POLICIES, PROCEDURES AND PREFERENCES FOR ALL CIVIL CASES ASSIGNED TO JUDGE RONALD W. FLURY

SECTION 1 - INTRODUCTION

The Rules of Judicial Administration encourage the speedy, just and inexpensive resolution of cases, and impose on the trial court the duty to monitor and manage the docket in order to achieve this goal. The following policies and procedures, which shall apply to all cases assigned to Judge Ronald W. Flury, are intended to facilitate the just, prompt, and cost effective determination of cases, and to encourage courtesy, civility and professionalism in all participants. These policies and procedures are intended to supplement, not supplant, the Florida Rules of Civil Procedure, which shall control if there is any conflict between the two.

SECTION 2 - MOTION PRACTICE

2.1 - Form and Content - All motions and responses thereto, unless made orally during a hearing or trial, shall be in writing. All motions shall state with particularity the grounds therefore and the relief sought. All motions and responses thereto, except those listed in 2.8, shall cite in the body thereof all authorities relied upon or shall be accompanied by a memorandum of law. **Copies of reported cases should not be filed in the court file, but may be forwarded to the Court.**

2.2 - Summary Judgment Motions - Any motion for summary judgment shall contain therein, or by separate statement, a short concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. The statement shall be supplemented by an appendix which shall contain copies of the appropriate affidavit(s), portions of depositions, specific interrogatories and answers thereto, specific admissions, or other document of record relied upon to establish the material fact. Citation to the documents contained in the appendix should be provided in the statement of undisputed facts.

The party opposing a motion for summary judgment shall, likewise, file and serve a response containing a short and concise statement of the material facts as to which it is contended there exists a genuine issue to be tried, with an appendix in the format set forth above. All material facts set forth by the moving party that are not addressed by the statement in opposition will be deemed to be admitted.

It is generally counter productive to either party's position to present the court with a large volume of factual materials. Such a filing suggests to the court that the party has not thoroughly analyzed its case or has thoroughly analyzed its case and determined that its position is not well taken. A focused presentation which establishes the party's position is much more likely to be persuasive to the court.

2.3 - Certificate of Good Faith Conference - Before filing any motion, except as noted in paragraph C., the moving party shall confer with counsel for the opposing party in a good faith effort to resolve the issues raised by the motion, and the motion shall contain a statement certifying that the moving party has conferred with opposing counsel and that counsel have been unable to agree on the resolution of the motion (the "Certificate").

A. The term "confer" as used herein, means a substantive conversation either in person or by telephone in a good faith effort to resolve the motion without court action and does not envision an exchange of ultimatums by fax, email, or letter. Certification that counsel has attempted to confer with opposing counsel is not sufficient. The court may sua sponte deny motions that fail to include an appropriate and complete certificate under this section.

B. The certificate shall set forth the date of the conference, the names of the participating attorneys, and the specific results achieved. It shall be the responsibility of counsel for the movant to arrange for the conference. Counsel are expected to respond promptly to inquiries and communication from opposing counsel. Repeated failure or refusal of a party or attorney to so confer should be set out with specificity in the certificate.

C. No conference, therefore no certificate, is required for appropriate ex-parte motions, uncontested motions, judgment on the pleadings, summary judgment, or other dispositive motions. If a motion is uncontested or unopposed, reference to that fact should be made in the title of the motion (i.e., "Plaintiff's Unopposed Motion for Extension of Time").

D. A party alleging that a pleading fails to state a cause of action will confer with counsel for the opposing party before moving to dismiss, and, upon request of the other party will stipulate to an order permitting the filing of a curative amended pleading in lieu of filing a motion to dismiss.

2.4 - Motions Decided on Papers and Memoranda - Motions, except those for summary judgment, may be considered and decided by the court on the pleadings, the court file, and memoranda, without hearing or oral argument. Unless otherwise directed by the Court, responses in opposition shall be filed within five days after service of the motion for discovery disputes, ten days for motions directed to the pleadings, and twenty days for motions for summary judgment. Request for additional time shall be made by a motion filed before the date the response is due. If a timely response is not filed, the court may deem the motion uncontested. Unless otherwise directed by the Court, the movant may file a reply within ten days of service of the response in opposition.

2.5 - Hearings or Oral Argument on Motions - Any party who seeks oral argument on a motion shall contact the judge's office to schedule a hearing. No hearings will be set until after a motion is filed with the Clerk of Court. **All hearing dates will have to be cleared with opposing counsel before being confirmed with the court**. Once a date is cleared with opposing counsel and confirmed with the court, it will be the movant's responsibility to produce and distribute a notice of hearing. A courtesy copy should be submitted to the court.

2.6 - Telephone hearings -Any attorney desiring to attend a hearing by phone should consult with opposing counsel. If there is no opposition, no motion is required for phone appearance at a routine hearing. The intention to appear telephonically should be stated in the notice of hearing. The party appearing telephonically will call Judge Flury at (850)606-4309 for Leon County and (850)926-0917 for Wakulla County, shortly before the appointed time. If more than one person is appearing telephonically, a conference call must be initiated by the party requesting the hearing before calling in for the hearing. If there is opposition to counsel's telephonic appearance, counsel shall file a written motion as contemplated by Fla. R. Jud. Admin. 2.530. A motion with good cause shown is necessary for telephonic appearance at a lengthy hearing (more than one hour), a hearing involving the taking of testimony or a pretrial conference.

2.7 - Suggestion of Subsequently Decided Authority - A suggestion of controlling or persuasive authority that was decided after the filing of the last memorandum may be filed at any time prior to the court's ruling and shall contain only the citation to the authority relied upon, if published, or a copy of the authority if it is unpublished, and shall not contain argument.

2.8 - Motions Not Requiring Citation to Authority or Memoranda - Citation to authority in the body of the motion or accompanying memoranda are allowed but not required by either the movant or the opposing party, unless otherwise directed by the court, with respect to the following motions:

a. Extensions of time for the performance of an act required or allowed to be done, provided that the request is made before the expiration of the period originally prescribed or extended by previous orders;
b. To continue a pre-trial conference, hearing, or the trial of an action;
c. To add or substitute parties;
d. To amend the pleadings;
e. To file supplemental pleadings;
f. To appoint a next friend or guardian ad litem;
g. To stay proceedings to enforce judgment;
h. For pro hac vice admission of counsel who are not members of The Florida Bar;
I. To request oral argument; and
j. Any other motion which, by its nature, does not require authority.

2.9 - Failure to File and Serve Motion Materials - The failure to cite authority in the body of the motion, or to file a memorandum within the time specified may constitute a wavier of the right thereafter to file such memorandum, except upon showing of excusable neglect. A motion not containing citation to authority or unaccompanied by a required memorandum may, in the discretion of the Court, be summarily denied. Failure to timely file a response to the motion may result in the pending motion being considered and decided as an uncontested motion.

2.10 - Preparation of Orders - In matters in which the court does not prepare its own orders, the Court will direct the prevailing party to prepare an order in accordance with its ruling. Multiple copies and addressed stamped envelopes sufficient for all parties shall be submitted with the proposed order. The party proffering such an order must represent that he or she has provided copies to the opposing parties in advance and that they have no objection to the form of the order. If agreement among the parties cannot be reached on the form of a proposed order, the Court should be so advised with appropriate alternative proposed orders provided.

2.11 - Materials to be Provided to the Court - A courtesy copy of any motion or similar document seeking or contemplating judicial action, should be provided to the judge contemporaneously with its filing with the clerk. Likewise for response and replies, to legal memorandum, and all other documents of record, or otherwise, which the party considers necessary for consideration and determination of the motion or other request for judicial action. Alternatively, a party may specifically designate what pleadings or other documents of record in the court file are appropriate for consideration, giving a description of the filing and the date it was filed.

2.12 - Rulings on Motions - In most instances, the court will make a ruling on the motion at the end of oral argument. The court does not normally take matters under advisement. In order to accomplish this procedure, the court will in most instances review all materials provided to it prior to the hearing. Therefore, it is important that the court be provided with all relevant materials in a timely fashion prior to the hearing. Although as indicated above in paragraph 2.1, copies of reported cases should not be filed in the court file, it is appropriate to provide the court with courtesy copies of <u>significant</u> cases. Again as noted above, the submission of a large volume of materials to the court is disfavored and suggests a lack of careful analysis by the party. Providing copies of significant cases to the court for the first time during oral argument tends to slow down the process and waste the party's allotted time.

2.13 - Motions to Make Court Records Confidential - Whether documents filed in a case may be filed under seal is a separate issue from whether the parties may agree that produced documents are confidential. Motions to seal court records are disfavored. The court will permit the parties to file documents under seal only upon a finding of extraordinary circumstances and particularized need as further outlined in Fla. R. Jud. Admin. 2.420(d). A party seeking to have a document sealed must file a motion requesting such court action. The parties cannot simply agree to this action. The motion, whether granted or denied, will remain in the public record.

2.14 - Emergency Motions - The Court may consider and determine emergency motions at any time. Counsel should be aware that the designation "emergency" may cause a judge to abandon other pending matters in order to immediately address the emergency. Such motion shall state with particularity the reason the matter constitutes an emergency, including the irreparable harm that will likely result if the matter is not considered in the normal course of events in accordance with the procedures outlined herein. Lack of due diligence by a party

or counsel does not constitute an emergency. The Court may sanction a party who designates a motion as an emergency under circumstances that is not deemed by the Court to be an emergency.

2.15 - Time - The parties should be aware that due to the volume of motion hearings, scheduled starting times and time limits are strictly enforced. If a movant does not appear or call in, as the case may be, at least by the scheduled time, the motion may be deemed abandoned and summarily denied. Similarly, if the opposing party does not timely appear the motion may be granted without further proceeding.

SECTION 3 - DISCOVERY

3.1 - Duty of Good Faith and Due Diligence - The Court expects counsel and the parties to conduct discovery timely, in good faith, and with due diligence. They are expected to cooperate and be courteous in all phases of the discovery process with a goal of fairly and efficiently exchanging information about the case so that it may be resolved in a timely, just and cost effective manner. Response to requests for discovery should be timely, complete and in good faith. If there are objections, they should be stated specifically and with appropriate factual support.

3.2 - Duty to Update and Supplement - It is expected that all responses to discovery will be accurate and complete when given. Each party shall have a duty, however, to update or supplement any response immediately upon obtaining information that would make the previous response inaccurate, incomplete or misleading.

3.3 - Special Masters - The Court may, at any time, on its own motion or on the motion of any party, appoint a special master in accordance with Fla. R. Civ. P. 1.490, to assist in the coordination of discovery and to mediate/arbitrate disputes. Unless otherwise ordered, the parties shall bear equally the cost of proceeding before a special master, and such fees may be taxed as costs.

3.4 - Completion of Discovery - The requirement that discovery be completed within a specified time mandates that adequate provisions must be made for interrogatories and requests for admission to be answered, for documents to be produced, and for depositions to be held within the discovery period. The court does not anticipate entertaining motions relating to discovery conducted after the close of the discovery period as set forth in the Court's Case Management Order(s). Motions requesting an extension of the discovery period must be made

prior to the stated date for completion of discovery. This motion must set forth good cause and establish due diligence.

SECTION 4 - CALENDARING OF TRIALS

4.1 - Trial Setting - A case management conference will be required in order to set any matter for trial. Case managements will be set after a party has filed a notice of matter ready for trial and contacts Judge Flury's office to set the hearing upon the good faith request of either party. Form orders for setting trial have been attached to this document. Counsel should be prepared to advise the court of all information necessary to complete the order during the conference. As noted in the order, mediation will be required.

4.2 - Trial Schedules - Trials in the civil division are normally scheduled on the last week of each month. Because of limited courtroom availability and other resources, trials cannot be specially set on other weeks, except in very unusual circumstances. Unless otherwise ordered, jury selection is conducted the Monday of the trial period, beginning at 9:00 a.m., and pretrial conferences will be held two weeks prior to the jury selection. A specific list of available trial periods and the corresponding dates for jury selection and pretrial conferences may be obtained from the judicial assistant. Trials are stacked during each trial period. Trials are not specifically set during any given trial period for particular dates. The parties must be prepared to try the case on any day(s) during the trial period. The Court will, however, attempt to accommodate the scheduling needs of the parties, counsel or witnesses, and information as to the trials scheduled for any given trial period can be obtained from the judicial assistant.

SECTION 5 - MISCELLANEOUS

5.1 - Settlement - Any time a matter is scheduled for trial or hearing and the parties have resolved the matter, all parties have the responsibility of notifying the Court as soon as possible of the settlement, and advising the Court of the party who will prepare and present the appropriate judgment, dismissal, stipulation or other order.

5.2 - Transmittal or cover letter - All materials delivered to the Court should be accompanied by a transmittal or cover letter advising the Court of the circumstances or reason for the transmittal. For example, a cover letter with a proposed order should indicate if it is pursuant to a ruling on a certain date, is agreed to by all parties, or is submitted under other circumstances.

5.3 - Copies to counsel or parties - All materials, including transmittal letters, submitted to the Court must be copied to all other counsel or unrepresented parties unless otherwise permitted by law.