

# **Judge James F. Stewart Procedures**

## **Collier County**

**ATTORNEYS:** Please read and follow the Standards of Professional Courtesy and Conduct for Lawyers Practicing in the Twentieth Judicial Circuit found at [www.ca.cjis20.org/pdf/ao/ao\\_2\\_20.pdf](http://www.ca.cjis20.org/pdf/ao/ao_2_20.pdf).

**LEGAL ASSISTANTS and PARALEGALS:** Please read these procedures and remind your Attorneys to do so also.

**JUDGE WEBSITE INFORMATION:** Available on 20<sup>th</sup> Judicial Circuit Webpage ([Judge Webpage](#)) are the following: (edit link with new page)

- Judge Downloads, including forms
- Zoom Information

### **GENERAL POLICIES AND PROCEDURES**

**CONTACTING JUDGE OFFICE:** You may contact Judge Stewart's Office via email at [unassignedjudge@ca.cjis20.org](mailto:unassignedjudge@ca.cjis20.org)

Collier County Courthouse  
3315 Tamiami Trail East, Suite 402  
Naples, FL 34112

**All proposed orders MUST be submitted to the E-Portal for Judge review and signature.**

Judge office does NOT accept paper orders, with the exception of Final Judgments of Foreclosure which must be mailed to Judge with copies and stamped envelopes for the parties.

Office hours for contacting the Judge's office are 8:30 AM to 4:30 PM. Due to the high volume of phone calls and emails that the Civil Division receives, you may not reach the Judicial Assistant in person. Therefore, when calling and leaving voice mail or sending an email, please indicate: your name; the name of the attorney if contacting us for an attorney; case number; and a brief message.

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.

**TRANSMITTAL LETTERS OR EMAILS:** Please send a transmittal letter or email when you submit documents to Judge office indicating: (1) Case number and caption; (2) what is being submitted if anything; (3) the reasons for such being submitted; (4) the date of the court proceeding to which they pertain; (5) a list of those copied with the letter and such submissions; AND (6) whether it is agreed. **(ALL attorneys and self-represented parties should be copied**

**on ANY communications with the Judge's office!)** HOWEVER, such communications should be short. If more than a few sentences are necessary, you should put your concerns or requests in a MOTION. Judge does not take action on letters or emails, ONLY motions and pleadings.

**IDENTIFY COURT DOCUMENTS WITH SPECIFICITY:** For judicial economy and in accordance with Administrative Order No. 2.35: When a party to a proceeding before the Courts of the Twentieth Judicial Circuit, or counsel, files a pleading, document or notice of hearing, or submits a proposed order, which includes a reference to a previously filed pleading, document or to the motion being scheduled for hearing, the party or counsel shall, for ease of further reference: (1) identify with specificity the previously filed pleading or document referenced therein, or the motion being scheduled for hearing; (2) identify the previously filed pleading or document referenced therein, or the motion being scheduled for hearing, by the date it was filed with the Clerk of Court; AND (3) identify the previously filed pleading or document referenced therein or the motion being scheduled for hearing, by the docket line or docket number, as may be reflected on the Clerk's online web portal, if accessible by the party or counsel. Always include the date of filing of the pleading, motion, order etc. to which you are referring.

### **MOTIONS**

**IMPORTANT:** **Motions or other court proceedings not scheduled pursuant to the procedures set forth below, may be cancelled by the Judicial Assistant (JA) without notice.**

**TYPES OF MOTIONS HEARD BY JUDGE:** All motions except as specifically set forth herein that are to be referred to the Magistrate, will be heard by Judge and scheduled on the Judge's motion-calendar. Judge hears all Motions to Withdraw and Motions for Continuance.

**TYPES OF MOTIONS HEARD BY MAGISTRATES:** ANY civil motion may be heard by the Magistrates assigned to your case upon agreement of attorneys and self-represented parties. The following motions SHOULD be heard by the Magistrate:

- Discovery Motions
- Claims of Exemption
- Forfeiture- Preliminary Adversarial Hearing
- Motion for Leave to File Amended Pleading
- Motion to Strike Affirmative Defenses

All motions must be set for hearing and heard within 60 days from filing the motion or the motion will be deemed abandoned and denied.

**SCHEDULING HEARINGS BEFORE MAGISTRATES:** Before obtaining court time before a Magistrate, please obtain agreement from the other attorneys or parties to same. While parties or their attorneys in civil cases may object to proceedings occurring before a Magistrate at any time up to the beginning of said proceedings, failure to obtain prior agreement to using the Magistrate or last-minute withdrawal of such agreement, may be grounds for the assessment of fees and costs.

**No motions can be scheduled before the Magistrate within 90 days of the commencement of the trial period. All such motions must be heard by the Judge.**

Magistrate Pamela Barger is the Civil Magistrate for Judge Stewart.

Please refer to the [Magistrate Downloads](#).

If you are requesting a hearing on a Motion to Compel Discovery, please follow the directions below regarding these types of Motions.

**EXCEPTIONS TO THE MAGISTRATE’S RECOMMENDED ORDERS:** If an Exception to the Magistrate's Recommended Order is filed, please provide a copy to Judge Stewart’s office. After the judge's review, the Judicial Assistant will set the Exceptions for a hearing.

## **SCHEDULING HEARINGS:**

**JUDGE’S MOTION CALENDAR:** Judge Stewart regularly hears Motions requiring **20** minutes or less scheduled on the JACS scheduling system. If you can’t find a time slot on JACS within a reasonable period of time, you may contact Judge Judicial Assistant via her email address. Longer hearings may be scheduled through request to Judge Judicial Assistant via email address including all parties on the email. ([unassignedjudge@ca.cjis20.org](mailto:unassignedjudge@ca.cjis20.org))

**ZOOM HEARINGS:** All hearings under **60** minutes, Status Conferences, Pre- Trial Conferences and Docket Soundings will be held via Zoom.

**Zoom ID: 820 195 9326**

**IMPORTANT:** When scheduling hearings, please schedule enough time for you to present your argument and information as well as the opposing attorney(s) or self-represented parties. Judge holds attorneys and self-represented parties to the time that they have reserved. The time allotment that you choose will be divided by the number of parties involved in your case, e.g. one-half of a hearing time will be allotted to each party in cases involving 2 parties. The time allotted to each party includes direct and cross examination of witnesses, any opening statements and closing or other argument.

**Important JACS Log-On Information for scheduling Civil Motions:** For first time users, click the “Schedule Time Slots” link, enter your bar number for both user ID and password, select a Judge James F Stewart and then click “Log in”. If you are able to log in, the system will give you the opportunity to set a password of your choice. Please enter the case in the following format; 4-digit year, letters assigned to the case type and the base case number, for example “2010ca1234”. If you are unable to successfully log-in, send an email with your bar number to [CollierJacs@ca.cjis20.org](mailto:CollierJacs@ca.cjis20.org).

**For all hearings longer than 20 minutes, please contact the Judge’s office to schedule at [unassignedjudge@ca.cjis20.org](mailto:unassignedjudge@ca.cjis20.org).** You do NOT need to send a letter to the Judge for a hearing of up to 1 hour. Just email Judge Stewart’s Judicial Assistant and all parties. Judge Stewarts Judicial Assistant will give you a couple of dates and times. The movant or movant’s attorney then must coordinate with the other parties or their attorneys. DO NOT

INCLUDE US ON THE EMAILS between attorneys, EXCEPT to let us know which date and time you would like for your motion. **Judge Stewart's Judicial Assistant does not actually schedule your motion until you email her as to which date and time is acceptable to all parties or their attorneys.** She will then give you a confirmation number. We do not hold dates, so act quickly to confirm the date you have agreed on.

**For hearings longer than one (1) hour**, please submit your request in an email and attach the Motion upon which you are requesting a hearing. Please also mail in a copy to Judge Stewart's Office no later than 7 days prior to the hearing.

**NO PIGGYBACKING OF MOTIONS:** Once a motion is scheduled, subsequent motions may not be "piggybacked" or "cross-noticed" onto the time reserved for the first Motion, absent prior approval of the Court AND the original scheduling attorney.

**NO BACK TO BACK SCHEDULING:** Attorneys may NOT schedule the SAME Motion for back to back hearings to acquire a longer block of hearing time (e.g. scheduling two 5-minute hearings to acquire 10 minutes, etc.) Any hearings scheduled in this manner may be cancelled. Contact Judge Judicial Assistant via email if you are having difficulty scheduling.

**Notices of Hearings:** All Notices of Hearing shall reflect the following in addition to the date and time of the Motion:

- If the hearing is to be evidentiary, this **MUST** be reflected in the Notice of Hearing.
- The title of the motion or motions to be addressed at the hearing along with their docket line number AND the **date** that they were filed.
- The amount of time reserved for the hearing.
- The moving party must confer with the opposing party in a good faith effort to resolve the issues raised in the motion. Such conferral must be **between** the attorneys in-person, by phone or by video- conference.
- Parties must comply with the conferral and certification requirements in Fla.R.Civ.P. 1.202 and 1.460(d).

## **SPECIFIC MOTION PROCEDURES:**

### **Motions to Compel Discovery:**

- Certain Motions to Compel may be reviewed, decided and an order issued without a hearing. A Motion to Compel discovery in a civil action may be submitted to the Court without a hearing if the moving party has complied with the following procedures:
- 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.
- The Motion must include the following:
  - The nature of the discovery and the date upon which the discovery was propounded and due;
  - 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
  - That the moving party has otherwise complied with Fla.R.Civ.P.1.380(a)(2), certifying that he/she 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.

- 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 order to the Court.
- In entering the above 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 to pay costs and/or attorney-fees if appropriate.

### **Motions to Cancel Foreclosure Sales:**

#### **The Procedure:**

- You may submit a Stipulated Order to Cancel Foreclosure Sale (at least 24 hours before the sale date – on a business day) to Judge Stewart. **HOWEVER, a Stipulation does not guarantee that the Judge will cancel the sale.** Stipulations that do not set forth good cause for the Court to cancel a sale, may be DENIED.
- If the Motion is not stipulated, a party seeking to cancel a foreclosure sale shall file and serve on all parties a Motion as contained in Form 1.996(b) of the Florida Rules of Civil Procedure. The Motion shall be noticed for hearing, with service on all parties, at least five (5) business days BEFORE the hearing.
- The Clerk of Courts will not cancel any foreclosure sale without the entry of an order canceling and resetting the sale except if a Petition for Bankruptcy has been filed in federal court and a Notice of such has been filed in the Court file.

**Motions for Rehearing/ New Trial/Advance Docket:** Such motions must be submitted in writing and must be reviewed by the Judge before they may be scheduled for hearing. Such motions should be filed with the Clerks' Office. The Clerk's Office generally forwards them to the presiding Judge. However, if you want to ensure that it does reach the Judge, you may email it to the Judge's Judicial Assistant after you have filed it in the Court file. A hearing may only be scheduled for hearing time IF the Judge so directs and approves. You will receive an Order if the Court denies the Motion without a hearing. Judge Judicial Assistant will contact you regarding hearing time if the Judge directs a hearing to be held.

#### **Motions to Continue Trial:**

- This Court strictly adheres to *Fla.R.Jud.Admin. 2.545(e)* and *Fla.R.Civ.P. 1.460*. As such, continuances are disfavored, shall rarely be granted and only upon a showing of good cause.

**CANCELLATIONS OF MOTION HEARINGS:** If you cancel a hearing, you are required to file a Notice of Cancellation. If you scheduled through JACS, you may cancel up to 3 business days before the hearing. You cannot cancel hearings set by the Court. The Notice of Cancellation should be filed with the Clerk's Office, with copies being provided to all parties and counsel of record, as well as the Judge's office, as soon as counsel becomes aware that a hearing is to be cancelled or is otherwise given reasonable notice of the cancellation. If a hearing has been cross-noticed by self-represented parties or counsel, then they must agree to the cancellation of the subject hearing and file a Notice of Cancellation of Cross-Notice of Hearing. You may not cancel a cross-noticed motion hearing without written consent of the parties/counsel.

**NOTE: IT TAKES THE CLERK'S OFFICE AT LEAST 48 HOURS TO PROCESS ANY FILED DOCUMENTS.**

**DOCUMENTS SUBMITTED TO THE JUDGE REGARDING MOTIONS:** Please do NOT forward copies of items that have been filed in the Court file including Notices of Hearings, Motions, and Memoranda. You do not need to forward case law that is cited in your court filings. The Judge knows how to access Westlaw. If you plan to rely on case law that is NOT cited in your court filings, you may forward such a case if you believe it is important for the Judge to read. Please forward proposed orders and judgments to the Judge's Judicial Assistant AFTER the court proceeding, NOT before it. **Please forward them through the e-portal in WORD format.** Your letter attaching said orders or judgments should indicate whether there are any disagreements as to the submitted documents.

**EXHIBITS TO BE USED IN ZOOM HEARINGS:**

- Please refer to [Administrative Order 2.40.](#)
- Please forward all exhibits to the Judge's Judicial Assistant via email 5 days prior to your court proceeding. All exhibits must be marked with an exhibit number or letter and you must provide an index. You must also provide paper copies to the Clerk's Office 5 days prior to the court proceeding.
- You are required to forward to opposing counsel and any self-represented parties, copies of what is forwarded to the Judge and Clerk's office. (You aren't required to send copies of both because presumably these are the same.)

## **TRIAL PROCEDURES AND DOCKETS**

**COURT ORDERED CASE MANAGEMENT PLANS:** Judge Stewart will issue a Case Management Plan no later than 120 days after the commencement of an action. Said Plan will have dates for a Mandatory Status Conference, Pre- Trial Conference, Docket Sounding and a trial period.

The Court's Case Management Plan imposes deadlines for hearings on certain motions and other trial preparation activities, including hearings on Motions for Summary Judgment, Motions in Limine, Daubert Motions and hearings on Objections to Deposition Designations. The Court strictly enforces the terms of its Case Management Plan and its Trial Order, including hearing deadlines and witness and exhibit disclosure.

**TRIAL DOCKETS:** Judge will issue trial orders subsequent to the Status Conference. For each trial period, trials will be called from the list of the trials scheduled for that trial period for which your case has been set. Generally, the oldest cases as determined by date of filing will be scheduled first. You are expected to be ready for trial for the entire trial period for which you have been scheduled. Generally, Judge does not schedule date certain trial times. As your case is reached on the trial list, your offices will be contacted. If you believe you are legally entitled to a date certain trial date or priority trial scheduling, a motion should be filed and addressed with the Court at a hearing no later than the Pre-Trial Conference.

**PRE-TRIAL CONFERENCES:** Attendance at Pre-Trial Conferences shall be via Zoom. A Pre-Trial Conference Order must be submitted to the Court prior to the Pre-Trial Conference Date.

(See the Court's Trial Order issued in your Case.)

**SETTLEMENT:** If you settle your case, please notify the Judge's office and forward a copy of Notice or Stipulation of Dismissal. The Judge will not take you off the trial docket until her office has received copies of the Notice or Stipulation of Dismissal and a Final Disposition Report in conformance with Rule 1.998 of the Rules of Civil Procedure.

**MEMORANDA:** Written memoranda on lengthy or complex motions are not necessary but if supplied, they must be submitted **at least seven (7) 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 1/2-by-11-inch paper, and shall also comply with the lettering and spacing requirements of Rule. 9.210(9)(2), Rules of Appellate Procedure.

**MEDIA EQUIPMENT:** Apple Products are not compatible. Please bring your own laptop, VGA (Video Graphic Array) compatible preferred. If you have an HDMI (High Definition Multimedia Interface) connection, you must bring you own adaptor and laptop.

***Thank you for your cooperation!***