

CIVIL, PROBATE AND FORECLOSURE POLICIES & PROCEDURES
HON. FREDERICK R. HARDT
(effective January 1, 2013)

PLEASE NOTE CHANGES

As of January 1, 2013 MAGISTRATE ELLIS SHALL BE REFERRED HEARINGS ONLY IN CASES ENDING IN EVEN NUMBERS AND MAGISTRATE DENTE SHALL BE REFERRED HEARINGS ONLY IN CASES ENDING IN ODD NUMBERS. Please refer to the Magistrate directions for proper order of Referral based on the date the hearing is scheduled.

Foreclosure Hearings: All uncontested foreclosure summary judgment hearings (5 minutes only) should be scheduled through the Foreclosure Judge Automated Calendaring System ("JACS"). Please read Foreclosure Judge "JACS" instructions carefully prior to scheduling any hearings which may be found at www.ca.cjis20.org.

All other motions in foreclosure cases (with the exception of summary judgments) should be scheduled through the Judicial Calendaring System ("JACS") with Magistrate Maria Dente for an odd number case or Magistrate Amy W. Ellis for an even number case.

If a written object to the magistrate has been filed, you may schedule your motion on the Senior Foreclosure Judge calendar if the required length of time for your hearing is 30 minutes or less. You may also schedule deficiency judgments, contested summary judgments and default judgments with the Senior Foreclosure Judge if your required hearing time is 30 minutes or less.

PLEASE DO NOT SET ANY FORECLOSURE CASES/MATTERS ON JUDGE HARDT' S CIVIL/REGULAR "JACS" CALENDAR. ANY FORECLOSURE HEARING SET WITH JUDGE HARDT WILL REQUIRE THE PRIOR APPROVAL OF THE JUDICIAL ASSISTANT. THIS APPROVAL WILL BE GIVEN ONLY IF THE SCHEDULING PROCEDURES STATED ABOVE ARE NOT AVAILABLE.

Probate Hearings: Probate hearings may be scheduled on "JACS" in accordance with the office procedures stated herein.

Motion Calendar: Motion calendars are generally set on Mondays, except when there is a holiday or special set by the judge.

Hearings 20 minutes or less: All hearings, 20 minutes or less in length, must be scheduled through the "JACS" system. Please schedule all Discovery Motions, Motions for Protective Order, Motions to Transfer Venue, Motions to Dismiss, Motions to Sever or Consolidate, Motions to Add or Substitute Parties, Motions to Intervene, Motions for

Contempt, Motions for Sanctions, Motions to Withdraw, Motions for Leave to File Amended Pleadings and Motions to Strike with Magistrate Maria Dente for an odd number case or with Magistrate Amy W. Ellis for an even number case. Please do not schedule any of these motions with Judge Hardt unless an objection to the Magistrate has been filed. PLEASE NOTE: Any motion may be scheduled with the Magistrate if the parties consent. (Please see the Magistrates' "JACS" instructions).

You may not schedule back-to-back hearings to acquire a longer block of hearing time (e.g., scheduling two 10-minute hearings to acquire 20 minutes, or scheduling two 20-minute hearings to acquire 40 minutes). If you schedule hearings improperly, the hearing(s) may be canceled, sanctions may be assessed, and you may be blocked from the "JACS" system.

A party/attorney scheduling a hearing must **concurrently notice** the matter in conformance with the Florida Rules of Civil Procedure and ensure timely notice is served on all pro-se parties and counsel of record in advance of the hearing. The original notice must be timely filed with the clerk of court. A hearing notice for all hearings that will be evidentiary in nature and involving presentation of evidence (affidavits, testimony, exhibits, etc.) should clearly indicate it is an evidentiary hearing.

Once a motion is scheduled through "JACS", subsequent motions may not be "piggybacked" using the time reserved for the first motion absent prior approval of the Court.

Except for cancellations, there can be no changes, additions, swapping, or other alterations of the motion calendar. Attempts to accommodate such requests in the past have resulted in unnecessary confusion and inadequate notice to opposing counsel.

Hearings via telephone are permitted if the hearing is scheduled for 15 minutes or less and is a **non-evidentiary** hearing. See: Fla. R. Jud. Admin 2.530 (c). If the hearing is scheduled for more than 15 minutes, no telephone appearances are permitted. All phone hearings must be set up through CourtCall at **least seven business days in advance of the hearing**. CourtCall can be contacted at 888-882-6878 or www.courtcall.com. If someone is planning on attending a hearing by phone, the hearing must be scheduled and designated as a phone hearing on "JACS" and noticed accordingly.

Hearings 30 minutes or more must be requested in writing along with a copy of the motion(s) and approved by Judge Hardt before hearing time will be scheduled. The judicial assistant will contact the attorneys' office to schedule these hearings.

If you need 30 minutes, ask for 30 minutes. Please don't say, "Can I get in sooner if I only ask for 15 minutes?" You can't squeeze 30 minutes of argument into a 15 minute slot. You know it, and we know it. Judge Hardt will limit the length of the hearing to the time requested. If you don't finish in time, the motion will have to be rescheduled. When estimating necessary hearing time, remember to include opposing counsel's time.

ON ALL HEARING NOTICES, REGARDLESS WHETHER HEARING IS BOOKED ON JACS OR THROUGH THE JUDICIAL ASISTANT, A HEARING CONFIRMATION NUMBER IS GIVEN AND SHALL BE NOTED IN THE CAPTION OF YOUR NOTICE OF HEARING ALONG WITH THE AMOUNT OF HEARING TIME YOU HAVE BOOKED FOR YOUR MOTION(S) TO BE HEARD.

Emergency Hearings must also be requested in writing. Describe the precise nature of the emergency and give an estimate the hearing time requested. Do not argue your motion in the letter. Please use your good judgment as to whether it is a true emergency.

Motions for Rehearing/New Trial/To Advance Case. Motions for Rehearing, New Trial and to Advance Case must be submitted in writing. Judge Hardt will then decide whether a hearing or new trial will be granted. Please send a courtesy copy of the motion directly to the Judge's chambers with a transmittal letter. Motions filed with the Clerk will not be seen by the Court. The Clerk does not forward Motions to the Judge's office.

Motions to Advance on Trial Docket are also reviewed without hearing. Simply submit your copy of the motion with a cover letter and you will receive notice of the judge's decision.

Faxes should be sent for emergency motions only upon prior approval by Judge and shall not exceed seven (7) pages. Our fax number is 239-252-8454

DESIGNATION OF COMPLEX CASES: Cases shall only be designated "complex" under Rule 1.201 upon motion of a party or upon the Court's own motion.

ORDERS PRESENTED AFTER HEARINGS : We do not hold orders pending objections from opposing counsel. Your options are:

- a. Be prepared at the hearing with a proposed order, appropriate copies and pre-addressed stamped envelopes.
- b. If you cannot agree on the language in the order at the time of hearing, you should
 1. Consult with opposing counsel and work out an acceptable order on blank forms provided by the Court. You may return the agreed order to the Clerk, and it will be executed the same day.
 2. Mail a stipulated order after the hearing stating in your cover letter that opposing counsel has reviewed the order presented and has no objection thereto.

Orders tendered that are not stipulated or agreed to by all counsel **will be returned** unexecuted to the party presenting the order. If you can't reach opposing counsel, keep trying. This is not an acceptable reason for submitting an order without prior review by opposing counsel. If opposing counsel does not agree or stipulate to the form of the order, please advise the judge in writing. The judge will then review all proposed orders, and if necessary, will schedule another hearing.

NOTICES FOR TRIAL: Upon receipt of a Notice for Trial, the Court will schedule and hear the pretrial conference in accordance with our standard pre-trial order. Please include all pertinent information which includes: jury or non-jury; number of days estimated for your trial; certificate of service with all parties/attorneys complete information, including their mailing address. **DO NOT FILE YOUR NOTICE FOR TRIAL UNTIL YOUR CASE IS READY FOR TRIAL.**

TRIAL DOCKETS: When a Notice for Trial is filed in non-foreclosure cases, the following occurs:

1. A photocopy of the notice is sent from the clerk's office to the Judge's office.
2. The case will be set for pretrial and trial in the order that the Notices for Trial are filed. Cases will be assigned a docket number (e.g., Case #1, Case #2, etc.). There will be a separate docket for Jury and Non-Jury cases. IN ALL CASES, mediation/non-binding arbitration **MUST** be completed prior to the pretrial conference.
3. The pretrial will generally be set 2 to 4 weeks prior to the first day of the trial docket. Attendance at the pretrial may be waived if the parties submit a signed agreed Pretrial Conference/Trial Order at least 10 business days in advance of the pretrial to the judge's chambers and approved by the judge. If not approved by the judge, counsel and pro-se parties will be required to attend the pretrial conference. Trials will generally start on Tuesdays (unless a holiday or carried over from the prior week). As stated previously, the cases are set in order that the Notices for Trial are filed; therefore, they will be tried, absent any special circumstances, in the order in which the cases are set on the docket. Once your case is scheduled for trial, it is the responsibility of the lawyers to keep the judge's office informed. Our office cannot possibly call all the lawyers on a trial docket to check the status of each case prior to trial. **Please let us know when you have settled or otherwise disposed of your case.**

Once placed on a trial docket, cases may need to be taken out of order so we can dispose of as many cases as possible in a trial period. We do not give preference to certain lawyers, parties or cases. We put your trial where it will fit. We are truly sympathetic when this is not convenient for you. If you can suggest a better way, we'd be more than happy to listen.

When a Notice for Trial is filed in foreclosure cases, the following occurs:

1. A photocopy of the notice is sent from the clerk's office to the case manager's office.
2. The case will be set for pretrial conference before a senior foreclosure judge.
3. The trial date will be set at the pretrial conference on a non-jury foreclosure trial docket before the judge assigned to the case.

MOTIONS TO CONTINUE: Motions to Continue shall be heard by the judge and not referred to the Magistrate. If the request to continue is granted by the Court, the Court will require the case to be RENOTICED for trial in order to be placed on another trial docket.

TELEPHONE: Telephone hours are from 9:00 a.m. to 4:30 p.m. Due to the high volume of phone calls the civil division receives, you will unlikely reach the judicial assistant in person. Therefore, when calling and receiving voice mail, please leave your name and a brief message. Your phone call will be returned. It is not necessary for the Judicial Assistant to call back to confirm that your message was received. Calls of that nature are not returned.

MEMORANDA: Written memoranda on lengthy or complex motions are not necessary but if supplied, they must be submitted **at least five (5) business days prior to the hearing.** Memoranda or briefs to be considered by the Court for any hearing shall be limited to ten (10) pages in length on 8 ½-by-11 inch paper with lettering in distinct type, double spaced, with margins no less than 1 inch, and font no less than 12 point. Quotations may be single spaced. **NOTEBOOKS WILL NOT BE ACCEPTED.**

MISCELLANEOUS: Please send a letter of transmittal with all pleadings sent to our office. You know what you want - we can only guess when an unexplained pleading comes in a month or so after the proceeding to which it relates. In most cases, the unexplained pleading will receive no action or be discarded.

Thanks for your cooperation!

Other People Who Can Help:

Judicial Assistant
Lanette
239-252-8395

Court Administration
239-252-8800