

Judge James R. Shenko

Collier County Courthouse
3315 Tamiami Trail East, Suite 405
Naples, FL 34112
Telephone (239) 252-4264 Fax (239) 252-8788

CIVIL AND FORECLOSURE POLICIES & PROCEDURES
(Effective July 1, 2014)

THE FOLLOWING INSTRUCTIONS COVER SCHEDULING WITH JUDGE SHENKO, MAGISTRATE (FOR GENERAL CIVIL CASES), THE FORECLOSURE MAGISTRATE, AND THE SENIOR FORECLOSURE JUDGE.

FORECLOSURE CASES – SCHEDULING WITH FORECLOSURE MAGISTRATE:

As of **January 1, 2016**, Foreclosure Magistrate David Friedman will be assigned as the foreclosure magistrate for the Collier County Foreclosure cases **FORECLOSURE CASES ONLY:** Please schedule the following motions for your foreclosure case on the JACS Calendaring system with Magistrate Friedman: Discovery, Withdraw as Counsel, Dismiss, Vacate Default, Leave to Amend, Motion to Add or Substitute Parties, Motion to Intervene and Strike Affirmative Defense. Please file your Motion with the Clerk then proceed to submit an Order for Referral to the judge assigned to the case for his/her consideration. All Motions heard before the Magistrate **MUST** have an **Order of Referral** prior to scheduling a hearing.

ALL FORECLOSURE MOTIONS FOR SUMMARY and/or DEFAULT JUDGMENTS MUST BE SCHEDULED BEFORE SENIOR FORECLOSURE JUDGE.

Order of Referral to Magistrate - When submitting your Order of Referral to the assigned judge, do NOT send copies or envelopes for Orders of Referrals UNLESS there are self-represented parties. Clerk of Court will e-serve all COUNSEL OF RECORD.

FOR DETAILED INFORMATION IN SCHEDULING YOUR MOTION WITH FORECLOSURE MAGISTRATE, PLEASE REVIEW THE FORECLOSURE MAGISTRATE DETAILED PROCEDURES BY CLICKING ON "FORECLOSURE MAGISTRATE 5 ! 5 Cml95 a ! b" IN THE "SELECT JUDGE" MENU ON THE LEFT

If a **WRITTEN OBJECTION HAS BEEN FILED** to the Foreclosure Magistrate, you may book your motion with the Senior Foreclosure Judge by following the scheduling procedures for the Senior Judge. Please click on the following link to review the Senior Judge required procedures in the "Select Judge" menu on the left.

If your hearing requires 60 minutes or more, please refer to the assigned Judge's instructions in his/her office procedures. PLEASE DO NOT SET ANY FORECLOSURE CASES/MATTERS ON JUDGE SHENKO'S CIVIL/REGULAR "JACS" CALENDAR. ANY FORECLOSURE HEARING SET WITH JUDGE SHENKO WILL

REQUIRE THE PRIOR APPROVAL OF THE JUDICIAL ASSISTANT. THIS APPROVAL WILL BE GIVEN ONLY IF THE SCHEDULING PROCEDURES STATED ABOVE ARE NOT AVAILABLE.

GENERAL CIVIL CASES – SCHEDULING WITH GENERAL MAGISTRATE:

The following Motions may be scheduled with the General Magistrate

All Discovery Motions	Motion for Contempt
Motion for Protective Order	Motion for Sanctions
Motion to Transfer Venue	Motion to Add/Substitute Parties
Motion to Withdraw	Motion to Intervene
Motions Directed to Pleadings	Order to Show Causes
Motion to Amend	Motion for Attorney's Fees/Costs
Pretrial Conference	Motion to Dismiss
Motion to Compel	Trial/Final Judgment
Motion to Strike	

Please file your Motion with the Clerk then proceed to submit an Order for Referral to the judge assigned to the case for his/her consideration. All Motions heard before the Magistrate **MUST** have an **Order of Referral** prior to scheduling a hearing. Please do not schedule any of these motions with Judge Shenko 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).

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". However, there will be two 30 minute slots , one at 9:00 and one at 1:30 per each "JACS" day. If those slots are taken and you want to set a 30 minute hearing, please call the Judicial Assistant for dates and times.

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). In other words, your single case is limited to one hearing block of 20 minutes on any JACS motion day and you cannot book multiple hearing time blocks on your case that exceed 20 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: 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 Court Call at least seven business days in advance of the hearing. Court Call can be contacted at 888-882-6878 or www.courtcall.com. If someone is planning to attend a hearing by phone, the hearing must be scheduled and designated as a phone hearing on "JACS" and noticed accordingly.

LONG HEARING REQUEST: Hearings 1 hour or more must be requested in writing along with a copy of the motion(s) and approved by Judge Shenko before hearing time will be scheduled. The judicial assistant will contact the attorneys' office to schedule these hearings. When estimating necessary hearing time, remember to include opposing counsel's time. Judge Shenko will limit the duration of the hearing to the time requested. If you don't finish in the time requested, the motion will have to be rescheduled.

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 HEARING REQUEST: Emergency Hearings must also be requested in writing. Describe the precise nature of the emergency and give an estimate the hearing time needed. 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 Shenko will then decide whether a hearing on the Motion is required. 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 239-252-8788.

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 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 the pretrial conference to be heard by the judge 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:

A photocopy of the notice is sent from the clerk's office to the Judge's office. 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.

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. 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.

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 for a future non-jury foreclosure trial docket before the senior foreclosure judge.

The exception to the scheduling of the trial is that the assigned judge may schedule the longer trial request before him/her.

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 if you receive the voice mail, please leave your name and a brief message and your call will be returned as soon as possible.

MEMORANDA: Written memoranda, statutes, rules, and caselaw 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.

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.

Thank you for your cooperation!

Other People Who Can Help:

Judicial Assistant

Dana

(239) 252-4264

Court Administration

(239) 252-8800