DIVISION CV-E POLICIES AND PROCEDURES[1]
JUDGE BRUCE R. ANDERSON, JR.

Fourth Judicial Circuit Court of the State of Florida
Division CV-E

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Division CV-E Website: HTTP://www.jud4.org/ex-parte-procedures-and-dates

[1] These "Policies and Procedures" are published to assist counsel appearing in Division CV-E by addressing routine questions and issues that arise while litigating and trying cases and will be revised/updated periodically. They are not intended to relax or supplant the Florida Statutes, the Florida Rules of Court, local rules of Court, administrative orders, case specific court orders, the Rules Regulating Florida Bar (including, without limitation, the Rules of Professional Conduct), or any other substantive or procedural law (collectively, the "Applicable Law, Rules and Procedures"). All Applicable Law, Rules, and Procedures are intended to prevail, unless expressly stated otherwise.

INTRODUCTION[2]

The effective administration of justice requires the interaction of many professionals and disciplines, but none is more critical than the role of the lawyer. In fulfilling that role, a lawyer performs many tasks, few of which are easy, most of which are exacting. In the final analysis, a lawyer's duty is always to the client. In striving to fulfill that duty, a lawyer always must be conscious of his or her broader duty to the judicial system that serves both attorney and client. To the judiciary, a lawyer owes candor, diligence, and utmost respect. To the administration of justice, a lawyer unquestionably owes the fundamental duties of personal dignity and professional integrity. Coupled with those duties is a lawyer's duty of courtesy and cooperation with fellow professionals for the efficient administration of our system of justice and the respect of the public it serves. In furtherance of these fundamental concepts, the lawyers should familiarize themselves with the current "Guidelines for Professional Conduct by the Trial Lawyers Section of the Florida Bar" (adopted by the Conferences of Circuit and County Court Judges), that can be found on the Court's website. It is recognized that these Guidelines must be applied in keeping with the advocacy of the interests of one's client and the long tradition of professionalism among and between members of the Trial Lawyers Section of The Florida Bar. These Guidelines are subject to the Florida Rules of Civil Procedure, the Florida Rules of Professional Conduct, and the specific requirements of any standing or administrative order, local court rule, or order entered in a specific case. The lawyers should also familiarize themselves with the "2019-2021 Professionalism Handbook" by the Florida Bar Standing Committee on Professionalism that can be found on the Court's website.

These policies and procedures have been revised in response to various legal developments since I was assigned to Division CV-E on January 1, 2020, including, but not limited to, the greater use of communication technology to participate in remote court proceedings, the amendments to Rule 1.510, various Florida Supreme Court Administrative Orders reemphasizing the trial court's responsibility to actively case manage, and the anticipation of significant amendments to the Florida Rules of Court that will likely increase demands on trial court resources already stretched thin with duty obligations and hearing and jury trial responsibilities. These divisional policies and procedures are intended to streamline litigation, reduce the need for hearing time, avoid the unnecessary stress that arises during final trial preparations, and reduce the number of trial cases continued.

Judge Bruce Anderson

[2] In part from the 2019 "Guidelines for Professional Conduct by the Trial Lawyers Section of The Florida Bar."

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I. EX PARTE HEARINGS:

A. Ex parte hearings are only for **uncontested** matters that can be heard and addressed by the Court in five minutes or less.

B. Ex parte will be held from 9:00 a.m. to 10:00 a.m. on certain, identified dates. Ex parte dates are posted on the website above, as well as outside Chambers 739.

C. Given the nature of ex parte hearings, in-person appearances telephonic appearances and appearances via the Zoom videoconferencing platform ("Zoom") will be allowed for both local and out-of-town counsel/parties pursuant to Rule 2.530, Fla. R. Jud. Admin.

D. **Hybrid Zoom Ex Parte Hearings**. The Court will permit ex parte hearings to be conducted in a hybrid remote manner, with some counsel/parties appearing in-person and other counsel/parties appearing via Zoom pursuant to Rule 2.530, Fla. R. Jud. Admin..

E. **Hybrid Telephonic Ex Parte Hearings.** In the event any counsel elect to attend ex parte in-person while other counsel/parties elect to attend telephonically, counsel must have a specific plan for the Court to either call a conference call-in number to reach all other counsel/parties or a direct dial phone number for the Court to call the counsel/party who shall be responsible for conferencing in any other counsel/parties electing to attend telephonically at the time of the commencement of the ex parte hearing. The brief time limits and format of ex parte hearings will not permit the Court to act as the phone operator to coordinate the connections, act as the "host" or otherwise connect counsel/parties together who separately call the Court's hearing room to participate in ex parte hearings.

F. If any counsel, local and/or out-of-town counsel plan on attending the ex parte hearing by phone or by Zoom, please contact the Court to schedule a time-certain hearing and file a Notice of Hearing containing specific telephonic instructions or a Zoom invitation, identifying any parties/counsel appearing in-person at such hearing, and e-mail the Notice to the Court at pfields@coj.net.

G. All attorneys, parties, or other persons participating in or observing the ex parte hearing remotely through the use of communication technology shall comply with "The Florida Bar Recommended Best Practices for Remote Court Proceedings" that can be found on the Court's website.

II. SETTING CASES FOR TRIAL (JURY AND NON-JURY):

A. **Notice for Trial:** Plaintiff shall and any party may file a notice that the action is at issue and ready to be set for trial pursuant to Florida Rule of Civil Procedure 1.440(b) and submit to the Court a completed Trial Set Memorandum no later than ten (10) days after the date the case is at issue as defined by Florida Rule of Civil Procedure 1.440(a) to schedule the case for trial pursuant to the division's procedures (See Section II.) *infra*.

B. If the parties agree to set the case for trial via e-mail, the movant shall e-mail the Motion to Set and a fully completed Division CV-E Trial Set Memorandum to the Court. The Trial Set Memorandum form can be found on the Court's website. The movant's enclosure e-mail to the Court shall copy all opposing counsel/parties and provide several trial dates agreed to by all counsel/parties. A list of all available Division CV-E trial dates can be found on the Court's website. The enclosure e-mail should also identify for the Court a mediator agreed to by all counsel/parties. In the event the parties are unable to agree to a mediator, then the enclosure e-mail should advise the Court that the parties were unable to agree to a mediator and provide a list of three (3) mediators for the Court to consider.

C. In the event the parties are unable to agree to a trial date, the movant may obtain ex parte dates from the Court's website and coordinate with opposing counsel which date is best for all parties. **Ex parte hearings shall be coordinated between the parties and scheduled with the Court, if necessary, pursuant to the provisions for in-person, telephonic and/or remote appearances pursuant to Section I. supra.**

D. The movant then must file a Notice of Ex Parte Hearing for the agreed-upon date. Courtesy copies of the uncontested Motion and Notice of Hearing **do not** need to be provided to the Court, unless any counsel plan on attending the ex parte hearing by phone or by Zoom pursuant to Section I. F. In that case counsel shall e-mail the Court courtesy copies of the Notice of Hearing, Motion to Set, and a fully completed Division CV-E Trial Set Memorandum.

E. At the ex parte hearing, the in-person movant must present to the Court a **fully completed Division CV-E Trial Set Memorandum form.** The form can be found on the Court's website and in Chambers. As noted on the form, **please include telephone numbers and email addresses for counsel AND for e-filing**. If the movant is appearing via telephone or Zoom, then the Trial Set Memorandum form shall be e-mailed to the Court.

F. The Movant shall be responsible for providing **addressed, stamped envelopes for parties not receiving pleadings and orders via the e-Portal.** Further, the Movant shall provide a **blank, stamped envelope for the appointed mediator** (if the mediator is not using e-Portal). Envelopes are not necessary for all individuals or entities using e-Portal.

G. The Court will prepare the Order Setting Case for Trial. For information purposes, the form Case Management Orders Setting Case for Jury Trial and Non-Jury Trial for Division CV-E can be found on the Court's website.

H. The parties must comply with the "Trial Conduct and Courtroom Decorum Policy" that can be found on the Court's website.

I. If a case settles, the parties must immediately contact the Court to have the case removed from the calendar/trial docket. In addition, the parties must comply with the Court's "Procedures for Settlement or Dismissal of Cases" (See Section XV) *infra*.

III. SETTING HEARING FOR PENDING MOTION:

A. The party requesting the hearing shall email the Court at pfields@coj.net and copy the assistant(s) for opposing counsel and provide the case number, the motion(s) to be set for hearing and how much time is being requested.

B. The Judicial Assistant will "Reply to All" with available hearing dates/times. PLEASE NOTE: HEARING DATES/TIMES PROVIDED ARE NOT HELD AND MAY BE GIVEN TO OTHERS. HEARING DATES/TIMES ARE NOT SECURED UNTIL CONFIRMATION IS SENT FROM THE COURT.

C. For non-evidentiary hearings scheduled to take **thirty (30) minutes or less,** counsel shall be permitted to appear in-person, telephonically and/or via Zoom, regardless of whether they are local or out-of-town pursuant to Rule 2.530(b)(1), Fla. R. Gen. Prac. & Jud. Admin.

D. If counsel would like to attend a non-evidentiary hearing scheduled for **thirty (30) minutes or less** via telephone or Zoom, counsel may do so without further Order of the Court, pursuant to Rule 2.530(b)(1), Fla. R. Gen Prac. & Jud. Admin. Please notify the Court of counsel's intention to appear telephonically or via Zoom at the time the hearing is scheduled and include all necessary information in the Notice of Hearing for the Court to dial into the conference call, direct dial counsel or log into the Zoom hearing room.

E. Should counsel desire to attend a non-evidentiary hearing scheduled for **more than thirty (30) minutes via telephone or Zoom,** counsel must seek leave of Court by filing a written Motion and providing a courtesy copy of the Motion setting forth good cause to grant the Motion pursuant to Rule 2.530, Fla. R Gen. Prac. &. Jud. Admin. and proposed consent Order to the Court via electronic mail. In the event all parties do not consent to use communication technology for a **non-evidentiary** hearing scheduled for **more than thirty (30) minutes**, any party desiring to use communication technology shall seek leave of court by filing a written motion setting forth why good cause exists pursuant to Rule 2.530, Fla. R. Gen. Prac. & Jud. Admin. to grant the motion and schedule a **fifteen (15) minute** hearing on such a motion to be heard **prior** to the **non-evidentiary** hearing scheduled for **more than thirty (30) minutes**.

F. Should counsel desire to participate in an **evidentiary hearing or trial** and present testimony through telephone, Zoom, or other communication technology, regardless of the duration of the hearing, counsel must seek leave of Court by filing a written motion setting forth good cause to grant the motion pursuant to Rule 2.530(b)(2), Fla. R Gen. Prac. & Jud. Admin. and providing a courtesy copy of the Motion and a proposed Consent Order to the Court via electronic mail. In the event all parties do not consent to use communication technology for an **evidentiary** hearing, any party desiring to use communication technology shall seek leave of court by filing a written motion setting forth why good cause exists pursuant to Rule 2.530(b)(2), Fla. R. Gen. Prac. & Jud. Admin. to grant the motion and schedule a **fifteen (15) minute** hearing on such a motion to be heard **prior** to the **evidentiary** hearing.

G. Telephonic appearance is a privilege. **Counsel must call the Court's Chambers at the number above promptly at the time of the telephonic hearing**. If multiple attorneys will telephonically appear at a hearing, please have all counsel on the line prior to calling the Court's chambers. Any difficulties may require the Court to not allow future telephonic appearances. If the telephone hearing is being held via a conference call-in number, the host shall dial-in no less than five (5) minutes before the hearing is scheduled to begin.

H. Zoom appearance is a privilege. Counsel hosting a zoom hearing shall promptly "start" the zoom meeting no less than five (5) minutes before the hearing is scheduled to begin. All non-hosting counsel/parties shall log in no less than five (5) minutes before the hearing is scheduled to begin. All attorneys, parties, witnesses, or other persons participating in or observing court proceedings remotely through the use of communication technology shall comply with "The Florida Bar Recommended Best Practices for Remote Court Proceedings" that can be found on the Court's website.

I. Courtesy copies: Courtesy copies (hard copies) of all Court filings pertaining to a motion set for a time certain scheduled hearing **MUST be provided to the Court no later than ten (10) business days prior to the scheduled hearing or immediately if the hearing is scheduled within that time period.** Courtesy copies are to be hand delivered with a cover letter or mailed with a cover letter. All opposing counsel/unrepresented parties must be copied with the letter and the enclosure(s), if the enclosure(s) not previously provided through the e-portal/service of process, and specify on letter. Not complying with the Court's request for copies may result in the hearing being cancelled without notice.

J. Hearing Notebooks, Legal Memorandums and Citations: Any hearing notebooks, legal memorandums or briefs, along with hard copies of the significant cited authorities, **must be provided to the Court at least ten (10) business days before the hearing**, or immediately if the hearing is scheduled within that time period. Such item(s) are to be hand delivered with a cover letter or mailed with a cover letter. *Please be sure to provide all opposing counsel with the same cover letter and item(s)*. The Court will attempt to review the motion(s) and the memorandums, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections of case law is appreciated. Brevity is also appreciated. Case law and Memoranda provided to the Court less than ten (10) business days prior to the scheduled hearing or for the first time during the hearing may not (in the Court's discretion) be considered. **The Court, on occasion, may rule on motions without a hearing. Therefore, counsel are encouraged to timely file written argument supporting and opposing their positions with the Court.**

K. Limitation on Hearings: All hearings related to dispositive motions and trial matters must be **filed and heard prior to the pre-trial conference pursuant to the deadlines set forth in the Court's Case Management Order Setting Case for Trial**. Motions in Limine (MIL) are governed by Section XVIII *infra*. Motions for Summary Judgment (MSJ) are governed by Section XIV *infra.* **NO HEARINGS DIRECTED TOWARDS MATTERS INVOLVING THE TRIAL, MSJ, OR MIL WILL BE HEARD DURING THE ACTUAL TRIAL PERIOD** absent unanticipated events occurring.

L. Meet and Confer Requirement: A mandatory meet and confer process is hereby established as set forth below, for all motions to be ***set for hearing*** in Circuit Civil Division CV-E and to occur ***before*** scheduling the hearing except for the following motions: injunctive relief without notice; judgment on the pleadings; default, default final judgment, default summary judgment; or to permit maintenance of a class action.

> Counsel with full authority to resolve the matter shall confer before scheduling the hearing on the motion to attempt to resolve or otherwise narrow the issues raised in the motion and include a Certificate of Compliance (attached hereto as "Exhibit A" "First Option") that the conference has occurred in the Notice of Hearing filed with the court. It shall be the responsibility of counsel who schedules the hearing to arrange the conference.
>
> The term "confer" requires a substantive conversation in person or by telephone in a good faith effort to resolve the motion without the need to schedule a hearing and does not envision an exchange of ultimatums by fax, e-mail or letter. Counsel who merely attempt to confer have not conferred for purposes of this Order.
>
> Counsel must respond promptly to inquiries and communications from opposing counsel who notices the hearing and is attempting to schedule the conference. If counsel who notices the hearing is unable to reach opposing counsel to conduct the conference after three (3) good faith attempts, counsel who notices the hearing must identify in the Certificate of Compliance the dates and times of the efforts made to contact opposing counsel (attached hereto as "Exhibit A" "Second Option").
>
> Counsel shall include in the Notice of Hearing the Certificate of Compliance certifying that the meet and confer occurred (or did not occur and setting out the good faith attempts to schedule the conference) and identifying the date of the conference, the names of the participating attorneys, and the specific results obtained.
>
> Counsel who notices the hearing shall ensure that the court and the court's judicial assistant are aware of any narrowing of the issues or other resolution as a result of the conference.

IV. REQUEST FOR EMERGENCY HEARING:

The Court will decide whether the reasons set forth in a motion for emergency hearing and/or the allegations contained in the motion constitute an actual emergency. If the Court determines that the motion does allege an actual emergency, it will take whatever action deemed appropriate, including entry of an *ex parte* order if permissible by law.

V. HEARING REQUIRING MORE THAN ONE (1) HOUR:

Any Motion, regardless of whether the hearing will be conducted in-person, telephonically, and/or via Zoom, for which counsel is seeking more than one hour of hearing time must be scheduled with the Court during Ex Parte (See Section I, *supra*).

VI. CANCELLATION OF HEARING:

A. When cancelling a hearing, please call the Court with opposing counsel's office on the line. You may also email the Judicial Assistant and copy opposing counsel notifying the Judicial Assistant of the cancellation.

B. DO NOT assume the hearing is automatically removed from the Court's calendar. If you do not receive a telephone call or email confirming the cancellation, please try contacting the Judicial Assistant again. **A Notice of Cancellation that has been e-filed with the Clerk is not sufficient notice of a cancellation. Cancellation of a hearing MUST be confirmed with and by the Court.**

C. When a hearing on a motion to compel discovery or a motion for protective order has been placed on the Court's calendar, the hearing may not be cancelled without the Court's consent and an order or agreed order submitted to the Court ruling on said motion(s). *See First Amended Administrative Order No. 88-2* on the Court's website.

VII. MOTION TO COMPEL OR MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DISCOVERY AND MOTION FOR PROTECTIVE ORDER:

To avoid recurring discovery problems and curtail perceived abuses in discovery and unnecessary delays, counsel should comply not only with the technical provisions of the discovery rules, but also with the purpose and spirit of these rules. *Bainter v. League of Women Voters of Fla.*, 150 So. 3d 1115, 1118 (Fla. 2014). Whether conducting or responding to discovery, and in both oral and written practice, counsel must conduct themselves consistent with the standards of behavior codified in (1) the Oath of Admission to The Florida Bar; (2) The Florida Bar Creed of Professionalism; (3) The Florida Bar Ideals and Goals of Professionalism; (4) The Rules Regulating The Florida Bar; (5) the decisions of the Florida Supreme Court and (6) the applicable code of conduct and standing orders promulgated by the Fourth Judicial Circuit and Division CV-E. Counsel should also familiarize themselves with the current "Florida Handbook on Civil Discovery Practice" as a quick reference for many recurring discovery problems and quickly access legal authority for various topics. This handbook can be found on the Court's website.

Once a Motion to Compel or a Motion for Sanctions is scheduled on the Court's calendar, **it will not be removed for any reason, even if agreed to by counsel for the parties**. *See First Amended Administrative Order No. 88-2* on the Court's website. The only exception is if the case is completely resolved and settled by the parties.

All discovery motions and motions to compel must be set for hearing to bring the matter to the Court's attention. The mere filing of a motion is insufficient. Any motions filed but not set

for hearing will be considered abandoned. All such discovery motions must comply with the Florida Rules of Civil Procedure including, but not limited to, a certification of a good faith attempt to resolve that matter without court action. *See Fla. R. Civ. P.* 1.380(a)(2) and the "Meet and Confer Requirement" (See Section III. L.) *supra* for motion hearings.

The filing of a Motion for Protective Order, without attempting to set it for immediate hearing, is insufficient to protect from any discovery requested. The Court will make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery. Where necessary, and when possible, the Court will hear and, if possible, rule by telephone on motions or substantive objections that occur during depositions where a failure to do so would require the stopping of a deposition and the resetting of same depending on the Court's ruling.

VIII. COMPULSORY MEDICAL EXAMINATIONS (CME):

See *Division CV-E Guidelines Regarding Compulsory Medical Examinations* on the Court's website.

IX. ELECTRONICALLY STORED INFORMATION DISCOVERY (ESI):

See *Division CV-E Standing Order on Electronically Stored Information Discovery* on the Court's website.

X. DISCLOSURE OF PROTECTED HEALTH INFORMATION:

See *Division CV-E Standing Order on Disclosure of Protected Health Information* on the Court's website.

XI. POST-ACCIDENT SURVEILLANCE VIDEO:

It is well-established that upon receipt of a proper request to produce or interrogatories under Rule 1.280 of the Florida Rules of Civil Procedure, the existence of post-accident surveillance video ***must be disclosed*** whether or not it will be used at trial. *Dodson v. Percell*, 390 So.2d 704, 707-08; *see also Huet v. Trump*, 912 So.2d 336, 338 (Fla. 5th DCA 2005) and *Hunt v. Lightfoot*, 239 So.3d 175, 177-78 (Fla. 1st DCA 2018) (emphasis added).

It is also well-established that although the ***existence*** of the surveillance must be disclosed upon request whether or not it will be used at trial, the ***content*** of the surveillance is discoverable only if it will be used at trial for substantive, corroborative, or impeachment purposes. Thus, the contents of post-accident surveillance video not intended to be presented at trial are considered attorney work product and subject to protection, not discoverable unless a showing of extraordinary circumstances can be made. *See Dodson*, 390 So.2d at 707-08; *Huet*, 912 So.2d at 340-41; and *Hunt*, 239 So.3d at 177-78.

The type of post-accident surveillance video at issue in *Dodson* of a purportedly injured plaintiff taken after the accident occurred characterized by the Florida Supreme Court as work

product should be distinguished from a static, permanent store security surveillance video of the accident itself which is generally considered non-work product, discoverable under the Rules of Civil Procedure, which are designed to "prevent the use of surprise, trickery, bluff and legal gymnastics." *Target Corporation v. Vogel*, 41 So.3d 962, 963 (Fla. 4th DCA 2010) *quoting Surf Drugs v. Vermette*, 236 So.2d 108, 111 (Fla. 1970).

The Florida Supreme Court in *Dodson* held that judges have discretion to order the depositions of parties to be conducted before requiring production of post-accident surveillance video that is going to be used at trial. *Dodson*, 390 So.2d at 708. Post-*Dodson,* a bright line rule has been established that such surveillance video need not be produced until the surveilling party has had the opportunity to depose the subject of the video. *Hankerson v. Wiley*, 154 So.3d 511 (Fla. 4th DCA 2015).

Generally, post-accident surveillance video that is going to be used at trial is subject to discovery and may not be used as a last-minute surprise at trial. Therefore, late or surprise disclosures of such surveillance videos are discouraged and disfavored as such tactics frequently lead to, at best, otherwise unnecessary and inefficient extensions of the Court's existing pretrial deadlines or at worst trial continuances resulting in the Court failing to manage a case to its presumptively reasonable time period for the completion of cases in the trial courts of this state. See Rules 2.250 and 2.545, Fla. R. Gen. Prac. & Jud. Admin. In order to permit adequate time to incorporate the disclosure of such surveillance videos into the natural flow of the fact and expert discovery proceedings and other pretrial deadlines in the Court's *Case Management Order Setting Case for Jury Trial and Pretrial Conference and Requiring Matters to be Completed Prior to Pretrial Conference* the surveilling party must disclose such post-accident surveillance videos, together with a written disclosure filed with the Court containing the names and business addresses of each person (i.e., videographer, private investigator) involved in conducting the surveillance and obtaining the surveillance videos together with a brief description of the nature of their involvement, and produce such unedited surveillance video to opposing counsel, or the opposing party if *pro se***, no later than ONE HUNDRED EIGHTY (180) DAYS** prior to the Pretrial Conference.

XII. GUIDELINES REGARDING PRIVILEGE LOGS AND *IN CAMERA* REVIEW PROCEDURES:

See *Division CV-E Guidelines Regarding Privilege Logs and Procedures for In Camera Review and Inspection of Documents, Materials, and Records* on the Court's website.

XIII. PROCEDURES FOR SCHEDULING F.S. 90.702 ("*DAUBERT*") TYPE HEARINGS:

See *Procedures for Scheduling F.S. 90.702 ("Daubert") Type Hearings in Division CV-E* on the Court's website.

XIV. PROCEDURES FOR PLEADING, SCHEDULING, AND HEARING MOTIONS FOR SUMMARY JUDGMENT MOTIONS:

See *Procedures for Pleading, Scheduling, and Hearing Summary Judgment Motions in Division CV-E* on the Court's website.

XV. PROCEDURES FOR SETTLEMENT OR DISMISSAL OF CASES:

If a case settles or is voluntarily dismissed and there are future hearings, or a trial scheduled on the Court's docket, please provide the Court's Judicial Assistant with a courtesy copy of an e-filed Notice of Settlement or Dismissal immediately by email to allow the Court to free up hearing/trial time for other cases. Counsel shall also notify the Court of any pending hearings that will be canceled as a result of the settlement. Parties are directed to file appropriate dismissal papers including the Final Disposition Form (see Form 1.998) as required by the Florida Rules of Civil Procedure (Rule 1.545). In the event of settlement, the parties shall immediately file a Notice of Settlement. The parties shall immediately meet and confer to prepare an *Agreed Case Management Order Regarding Settlement* (template found on the Court's website in Word format) to be submitted to the Court detailing the anticipated timeline for final disposition of the action pursuant to Rule 1.545 Fla. R. Civ. P. Additionally, the parties shall submit a stipulation for an order of dismissal or shall file a dismissal with prejudice. A copy of the mediation report is insufficient to remove the case from the Court's hearing calendar or trial docket.

XVI. MINOR'S SETTLEMENT:

See *Guidelines Regarding Approval of Minor's Settlement* on the Court's website.

XVII. ATTORNEY'S FEES AND COSTS:

If entitlement has not been found, a hearing on entitlement must be set first. If entitlement has previously been found or if entitlement is not being contested, counsel seeking attorney's fees and costs shall prepare the Order finding entitlement incorporating by reference Division CV-E's *Procedures on Motion to Tax Costs and Award Attorney's Fees* found on the Court's website. The parties shall comply with said procedures prior to the Court holding an evidentiary hearing on reasonableness.

XVIII. MOTIONS IN LIMINE (MIL):

A. MIL may not be scheduled for a hearing unless counsel have complied with the "Meet and Confer Requirement" (See Section III L.), *supra* and such MIL contain a certification of a good faith attempt as to each item to resolve the matter without court action in the form of a Certificate of Compliance (attached hereto as "Exhibit A") that the conference has occurred in the Notice of Hearing filed with the Court. Notices of hearing on MIL must identify the specific issues which remain in controversy after counsel have met and conferred. MIL will not be heard during the trial.

B. All case specific MIL shall be filed, served, noticed, and heard or agreed to by the parties no later than the deadline set forth in the case management order or the order setting case for jury trial. The MIL shall state with particularity the grounds upon which it is based and the substantial matters of law to be argued and shall identify any evidence or supporting material on which the movant relies.[3] Opposing counsel shall have five (5) business days to file a written response if they wish. Courtesy copies of such MIL, Notices of Hearing, written response(s), hearing notebooks, legal memorandums and citations are governed by Sections III I. and J. *supra*.

C. The Court may summarily rule on any MIL not written with particularity as described above. Any MIL not timely filed and/or not discussed by counsel at the meet and confer and (if unresolved) not set for hearing will be considered abandoned.

D. The party filing the MIL will prepare the proposed order on any contested hearing reflecting the Court's rulings(s). All counsel is reminded that rulings on MIL are non-final orders subject to modification during trial as evidence is presented.

XIX. EMERGENCY MOTION/MOTION FOR REHEARING/MOTION FOR NEW TRIAL:

The Motion should first be e-filed with the Clerk of Court. The movant must provide the Court a courtesy copy of the Motion by mail, hand delivery or email. However, any large documents (more than 20 pages, including attachments) must NOT be emailed, rather, in such case, the movant should follow the procedures set forth in Section III. I. and J. *supra*. If any party requests a hearing set on the Motion, that party should contact the Court consistent with the instructions above (See Section III). *supra.* The request for hearing may or may not be granted.

XX. PROPOSED ORDERS WHEN THE COURT MAKES A RULING:

The Court will strive to issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing.

[3] "Omnibus" and "boilerplate" motions in limine are discouraged. *Boyles v. A&G Concrete Pools, Inc*., 149 So.3d 39, 43-44 (Fla. 4th DCA 2014) ("Motions in Limine can serve an important function in streamlining a trial. The excessive use of them, however, can clog the docket and become a trap. Boilerplate motions in limine filed early in a case have dramatically increased since the amendment of section 90.104, Florida Statutes in 2003. This amendment modified the rule requiring a contemporaneous objection to preserve an objection to the admission of evidence on appeal…. Civil litigants now attempt to obtain blanket rulings well in advance of trial on every conceivable reason to object to evidence at trial, whether or not those matters apply to the facts of the case. Therefore, when the trial is held later, litigants believe that they do not have to object at all, and appellate issues will still be preserved. Trial judges may be put in the position of having to sua sponte strike evidence or hazard an appellate reversal with the requirement of a new trial…. Trial judges do not have to consider such motions well in advance of trial. Many times, they should not rule in advance. Evidentiary issues often depend upon the context in which they are raised or the other evidence which is admitted or developed through discovery. Where evidence excluded by a prior order in limine is admitted inadvertently, simply because it was not pointed out to the trial court that the evidence violated the order, this provides an appealable issue and an opportunity for a new trial, even though the error could have been easily corrected had it been pointed out by the parties. To prevent that from occurring in this case, the trial judge astutely required the parties to object to any evidence sought to be excluded. Because the Plaintiff did not object, this issue was not preserved for appeal").

A. Proposed orders after a hearing are to be timely submitted to the Court as follows:

1. If counsel is asked to prepare an order, the order should be drafted and circulated to opposing counsel within three (3) working days and must be submitted to the Court within seven (7) days of the hearing, with a copy to opposing counsel.

2. All orders must describe, in the caption, the subject and ruling of the court, i.e. *"Order Granting Plaintiff's Motion for Partial Summary Judgment on Liability."* See Fla. R. Civ. P. 1.100(c)(1).

3. If there is an unrepresented party involved in the case not using e-Portal, the proposed Order must be submitted to the Court in writing, with sufficient copies for an original to be entered by the Court and a copy for each party not using e-Portal. Further, the party presenting the proposed Order, shall be responsible for providing **addressed, stamped envelopes for parties not using the e-Portal**;

4. If all parties before the Court are using e-Portal, the proposed Order may be emailed to the Court in Microsoft Word format; and

5. The proposed Order service list must contain e-filing addresses for opposing counsel/unrepresented party. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope.

6. If the parties are unable to agree on the form of the order that accurately reflects the Court's ruling, both sides shall present their respective proposed orders to the court for consideration within seven (7) days of the hearing with copies to opposing counsel. The party objecting to the proposed order shall also present a "redline" or "blackline" version, in Microsoft Word format, of the proposed order to the Court, together with a transcript of the hearing if a Court Reporter was requested by any party. The purpose of providing the Court with a "redline" or "blackline" version, in Microsoft Word format, of the proposed order is to allow the Court to compare the versions of the competing proposed orders to consider and comprehend what has been changed, revised or added. Copies of any such "redline" or "blackline' version of the proposed order and hearing transcript shall be provided to opposing counsel/unrepresented party.

7. If you want to know if a specific order has been signed by the Judge, you should first check the Clerk of Court's records system to confirm it has been docketed as the Judicial Assistant is unable to track the signing of a specific order.

B. ALL PROPOSED ORDERS PRESENTED FOLLOWING HEARING, whether submitted to the Court in writing or via email as contemplated *supra*, MUST INCLUDE A COVER LETTER INDICATING:

1. What the Order is for (i.e. the case, the motion heard, including date and time, the title of the Order, etc.); and

2. That all opposing counsel/unrepresented parties have been provided with the same materials being provided to the Court, and whether the parties agree with the language of the proposed Order.

C. **All counsel and unrepresented parties must be copied on the cover letter, including any proposed Order, at the same time provided to the Court.** If counsel does not have an email address for an unrepresented party, counsel must mail or hand deliver the proposed Order and letter to the Court consistent with the instructions above.

NOTE: Any complex proposed Orders should be submitted in Microsoft Word format via email to the Court with a cover letter consistent with the instructions above.

XXI. PROPOSED ORDERS WITHOUT A HEARING:

A. Proposed Orders without a hearing may be submitted to the Court **with a cover letter**, which must be copied to all opposing counsel/unrepresented parties. A courtesy copy of the motion, joint stipulation, etc. related to the proposed Order must be provided. The letter must state that opposing counsel/unrepresented party has been provided with the same materials being provided to the Court and whether opposing counsel/unrepresented party agrees with the language of the proposed Order. The service list on the Order must contain e-filing addresses for opposing counsel/unrepresented parties.

B. If counsel does not have an email address for an unrepresented party, counsel must mail or hand-deliver the proposed Order, cover letter and all attachments to the Court consistent with the instructions above. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope for that party.

C. All consent Orders shall include the word "Consent" or "Agreed" in the caption of the proposed Order, and must describe in the caption, the subject and ruling of the court, i.e., *"Agreed Order Granting Plaintiff's Motion for Partial Summary Judgment on Liability." See Fla. R. Civ. P.* 1.100(c)(2).

D. The proposed Order service list must contain e-filing addresses for opposing counsel/unrepresented party. If an unrepresented party does not receive e-filings, counsel must immediately mail or hand deliver to the Court an addressed, stamped envelope.

E. If you want to know if a specific order has been signed by the Judge, you should first check the Clerk of Court's records system to confirm it has been docketed as the Judicial Assistant is unable to track the signing of a specific order.

XXII. PROPOSED ORDERS AFTER COURT TAKES MATTER UNDER ADVISEMENT:

If it is necessary to take an issue or matter under advisement, the Court will endeavor to self-impose a reasonable and prompt deadline by which it will issue its ruling.

A. The Court will give the movant(s) and nonmovant(s) specific instructions and deadlines for submitting proposed orders to the Court at the close of the hearing, however, in general, the movant(s) and nonmovant(s) and counsel for the movant(s) and nonmovant(s) should expect and be prepared to comply with the following requirements:

1. file the respective proposed orders as exhibits attached to a "Notice of Filing Plaintiff/Defendant's Proposed Order on Defendant's/Plaintiff's Motion _____" cover pleading in the court file;

2. generally, the Court will establish a reasonable deadline for filing the proposed orders within 7 days following the hearing;

3. a courtesy copy of the proposed orders must be emailed to the Court's Judicial Assistant in Word format by the same deadline as the filing of the proposed orders;

4. not as an additional written argument or legal briefing requirement, but to provide counsel an opportunity to plead any exceptions or objections to the form of opposing counsel's proposed orders (i.e., citing materials not in the record or citing to materials in the record, but not previously cited in the factual positions supporting the motion/response; findings not based on the record testimony/evidence), generally the Court will establish a reasonable deadline for filing the exceptions/objections pleading within 5 days following the filing of the proposed orders;

5. a courtesy copy of any such filed exceptions/objections pleading must be emailed to the Court's Judicial Assistant by the same deadline as the filing of the same.

XXIII. JURY TRIAL DEADLINES:

See the form CV-E *Case Management Order Setting Case for Jury Trial and Pretrial Conference and Requiring Matters to be Completed Prior to Pretrial Conference* found on the Court's website.

XXIV. NON-JURY TRIAL DEADLINES:

See the form CV-E *Case Management Order Setting Case for Non-Jury Trial and Pretrial Conference and Requiring Matters to be Completed Prior to Pretrial Conference* found on the Court's website.

XXV. MEDIATION:

See the form CV-E *Order Referring Parties to Mediation* found on the Court's website.

XXVI. WITHDRAWAL OF COUNSEL:

All Motions to Withdraw must set forth reasons for withdrawal and be set for hearing, with proper notice to the client, in accordance with Fla. R. Gen. Prac. & Jud. Admin. 2.505(f)(l), and

all parties/attorneys. If the motion is granted, the attorney moving to withdraw shall prepare a written order setting forth the client's last known address, telephone number, and email address. In addition, the order should provide the client a reasonable time period to retain an attorney. If the client is a corporation or other entity, the order should also contain a provision putting the client who is a business entity, trustee or a trust, personal representative of an estate, or otherwise named in a representative capacity, not an individual person, on notice that it cannot represent itself pro se through is owners, officers, directors, managers, or other representatives in Circuit Court. A template Division CV-E *Order Granting Motion to Withdraw* can be found on the Court's website in Word format.

XXVII. *EX PARTE* PERSONAL COMMUNICATIONS/CORRESPONDENCE:

The Court **CANNOT** and **WILL NOT** engage in nor accept any ex parte personal communications or correspondence on a case. If you have a matter to bring to the Court's attention, please file the proper motion with the Clerk of Court and copy all parties and/or counsel in the case with said motion.

"Exhibit A"

First Option

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a lawyer in my firm with full authority to resolve this matter had a substantive conversation in person or by telephone with opposing counsel in a good faith effort to resolve this motion before the motion was noticed for hearing but the parties were unable to reach an agreement.

/S/ _____

Counsel for the party who noticed
the matter for hearing.

Second Option

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a lawyer in my firm with full authority to resolve this matter attempted in good faith to contact opposing counsel in person or by telephone on:

1. _____(Date)_____ at _____(Time)_____;
2. _____(Date)_____ at _____(Time)_____; and
3. _____(Date)_____ at _____(Time)_____;

to discuss resolution of this motion without a hearing and the lawyer in my firm was unable to speak with opposing counsel.

/S/ _____

Counsel for the party who noticed
the matter for hearing.