Judicial Practices and Procedures

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ASSIGNMENT

All County Court Civil cases (small claims and county court), except the possession portion of evictions; Mandatory Traffic cases; Non-criminal citations, including, but not limited to: animal control citations, parking violations, boating infractions, non-criminal fish and wildlife cases; underage nicotine and sexting cases; All Mental Health Court cases; 25% of Circuit Civil Non-Jury Cases (excluding Residential Mortgage Foreclosure Cases).

Small claims Pretrial Conferences and dockets will occur on Tuesday mornings, starting at 9:00 a.m. and will be scheduled by the Clerk. Trials from those dockets will be set at the pretrial conference.

All mandatory traffic and non-criminal citations will generally be set on the first Wednesday of the month.

Mental Health Court will be set on most Thursday mornings, starting at 10:30 a.m.

Underage nicotine and sexting cases will be set quarterly on Tuesday afternoons at 4:00 p.m.

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A. Communications with the Judicial Office

- **Method of Communication:** Communications to the judicial office should be submitted by e-mail to sievertd@circuit19.org. The subject line should contain the case number, case name, and relevant matter. Any e-mail sent to or from the judicial office may be a public record subject to disclosure. Alternatively, communications to the judicial office may be made by telephone to 772-288-5556.

- **Ex parte Communications:** All communications with the judicial office must comply with Canon 3 of the Code of Judicial Conduct, which prohibits a judge from initiating, permitting, or considering ex parte communications and from considering other communications outside the presence of the parties concerning a pending or impending proceeding, unless authorized by law. All parties must be copied on any e-mail directed to the judicial office, unless an ex parte communication is authorized by law.

- **Unsolicited Communications:** Unsolicited communications from non-parties may not be considered by the court. Parties may only contact the judicial office in accordance with these practices and procedures.

- **E-Filing Portal Contact Information:** All attorneys and self-represented litigants must provide an e-mail address to receive signed orders electronically, unless excused. Fla. R. Gen. Prac. & Jud. Admin. 2.516. It is the responsibility of attorneys and self-represented litigants to update their contact information using Form 2.603 any time there is a change in the e-mail account registered for electronic service.

- **Response to Inquiries:** The judicial assistant is not authorized to provide legal advice.

B. Scheduling Procedures

- **Court Schedule:**
    - Small claims Pretrial Conferences and dockets will occur on Tuesday mornings and will be scheduled by the Clerk. Trials from those dockets shall be set at the pretrial conference. The damages portion of eviction cases, after possession has been determined, shall be set for small claims pretrial conferences. Small Claims Pretrial Conferences provide the parties the opportunity to mediate their case, so appearances at Small Claims Pretrials must be in person, except under very specific circumstances, and must be approved by the Court at least five days prior to the Small Claims Pretrial Conference.
    - All mandatory traffic and non criminal citations will generally be set on the first Wednesday of the month.
    - Mental Health Court will be set on multiple Thursdays throughout the month.
    - Underage nicotine and sexting cases will be set quarterly on Tuesday afternoons at 4:00 p.m.
    - Trials and Hearings are generally specially set by the Court.

SCHEDULING FOR CIVIL MOTION HEARINGS/NON-JURY TRIALS:

Please email the Judicial Assistant for hearing dates and times. The hearing ***must*** be coordinated with the opposing party before any hearing may be noticed.

Counsel who filed the motion should bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self -addressed, stamped envelopes for all parties.

Notice of Hearing: A notice of hearing must be filed and served immediately after reserving hearing time.

- A notice of hearing involving any remote appearance must list the judicial Zoom credentials.
- All notices of hearing must contain the ADA notification required by Florida Rule of General Practice and Judicial Administration 2.540.
- 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.
- All hearing Notices shall contain a certification signed by the lawyer or pro se party who set the hearing, as follows:

  "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.

- **Submission Deadlines:**
  - Prior to your Civil Motion Hearing, please send Judicial Assistant a copy of the Motion, Proposed Order(s) with sufficient copies and pre-stamped envelopes for all parties, and a copy of the Notice of Hearing which was previously filed with the Clerk of Court.
  - Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted.

- **Order of Proceedings:** Matters shall be heard as the Court deems appropriate depending on the case and docket.

- **Continuance Procedure:** Continuances are disfavored and will be granted only upon good cause shown. Motions for continuance should state with specificity: (1) the basis of the

need for the continuance, including when the basis became known to the movant; (2) whether the motion is opposed; (3) the action and specific dates for the action that will enable the movant to be ready, including, but not limited to, confirming the specific date any required participants are available; and (4) the proposed date by which the case will be ready to proceed and whether that date is agreed by all parties. Except for good cause shown, the motion must be signed by the party requesting the continuance, as required by Florida Rule of General Practice and Judicial Administration 2.545(e).

- **Cancelling Hearings:** You must cancel hearings by notifying the judicial assistant immediately. You must also immediately file and serve a notice of cancellation on opposing counsel and any self-represented litigant.

C. Remote Appearance

- **All Small Claims Pretrial Conferences and Trials Require Personal Attendance**.
- **Platform Used:** The court uses Zoom for remote appearances.
  The zoom link is 435-036-5185.

  Requirements: Requests for remote appearance must be submitted at least *10* days prior to the hearing.

  Any person appearing remotely must be in a private location that is quiet and free from distractions. Under no circumstances will a participant be permitted to appear remotely from a moving vehicle.

  Any person appearing remotely must dress and behave professionally in the same manner as if physically present in the courtroom.

  Any person appearing remotely must enable the person's camera when joining the proceeding and keep the camera turned on until instructed otherwise by the court.

  Any person appearing remotely must mute the person's microphone when joining the proceeding and keep the microphone turned off until instructed otherwise by the court.

  If a witness appears remotely, the party calling the witness must ensure the witness has a functioning camera and microphone and has tested the internet connection before the hearing. The oath will be administered in accordance with Florida Rule of General Practice and Judicial Administration 2.530.

D. Submission of Orders and Judgments

- **Format:** Proposed orders must be submitted in Word Format. All proposed orders must be accompanied by a cover letter either (1) certifying that all parties agree to the order or (2) containing a statement identifying any disagreement of the parties as to the proposed order.

- **Submission Method:** To submit documents to our office, please send copies of motions, proposed orders along with sufficient copies and self-addressed stamped envelopes for all parties on the service list to the following address:

  The Honorable Jennifer Alcorta Waters
  Martin County Courthouse
  100 E. Ocean Blvd.
  Stuart, FL 34994
  sievertd@circuit19.org

  If all parties have an email address, the proposed order can be emailed to sievertd@circuit19.org, including all parties/counsel on the email.

- **Deadline for Submissions:** Proposed orders must be submitted by the date ordered in court, or within 10 days after any hearing, if no specified date was given in court

- **Withdrawal Of Counsel:**
  You must follow the provisions of Fla.R.Jud.Ad.2.505. If you are moving to withdraw, you must obtain the Client's Consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.

- **Discovery Motions and Motions to Compel:**
  The mere filing of a Motion is insufficient. The motions must be set for hearing to bring the matter to the Court's attention. Motions to Compel, as well as all discovery motions, must comply with the Florida Rules of Civil Procedure or Florida Small Claim Rules, including, but not limited to, a certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without court action. See, Fla.R.Civ.P. 1.380(a)(2).

  When a motion to compel discovery alleges a complete failure to respond or object to discovery, and 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 movant shall submit the proposed order to the Court with sufficient copies and self-addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to all parties.

E. Courtesy Copies of Case Law and Other Documents

- **When Required:** Courtesy copies of case law must be submitted to the court for any evidentiary proceeding at least five days prior to the hearing and all parties shall be copied on the submission.

- **Submission Method:** If the materials are voluminous, they must be provided via US Mail at least five days prior to the hearing, preferably in a binder. If the hearing material is fewer than twenty pages, it may be provided to the Judicial Assistant via electronic mail.

F. Emergency and Other Urgent Matters

- **Requirements:** If a party believes there is a factual basis for setting an emergency hearing, a detailed motion setting forth the following must be filed: (1) the issues to be resolved, (2) reasons why an emergency hearing is necessary, and (3) the amount of time needed for each party's presentation.

- **Scheduling:** If the court determines that an emergency exists, a hearing will be scheduled unilaterally by the court. Parties should make themselves available for the emergency hearing, barring exigent circumstances.

G. Exhibits for Evidentiary Proceedings

- **Submission Method:** Hand-deliver or mail all printed exhibits to the clerk of court. All attorneys and self-represented litigants must bring sufficient copies of each exhibit for the clerk, the court, and each party to review during the hearing or trial.

- **Pretrial Procedures and Conferences**

- **Case Management Conference:** Any party may request a case management conference (CMC) when a case requires. The court strongly encourages the early use of CMC in more complex cases, multiple-party litigation, or any case that might benefit from court intervention. Unless excused by the court in advance, all CMCs are mandatory for attorneys and self-represented litigants. Parties represented by counsel are not required to appear at a CMC.

- **Status Conference:** Any party may request a status conference when a case requires.

- **Requirements:** Any request for a CMC or status conference must articulate the reasons for the necessity of the conference.

H. Setting Case for Trial

- **Procedure:** When filing Notice for Trial, you must send a copy of the Notice to ***all*** Parties. The parties must comply with the Pre-trial Order, which includes, without limitation, timely submission of joint pre-trial statements. Motions in limine and other motions concerning how the trial is to be conducted will not be entertained during trial or on the day of jury selection, unless the Court is satisfied that with due diligence, the matter could not have been heard pretrial. Trials will take place in Courtroom A2-1, unless otherwise indicated. Mediation will generally be required before any trial may occur.

- If a trial brief is to be filed with the Court it should be submitted to the Judge's Chambers no later than three (3) working days before the trial is to commence. The Court appreciates hard copies of cases cited in the trial brief with appropriate highlighting of the pertinent sections.

- The Court strives to issue orders and rulings in a timely manner. If counsel is asked to prepare an order, the order shall be drafted and circulated to counsel within 3 working days of the hearing and must be submitted to the Court with a cover letter to all counsel and Pro Se parties within 7 days of the hearing. Opposing counsel must advise the Court of any

objection to the form of the proposed order within 3 days thereafter. The Court would appreciate a copy of any proposed order on either a removable storage device or via e-mail, in addition to the hard copy.

- If your case settles after you have received an order setting a case for trial, please first immediately notify the Court's Judicial Assistant by telephone and follow up with an email and/or letter advising of settlement. This also applies to cases that are subsequently placed on the trial docket.

- ***Please follow Court procedure for filing the necessary pleadings with the Martin County Clerk of Court.*** Please send *copies* of pleadings, hearing cancellations, (if applicable), along with relevant ***Stipulations, Settlement Agreement, Motions, Notices, with Proposed Orders*** along with sufficient copies/self-addressed stamped envelopes to the Judge's office for his immediate review.

- **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 sent to the Judge shall be accompanied by a generic order granting/denying the motion, with at least five lines for additional provisions, a transmittal letter showing copies to all counsel and Pro Se parties, and stamped, self-addressed envelopes for all counsel and Pro Se parties. If the moving party fails to comply, any party may furnish a copy of the motion and the required documents to the Court. If the Court determines that a hearing is necessary, the movant will be advised to schedule and hearing and file appropriate notices. Please do not set a Motion for Rehearing or Motion for Reconsideration for hearing without first receiving permission from the Court.

I. Other Division Procedures

- **ADA Accommodations:** If you need an ADA accommodation, please contact Court Administration in St. Lucie West

- **Interpreter Requests:** Information on interpreters' services can be found on the circuit's website. Alternatively, you may call the interpreters' office at 772-462-1947.