

**IN RE: EX PARTE MOTIONS TO
COMPEL DISCOVERY IN CIVIL
ACTIONS.**

WHEREAS, Rule 1.380 of the Florida Rules of Civil Procedure prescribes the method for applying for an order compelling discovery; and

WHEREAS, pursuant to Waters v. American General Corporation, 770 So.2d 1275 (Fla. 4th DCA 2000), an ex parte order compelling discovery may be entered only when the motion to compel alleges a complete failure to respond or object to discovery, and there has been no request for extension of time;

NOW, THEREFORE, in light of the ever-increasing case load, and in order to efficiently and expeditiously conduct the court's business, the following procedures governing ex parte motions to compel discovery in civil actions are adopted:

1. A motion to compel discovery ex parte in a civil action may be submitted to the Court if the moving party has complied with the following procedures:
 - a. The moving party must serve the motion on the opposing party at least seven (7) days prior to submission of the order to the Court.
 - b. the motion must include the following:
 - i. The nature of the discovery and that date upon which the discovery was propounded and due;
 - ii. That there has been a complete failure to respond or object to discovery, and the non-moving party has failed to request an extension of time to respond to discovery; and
 - iii. That the moving party has otherwise complied with Fla. R. Civ. P. 1.380(a)(2), certifying that he has conferred, or attempted to confer, with the person or party failing to make the discovery in an effort to secure the information or material without court action.
2. In the event that the non-moving party fails to provide the requested discovery, or fails to request an extension of time to respond to the discovery within seven (7) days of service of the motion, the moving party may submit an ex parte order to the court.

3. In entering an ex parte order, the court may direct that the non-moving party comply with the outstanding discovery request within fifteen (15) days or such other time, within the discretion of the Court. The court may also, in its discretion, order the non-moving party pay costs and/or attorney's fees, if appropriate.