITH THE CLERK OF COURT. **DO NOT** send the originals to the Judge's office.

IF WE DO NOT HAVE THE PROPOSED FINAL JUDGMENT IN WORD FORMAT AT LEAST 10 BUSINESS DAYS PRIOR TO THE HEARING, YOUR SUMMARY JUDGMENT HEARING MAY NOT BE HELD AND YOU MAY BE REQUIRED TO RESCHEDULE.

The Certificates of Title, Disbursement and Final Disposition shall be mailed directly to the Clerk's office along with 2 sets of addressed and 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.

UNIFORM MOTION CALENDARS (UMC)
HEARINGS REQUIRING NO MORE THAN 5 MINUTES
(MARTIN COUNTY)

Every pleading and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name – or by a party personally if the party is unrepresented. (Rule 2.515 RJA).

Short Hearing/Uniform Motion Calendars will be conducted:

February 13, 14, 15, 2023; March 13, 14, 15, 2023; April 10, 11, 12, 2023.

- 9:00 am – 10:00 am UMC Hearings

These hearings are scheduled on-line at https://slccjis.stlucieco.gov/attorney_calendar/

You may not schedule a hearing unless the motion has first been e-filed and docketed with the clerk of court. If you cancel a hearing, please cancel the hearing on the online scheduler in addition to filing a notice of cancellation of hearing.

1. Login
2. Hover over Calendar Assignments and Click on Case Assign.
3. Using the Dropdown Menus SELECT Martin County, and Judge Metzger, Click on submit.
4. Click on date.
5. Click on ASSIGN (for 9:00 am **UMC Assignment**) to enter case details.

You may appear remotely for **all non-evidentiary proceedings using Courtcall**. Should any lawyer or party wish to participate remotely at any non-evidentiary proceeding before Judge Metzger, contact courtcall directly **at least 3 business days before the hearing date**.

If you do not contact CourtCall within 3 business days prior to your hearing, remote attendance will not be permitted.

Original motions and attachments shall be filed at the clerk's office before setting motions for hearings or mailing those to the Judge's office.

A copy of the motion, notice of hearing, proposed order and cover letter must be emailed in Word format to Foreclosure@circuit19.org, no later than 5 business days prior to the scheduled hearing and the notice of hearing must be served on opposing counsel 5 business days prior to the scheduled hearing.

Please include the following language under the service list on the proposed order:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL: (Include parties with e-mail addresses)

COUNSEL FOR (Insert the moving party, e.g. PLAINTIFF, DEFENDANT, etc.) COUNSEL SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE: (Include parties with physical addresses)

IF WE DO NOT HAVE THESE DOCUMENTS AT LEAST 5 BUSINESS DAYS PRIOR TO THE HEARING, YOUR HEARING MAY NOT BE HELD AND YOU MAY BE REQUIRED TO RESCHEDULE.

IMPORTANT: No evidentiary hearings or summary judgment hearings shall be set on Short Hearing/Uniform Motion Calendars.

Any case law or statutes to be relied upon shall be submitted to the Court electronically with the motion with relevant portions highlighted. You must give the opposing party notice of the hearing at least five working days prior to the hearing unless otherwise agreed to by the parties.

DEFENDANTS PRO-SE: If a pro-se party wishes to set a hearing on the online system, the pro-se party should request that the attorney on the other side of the case do so. The pro-se party should consult with the attorney to find a mutually agreeable time. If there is no attorney on the other side of the case, or if attorney does not agree that a hearing should be set, the pro-se party may call the court's judicial assistant and request that the court set the hearing. The judge will evaluate the situation and determine if a hearing should be set. If so, the court will set the hearing using the online system.

SPECIAL SETS
HEARINGS REQUIRING MORE THAN 5 MINUTES
(MARTIN COUNTY)

Motions requiring a hearing of more than 5 minutes will be heard from 1:30 pm to 4:30 pm the following dates:

February 13, 16, 2023; March 13, 16, 2023; April 10, 13, 2023.

- 1:30 pm – 4:30 pm Special Sets Hearings

For special set hearings in excess of 1 hour, please e-mail a copy of the motion, proposed order for the court’s review and consideration, and if necessary, a hearing date/time in excess of 1 hour will be provided. With submission, please provide a cover letter explaining the specific reason(s) why more than 1 hour is needed for the hearing.

Original motions and attachments shall be filed at the clerk’s office before setting motions for hearings or mailing those to the Judge’s office.

Do not set hearings and then not show up for them.

Too often, the court will set aside valuable court time for a special set hearing, only to have no one show up for the hearing. No one even has the courtesy to call, or file a notice of cancellation. This hearing time is then unavailable to other litigants.

Hearings in excess of 30 minutes will **not** be canceled unless:

- (1) a notice of cancellation is filed at least five (5) business days before the hearing (**if** you intend to reset the motion for hearing); or
- (2) a motion to continue is filed and set for a hearing based upon extraordinary and unforeseen grounds; or
- (3) the movant waives the relief requested in writing; or
- (4) a stipulation and order is submitted to the court for signature in which fully resolves the issue(s) (so that the hearing does not need to be reset); or
- (5) the case is fully resolved by settlement or otherwise, prior to the hearing date.

Failure to follow this procedure may result in sanctions, including loss of the privilege to appear by telephone; restrictions on the ability to set and notice hearings without specific court approval; the entry of an order deeming the matter raised in the motion as waived; and for repeat offenders, referral to the Florida Bar. Setting hearings and not showing up for them might implicate Rules Regulating the Florida Bar, Rule 4-1.1, or Rule 4-1.3.

Every pleading and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name – or by a party personally if the party is unrepresented. (Rule 2.515 RJA)

These hearings are scheduled on-line at: https://slccjis.stlucieco.gov/attorney_calendar/
You may not schedule a hearing unless the motion has first been e-filed and docketed with the clerk of court. If you cancel a hearing, please cancel the hearing on the scheduler in addition to filing a notice of cancellation of hearing.

1. Login
2. Hover over Calendar Assignments and Click on Case Assign.
3. Using the Dropdown Menus SELECT Martin County, and Judge Metzger, Click on submit.
4. Click on date.
5. Click on ASSIGN (for 1:30 pm **Special Set Assignment**) to enter case details.

A copy of the motion, notice of hearing, proposed order and cover letter must be e-mailed in Word format to Foreclosure@circuit19.org, no later than 5 business days prior to the scheduled hearing and the notice of hearing must be served on opposing counsel 5 business days prior to the scheduled hearing.

Please include the following language under the service list on the proposed order:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL: (Include parties with e-mail addresses)
COUNSEL FOR (Insert the moving party, e.g. PLAINTIFF, DEFENDANT, etc.)
COUNSEL SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE: (Include parties with physical addresses)

You may appear remotely for **all non-evidentiary proceedings using Courtcall**. Should any lawyer or party wish to participate remotely at any non-evidentiary proceeding before Judge Metzger, contact courtcall directly **at least 3 business days before the hearing date**.

If you do not contact CourtCall within 3 business days prior to your hearing, remote attendance will not be permitted.

DEFENDANTS PRO-SE: If a pro-se party wishes to set a hearing on the online system, the pro-se party should request that the attorney on the other side of the case do so. The pro-se party should consult with the attorney to find a mutually agreeable time. If there is no attorney on the other side of the case, or if attorney does not agree that a hearing should be set, the pro-se party may call the court’s judicial assistant and request that the court set the hearing. The judge will evaluate the situation and determine if a hearing should be set. If so, the court will set the hearing using the online system.

CANCELLING HEARINGS
(MARTIN COUNTY)

Hearings which have been scheduled online (UMC) must be cancelled on the online calendar no later than 3:00 pm the day before the scheduled hearing. If the hearing is cancelled after 3:00 pm, the Notice of Cancellation must be emailed to Foreclosure@circuit19.org before the scheduled hearing time. If the hearing is not cancelled on the online calendar and/or we do not receive a Notice of Cancellation, the attorney who set the hearing will be considered a “no show” and online schedule privileges may be revoked as a result.

Special set hearings may not be cancelled less than five (5) days prior to the scheduled hearing date, without permission or order of the Court, unless the scheduled matter has been completely resolved (i.e. requiring no further hearing time).

MOTIONS TO CANCEL/RESCHEDULE SALES OR POSTPONE WRIT OF
POSSESSION
(MARTIN COUNTY)

All motions to cancel sale (which must include the reason for cancellation, any supporting documentation, and the number of times the sale has been cancelled) and a proposed order in Word format must be emailed to Foreclosure@circuit19.org at least 5 business days before the sale date. A sale may be cancelled *ex parte* with evidence of permanent modification (or payments made under temporary modification), short sale or bankruptcy. Sales that have been cancelled on more than one occasion will not be scheduled without a hearing unless good cause is shown. Failure to publish, pay sale fees or loss mitigation after Final Judgment are not good cause and will require a hearing accompanied with the consent or acknowledgement of the Plaintiff to reset the sale, along with the appropriate Clerk’s fees.

If the judge requires the matter to be set for hearing, it should be set as directed by the Court. If a hearing is scheduled, attorneys may appear by *Court Call* if arrangements can be made at least 5 business days prior to the scheduled hearing .

Please include the following language under the service list on the proposed order:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL: (Include parties with e-mail addresses)

COUNSEL FOR (Insert the moving party, e.g. PLAINTIFF, DEFENDANT, etc.) COUNSEL SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN THIS COURT FILE: (Include parties with physical addresses)

IMPORTANT: The timing of the Motion to Cancel Foreclosure Sale must comply with Amended Administrative Order 2017-05 and the notice of hearing must be served on opposing counsel no later than 5 business days prior to the scheduled hearing.

TRIALS (MARTIN COUNTY)

NOTICES FOR TRIAL: All notices that the case is at issue and ready to be set for trial shall be emailed to Foreclosure@circuit19.org. If a courtesy copy of the filed Notice for trial is not sent to Foreclosure@circuit19.org it will be not be acted upon by the Court.

Trials may also be set by the Court at a Case Management Conference.

APPEAR IN PERSON ONLY: Trials and Evidentiary Hearings require in person appearance.

COURTCALL (MARTIN COUNTY)

You may appear remotely for **all non-evidentiary proceedings using Courtcall**. Should any lawyer or party wish to participate remotely at any non-evidentiary proceeding before Judge Metzger, contact courtcall directly **at least 3 business days before the hearing date**.

If you do not contact CourtCall within 3 business days prior to your hearing, remote attendance will not be permitted.

MISCELLANEOUS
(MARTIN COUNTY)

COMMUNICATIONS WITH JUDGE'S OFFICE: Please do not ask the 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. This office can best respond to all communications via e-mail to: foreclosure@circuit19.org. E-mails must contain the case name, case number, subject matter and relevant date(s). Please ensure that all e-mails are also copied to all opposing counsel and/or *pro se parties* and indicate same in the body of your e-mail to prevent ex-parte communication to the Court.

PAPERLESS OFFICE: This office is paperless. Therefore, all correspondence, motions, hearing materials, etc. should be sent by EMAIL in PDF format to Foreclosure@circuit19.org. Although discouraged, if you lack the ability to transmit documents by email, you may deliver or mail hard copy documents. Hearing materials must be provided to the Court at least five (5) business days before the hearing. Lengthy materials submitted in the form of tabbed PDF electronic binders are greatly appreciated. Highlighting pertinent sections and brevity is appreciated. Alternatively, lengthy submissions may be mailed or delivered to Judge Metzger's office on a flash drive. Please do not mail binders or hard copies of hearing materials. An electronic copy of the submission, including any flash drive, must be simultaneously provided to all other parties.

Case law and memorandum provided to the Court during the hearing may not be considered.

ORDER PREPARATION AND SUBMISSION: Proposed orders must be submitted in Microsoft Word format. Proposed order's title must describe the subject and ruling of the Court, *i.e.* "Order Granting Plaintiff's Motion for Partial Summary Judgment on Liability", and shall contain the name and e-mail service address for all parties. *See*, Fla.R.Civ.P., Rule 1.100(c)(1).

The Packet must contain a copy of the motion that was e-filed and docketed, cover letter in pdf format and the proposed order in word format. Please include the following language under the service list:

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING
PARTIES VIA THE E-FILING PORTAL: (Include parties with e-mail addresses)

COUNSEL FOR (Insert the moving party, e.g. PLAINTIFF, DEFENDANT, etc.)
COUNSEL SHALL SERVE A COPY OF THIS ORDER ON THE FOLLOWING
PARTIES IMMEDIATELY AND FILE A CERTIFICATE OF SERVICE IN
THIS COURT FILE: (Include parties with physical addresses)

It is preferred that you send your proposed orders by email in advance of the hearing date to Foreclosure@circuit19.org

If counsel is asked to prepare an order, the order shall be drafted and circulated within 2 business days of the hearing, and submitted to the Court via e-mail to the Judicial Assistant, with a transmittal letter confirmation to all counsel and *pro se* parties within 7 business days of the hearing, advising the Court in writing of any objection to the form of the proposed order. The Court will not execute proposed orders, agreed orders, or stipulations without transmittal confirmation to all counsel of record and *pro se parties*. The transmittal letter shall be authored by counsel of record versus an office paralegal or other staff.

ORDER FILING & SERVICE: Orders are E-Filed and E-Served via the Clerk of Court's E-Filing Portal.

COURT REPORTERS: Fla. R. Jud. Admin. 2.535(b) requires that the party requesting a court reporter must arrange for and pay the reporting fees for any hearing or trial. This requirement shall not preclude taxation of costs as authorized by law.

MOTIONS WITHOUT HEARINGS: Some matters may be addressed by the court through a motion not requiring a hearing.

MOTIONS FOR SUBSTITUTION OF COUNSEL: The court may grant Motions for substitution of counsel without a hearing if a valid stipulation signed by the attorneys, and a valid written consent of the parties is filed.

EMERGENCY HEARINGS: If an emergency situation arises, counsel may request that a hearing be set on 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 must be e-mailed to the 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 counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via Courtcall telephonic appearance if their schedule will not allow them to appear in person.

MOTION TO DISMISS and/or MOTION FOR MORE DEFINITE STATEMENT: All Motions to Dismiss filed pursuant to Fla.R.Civ.Pro.1.140 (b) and Motions for More Definite Statement filed pursuant to Fla.R.Civ.Pro.1.140 (e), will initially be considered by the court without a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds and the applicable substantial matters of law

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.

Any party may furnish to the Court via email: the motion; a proposed completed order; and transmittal confirmation to all counsel of record and *pro se parties*. The copy shall be accompanied by a proposed *completed* order. The motion will be held for ten (10) days to give the opposing side the opportunity to reply. If it is determined that a hearing is necessary, the movant will be advised by the court 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.

EX PARTE MOTIONS TO COMPEL: If a motion to compel discovery sets forth a complete failure to respond or object to discovery, the time for complying with the discovery request has lapsed, and there has been no request for an extension of time, an ex parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The motion must include a certification that the movant has conferred or attempted to confer with the attorney or person failing to make discovery in good faith so as to obtain the information without court action. Upon the filing of such motion, the moving party shall send the motion, proposed order and transmittal confirmation to the Court via e-mail.

MOTIONS FOR PROTECTIVE ORDERS: The filing of a motion for protective order, without presenting it to the Court, is insufficient. The party filing such order must email the motion to the Judicial Assistant, and set same for hearing.

MOTIONS FOR REHEARING, RECONSIDERATION OR NEW NON-JURY TRIAL: Upon the filing of such motion, the moving party **shall** send a copy to the Court for review via e-mail. The copy of the motion shall be accompanied by a proposed order and transmittal confirmation to all counsel. 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*, and the movant must file the appropriate notices.

MOTION TO CONTINUE: Any motion to continue must comply with Florida Rule of Civil Procedure 1.460, including requirement of signature by the party requesting continuance. **Simply filing a motion to continue will not suffice to continue the case. Your case will not necessarily be continued because both parties agree.**