

JUDGE TYRIE W. BOYER

DIVISION CV-F

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Hearing Room 744

CV-F PROCEDURES

EX PARTE: “Ex Parte” is a misnomer referring to a type of hearing conducted in early morning hours. However that term has been so used for decades in the Fourth Judicial Circuit. It references hearings of uncontested matters and may be used, for among other reasons, to handle Motions to set for trial, either jury or non-jury. These hearings are not scheduled with the Judicial Assistant (JA). The ex parte hearings will almost always be scheduled between 9:00 - 9:30 or 9:30 - 10:00 a.m. on certain dates of every month. Such dates will be posted outside of the hearing room and online at <http://www.jud4.org>

Telephonic appearances are not permitted during ex parte hearings. If a lawyer wishes to appear by telephone, a hearing must be set with the assistance of the JA.

MOTION TO SET CASE FOR TRIAL

1. To set a trial, a Motion to Set for Trial should be filed for jury and non-jury trials.
2. Hearings on Motions to Set for Trial may occur during ex parte hearings. However, unless all attorneys can appear personally, such hearings will be during a hearing coordinated with the JA.
3. Unless the Motion to Set for Trial is heard during an ex parte hearing, the attorney should file a Notice of Hearing for the date coordinated with the JA.
4. Attorneys are not permitted to appear telephonically during ex parte.
5. The party setting a hearing on a Motion to Set for Trial (on a date coordinated with the JA or during ex parte hearing time) **must:**
 - a. Fill out Motion to Set Form;
 - b. Attach a copy of the Motion to Set Trial and Notice of Hearing to the Motion to Set form;
 - c. Provide Stamped Addressed Envelopes **for any party that is not represented by counsel.**

The parties are expected to bring their calendars to hearings on Motions to Set and shall anticipate that a mediator will be chosen at such hearing.

IF A CASE SETTLES AFTER IT IS SET FOR TRIAL, PLEASE CONTACT THE JUDICIAL ASSISTANT AS SOON AS POSSIBLE SO THAT THE CASE AND ALL PENDING HEARINGS CAN BE REMOVED FROM THE DOCKET/CALENDAR.

SCHEDULING A HEARING

Please file your motion with the Clerk and send opposing counsel a copy of your motion prior to setting a hearing on such motion. All hearings should be scheduled by contacting the JA. You may send an e-mail requesting the hearing to Gerid@coj.net. A copy should be provided to opposing counsel. The JA will then send you dates that the judge is available for hearing. After a hearing is coordinated with opposing counsel, please e-mail the JA with the date selected. If that date is still available, the JA will place it on the calendar and then confirm with the lawyer that the date is on the calendar. (If you need a hearing sooner than the date provided by the JA, you may contact the judge or appear at our ex-parte hearings to schedule a time.) **PLEASE DO NOT SERVE A NOTICE OF HEARING BEFORE GETTING CONFIRMATION FROM THE JA THAT THE MATTER HAS BEEN PLACED ON THE CALENDAR.**

COURTESY COPIES

A courtesy copy of all motions and/or pleadings and anything pertaining to the hearing should be provided to the Court for all time-certain scheduled hearings for Division CV-F (e.g., a Motion to Dismiss requires a copy of the complaint). If a party wishes to submit memoranda of law and/or facts, same should be provided to the Court before the contested hearing on any pending motion. Such memoranda should be provided at least one week prior to the hearing. Copies should be provided to opposing counsel. Copies may be provided by mail, hand-delivery or e-mail. However, any large documents (more than 30 pages) must NOT be emailed. **PLEASE PROVIDE ONLY ONE COPY.** Failure to comply with the foregoing may cause the hearing to be cancelled.

TELEPHONIC APPEARANCES

The Court will seldom allow in town attorneys to appear telephonically. The Court will allow out-of-town attorneys to appear telephonically for hearings scheduled for 10 minutes or less. If a party is appearing telephonically, the rules above are still applicable. If any order or judgment is sought by the out of town attorney, a copy of the proposed order will be provided to the Court at least one week prior to the hearing. If a party is appearing telephonically, the attorney so appearing will initiate the telephone call to the JA. If more than one attorney is appearing by telephone, they must conference each other before calling in for the hearing. If a party wishes to appear telephonically, the party shall coordinate that effort prior to the hearing. If the telephone call is late, the hearing may be cancelled and the attorney may be required to appear in person when the hearing is rescheduled. You should call in early...not late.

CANCELLATION OF A HEARING

A hearing shall not be cancelled without stipulation by all parties and approval by the Court. Generally the approval will be an Order Continuing the Hearing after an appropriate motion for same. Any cancellation of hearing shall be coordinated with the JA.

EMERGENCY MOTIONS

The original emergency motion should be properly filed with the Clerk. The Court should be provided a copy of the motion and the motion should be delivered to the Court either by hand delivery or email. Each emergency motion will be reviewed by the Court to determine whether it is deemed an emergency.

MOTIONS FOR REHEARINGS AND MOTIONS FOR NEW TRIAL

Motions for Rehearing and Motions for New Trial shall be properly filed with the Clerk with a courtesy copy provided to the Court at the time of filing.

MOTIONS TO COMPEL

Motions to Compel should be filed with the Clerk and a copy provided to opposing counsel. The parties shall attempt to resolve the issues raised by a Motion to Compel before a hearing is set on such motion.

SUBMITTED PROPOSED ORDERS

The Court may request the lawyers prepare proposed orders pursuant to the Court's verbal recitations of its ruling. When such proposed orders are provided to the Court, a cover letter should be provided affirming that opposing counsel has reviewed the proposed order and that opposing counsel has no objection. If opposing counsel has an objection, the specific objections shall be described in the letter.

If a lawyer opposes the proposed order, such lawyer shall prepare a separate proposed order along with a cover letter describing any objections.

When providing a proposed order, sufficient copies for all parties and stamped addressed envelopes must accompany the order when it is submitted.

The full name and complete address of the lawyers/parties to whom copies are provided should be included on the last page of the proposed order.

Should the Court request orders be submitted by e-mail, such orders should be formatted in either WordPerfect or Word (Word is preferred).

MOTIONS OR OBJECTIONS PENDING

If a motion or an objection has been filed, the Court will assume that the party filing same is prepared to argue the motion or objection at the time of filing.