

JUDGE JAMES H. DANIEL
DIVISION CV-F
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CV-F Procedures

To find out any information about division CV-F please call the office, email, or look up our information on the web. Fourth Judicial Circuit web page for the Judges' procedure info:

<https://www.jud4.org/ex-parte-dates-judge-s-procedures/duval-judges>

INTRODUCTION

Rule 1.010 of the Florida Rules of Civil Procedure and the Rules of Judicial Administration encourage the speedy, just and inexpensive determination of every action, and impose on the trial court the duty to monitor and manage the docket in order to achieve this goal. To that end, these policies and procedures are published to assist counsel appearing in Division FC-F by addressing routine questions and issues that arise while litigating and trying foreclosure 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.

Ex Parte: Ex parte hearings are currently suspended.

-Motions to set for trial are being handled by email or time certain hearings.

-For any ex parte orders counsel wish to have addressed, counsel should provide the Court with a cover letter, the motion, supporting documentation and proposed order via the e-portal.

Directions: <https://www.jud4.org/proposed-orders-efiling> The Court will review and enter order if appropriate. If a hearing is required, you will be notified of the need to set the matter for hearing and dates will be provided.

INITIAL CMC AND SETTING CASE FOR TRIAL (JURY AND NON-JURY):

A. 120 Day Case Management Conference and Projected Trial Period: The Court, on its own initiative, for all cases governed by Florida Rule of Civil Procedure 1.200, will enter a Case Management Order Setting Projected Trial Date and Case Management Deadlines (“CMO”) required in Rule 1.200(d)(2) (A-I), Fla. R. Civ. P. approximately 120 days after the action is commenced. The purpose of this initial Case Management Conference (“CMC”) is to provide counsel for the parties or pro se litigants an opportunity to be heard prior to the Court setting the trial period. The CMO will require counsel for the parties or pro se litigants to meet, confer, and advise the Court whether the initial CMC is necessary. The parties may avoid the initial CMC by efilng and emailing a **completed** Division CV-F Trial Set Memorandum to the Court’s Judicial Assistant no later than 14 days **prior** to the date of the CMC. Jury and Non-jury Trial week schedules are available on the Court’s website. The Court will prepare the Trial Order.

B. Disagreements on mediator, trial date, or deadlines: In the event the parties are unable to agree to a trial date, a mediator, or the deadlines, the parties can request a hearing date from the Judicial Assistant prior to the CMC, or the parties may appear in-person at the CMC.

C. Initial CMC is an in-person hearing. Remote or telephonic appearance is **NOT** an option.

Motion to Continue Trial:

A Motion to Continue Trial must be heard by the Judge. Consented or Contested.

Settlement:

It is the responsibility of all parties to contact the Court to remove a case from the Court’s calendar and trial docket. Please contact the office by email copying all Attorney’s office(s) or Pro Se Litigants to cancel the trial and any other pending hearings. The Judicial Assistant will confirm the cancellation. If you do not receive an email confirming the cancellation, please try contacting the Judicial Assistant again. **Do NOT assume the case was removed from the Court’s docket by filing a notice of cancelation, notice of dismissal, notice of settlement, etc. The Clerk of Court does NOT send all pleadings to the Judge’s office.**

***All trials and pretrial conferences are set by the Judge and are subject to change.

Requirement Prior to Filing the Motion:

Fla. R. Civ. P. 1.202. CONFERRAL PRIOR TO FILING MOTIONS

(a) **Duty.** Before filing a non-dispositive motion, the movant must confer with the opposing party in a good-faith effort to resolve the issues raised in the motion.

(b) **Certificate of Conferral.** At the end of the motion and above the signature block, the movant must include a certificate of conferral in substantially the following form:

“I certify that prior to filing this motion, I discussed the relief requested in this motion by [method of communication and date] with the opposing party and [the opposing party (agrees or disagrees) on the resolution of all or part of the motion] OR [the opposing party did not respond (describing with particularity all of Florida Rules of Civil Procedure January 1, 2025 65 the efforts undertaken to accomplish dialogue with the opposing party prior to filing the motion)].”

or

“I certify that conferral prior to filing is not required under rule 1.202.”

(c) **Applicability; Exemptions.** The requirements of this rule do not apply when the movant or the nonmovant is unrepresented by counsel (pro se). Conferral is not required prior to filing the following motions:

- (1) for time to extend service of initial process;
- (2) for default;
- (3) for injunctive relief;
- (4) for judgment on the pleadings;
- (5) for summary judgment;
- (6) to dismiss for failure to state a claim on which relief can be granted;
- (7) to permit maintenance of a class action;
- (8) to involuntarily dismiss an action;
- (9) to dismiss for failure to prosecute;
- (10) for directed verdict and motions filed under rule 1.530;
- (11) for garnishment, attachment, or other motions for enforcement of a judgment under rule 1.570;
- (12) for writ of possession under rule 1.580;
- (13) filed in actions proceeding under section 51.011, Florida Statutes; and
- (14) that do not require notice to the other party under statute or rule.

(d) **Sanctions.** Failure to comply with the requirements of this rule may result in an appropriate sanction, including denial of a motion without prejudice. The purposeful evasion of communication under this rule may result in an appropriate sanction.

Scheduling a Hearing for Pending Motions/CMC/SC:

- a. the party requesting the hearing must email the Judicial Assistant and copy all other attorneys and pro se parties utilizing E-Portal.
- b. Please include the case style and case number in the subject line. Please include in the body of the email the pleading, the docket line of the pleading, and the total length of time needed for the hearing. Hearings will **only** be set on motions with the appropriate certificate on the docket.
- c. Hearing dates will be provided. **Hearing dates are NOT secured until confirmation is sent from the judicial assistant.**
- d. Additional motions may **NOT** be added and will not be heard to previously scheduled hearings without court approval.
- e. **Please** list the motion(s) and docket line on the Notice of Hearing.

Telephonic/Zoom Appearances:

Telephonic or Zoom appearances may be permitted for short, non-evidentiary hearings.

The Court allows attorney(s) to appear telephonically or by Zoom for motion hearings consisting of thirty (30) minutes or less without permission from the Court. Please notify the judicial assistant of the telephonic/zoom appearance when setting a hearing. Hearings longer than 30-minutes require permission from the Court. Remote appearances are not permitted for hearings exceeding 30 minutes in duration, except upon motion, good cause shown and leave of Court. The Court may deny remote appearances.

Remote appearances are **not** permitted for hearings on a Motion to Compel, Motion for Sanctions, initial CMC, or a CMC set by the by the Court because the case is not set for trial.

Cancellation of Hearing(s):

Once a hearing is set, it may **not** be cancelled without the consent of the Court. The moving party who set the hearing is the party responsible for contacting the Court to request the hearing be canceled. The Judicial Assistant will confirm the cancellation. If you do not receive an email confirming the cancellation, please try contacting the Judicial Assistant again. **Do NOT**

assume the hearing is removed by filing a notice of cancelation, notice of dismissal, etc.

The Clerk of Court does NOT send pleadings to the Judge's office.

Courtesy Copies of Motions or Case Law: Are not required to be sent to the office.

Emergency Motions/ Motion for Rehearing/Motion for New Trial:

The original motion/petition should be properly filed with the Clerk of Court. The Court requires a copy to be delivered to the office by email, mail or hand delivery. **PLEASE SEND ONLY ONE COPY.** The Judicial Assistant will contact the attorney's office if it is necessary to set a hearing.

Motion to Compel or Motion for Sanctions for Failure to Produce Discovery:

A hearing for a Motion to Compel or Motion for Sanctions is an **in-person** hearing and will be set for 30-minutes. Once a Motion to Compel or a Motion for Sanctions is scheduled on the calendar, it will remain on the calendar. Even if the issue is resolved the attorneys will still have to come in-person before the Judge to explain the reason(s) of the filed motion and the necessity of it to be placed on the Judge's calendar. **A hearing set for a Motion to Compel or Motion for Sanctions will NOT be removed from the calendar for any reason.** The only exception a Motion to Compel or Motion for Sanctions will be removed from the calendar is when the case completely settles.

Instructions for Proposed Orders:

All proposed orders should be filed through the e-portal, **except** when directed by Judge Daniel. Please do **NOT** put "proposed" in the title of the order.

You may click on this link for order templates and instructions on how to file your proposed orders via the e-portal: <https://www.jud4.org/proposed-orders-efiling>

1. A cover letter indicating what the Order is for... i.e. hearing date and time, etc. The cover letter should also indicate if it is consented to or if opposing party objects, and all parties are copied with same. The cover letter, copy of motion and order should be submitted through the e-portal. (Order only should be in Word format). (One cover letter is sufficient for all proposed order(s) – you do not need to submit cover letter for each order).

2. A consented or agreed to order should have in the caption “Consent” or “Agreed”, or the order should have the agreeing parties’ signatures.
3. When an order is submitted to the Court and there is an unrepresented party or parties not receiving service through the e-portal, the attorney submitting the order is responsible for ensuring copies of the order(s) are mailed to any unrepresented party or parties and a Notice of Service is filed on the case. The following language should be on all orders for a party or parties not receiving service through the e-portal:

Counsel shall serve a copy of this Order, by regular mail, to all parties not receiving service of court filings through the Florida Courts E-Filing Portal and shall file a certificate of service in the court file.

4. Please **DO NOT** submit an order by email unless Judge Daniel **REQUESTS** the order to be sent via email. Sending an order via email without a request may cause a delay in an order being entered.
 - a. Requested orders from the outcome of a hearing should be emailed in Word format for any potential modifications.