

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 1-60.2

**IN RE: COVID-19 HEALTH AND SAFETY PROTOCOLS
AND EMERGENCY OPERATIONAL PROCEDURES**

WHEREAS, on July 20, 2021, the Secretary of the United States Department of Health and Human Services renewed the declaration that a public health emergency exists in the United States; and

WHEREAS, on July 27, 2021, the Centers for Disease Control and Prevention (“CDC”) revised its health guidance for vaccinated and unvaccinated persons; and

WHEREAS, the Florida Supreme Court recently issued *In Re: COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, Fla. Admin. Order No. AOSC21-17, Amendment 1, (July 29, 2021) (hereinafter “First Amended AOSC21-17”), which “modif[ies] and extend[s] previously enacted temporary health and safety protocols and emergency operational measures” in an effort “to address the most recent developments and continue to mitigate the effects of the public health emergency on the judicial branch and its participants during and after the emergency . . .”; and

WHEREAS, in accordance with the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2);

NOW THEREFORE, IT IS ORDERED that:

1. Health and Safety Protocols: Pursuant to Section I.C.(1)a.-b. of First Amended AOSC21-17, if warranted by local health conditions, the chief judge may require that face masks be worn by all persons in a courthouse¹ or in any portion thereof² and/or may require physical distancing during in-court proceedings. First Amended AOSC21-17 at 5. The current local health conditions in Polk, Highlands, and Hardee Counties necessitate implementation of the following health and safety protocols:
 - a. Self-Screening: Please do not enter the courthouse if you are positive for COVID-19, you have been told to isolate or quarantine, you have a fever of 100.4 or higher, or you have any COVID-19 symptoms as described by the CDC (excluding those due to a known medical reason other than COVID-19). If you have determined that you cannot enter the courthouse and you are scheduled for an in person proceeding, please contact the Administrative Office of the Courts (AOC)

¹ “As used in this order, the term ‘courthouse’ means any portion of a facility or building that houses jury assembly rooms, courtrooms, hearing rooms, judicial officers, or court staff or areas where court business is conducted, whether or not that facility or building is formally called a courthouse.” First Amended AOSC21-17, fn.5. at 4.

² The health and safety protocols “are not intended to govern activities inside of the separate offices of other constitutional officers.” First Amended AOSC21-17, fn.3. at 4. However, the protocols do govern the public areas of the courthouse traversed by participants of court proceedings, including, but not limited to, lobbies, hallways, stairwells, and elevators.

at (863) 534-4686 and let your attorney (if applicable) know. If you need access to the separate office of other constitutional officers or non-judicial offices located in the courthouse, please contact the applicable office directly or the AOC at (863) 534-4686.

b. Face Masks:

- i. All persons entering any courthouse shall wear a face mask that completely covers the nose and mouth and that fits snugly around the nose, chin, and sides of the face as described by the CDC. Face masks will be provided at no cost to visitors who do not have one.
- ii. In the event that a participant or observer becomes a witness, and the witness is wearing an opaque face mask, the witness shall exchange the opaque face mask for a face mask with clear plastic panels that is provided to them or one that they provide for themselves.
- iii. Judges and court staff who have a private office may remove their masks in their office. Court staff who share an office may remove their masks if they have enough space to physically distance in compliance with CDC standards or guidance, otherwise they must wear a mask while at their desk.
- iv. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to deny entry or continued access to courtrooms, hearing rooms, and/or public areas of the courthouse to persons who refuse to wear a face mask in accordance with this Administrative Order.

- c. Physical Distancing: Although physical distancing is no longer required, all persons inside the courthouse are encouraged to physically distance. As guidance, physical distancing stickers will be placed throughout the courthouses. “Participants may request to be physically distanced. The court will address such requests as appropriate under the circumstances at the time of the request.” *Id.* When granted, the social distance measurement used must comply with CDC standards or guidance.

2. Trial Court Proceedings: First Amended AOSC21-17 mandates that certain proceedings be held in person. However, unless mandated to be in person, trial court proceedings “[m]ust be conducted remotely if requested by a party unless the chief judge or presiding judge determines that the interests of justice require the proceeding to be conducted in person” and “[s]hould be conducted remotely, as appropriate, to facilitate the efficient and expeditious processing of cases, except that a proceeding must be conducted in person if the chief judge or presiding judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or a rule of court, a court order, or an opinion that has not been suspended by administrative order.” Below is a list of mandatory in-person proceedings and authorized remote proceedings:

- a. Jury Proceedings: “Non-statewide grand jury selection and proceedings, civil jury selection proceedings and trial proceedings, and criminal jury selection proceedings and trial proceedings must be conducted in-person, unless a remote civil or criminal

jury selection proceeding or trial proceeding is authorized under Section II.E.(3)” of First Amended AOSC21-17. Id. at 12. In the event that a remote jury trial is conducted, “[w]ithin 30 days after the remote conduct of [the] jury selection proceeding or trial proceeding for the first time in a judicial circuit, the circuit shall present the results of the proceeding and report its findings and recommendations to the Chief Justice through the state courts administrator.” Id. at 14.

b. Other Criminal Proceedings:

- i. Non-jury criminal trials may be conducted remotely if the requirements in section II.E.(3) of First Amended AOSC21-17 are met. Otherwise, the trials shall be conducted in person.
- ii. For pretrial conferences, arraignments, first appearance hearings, and mandatory dockets in which the defendant is in custody in Bartow, Frostproof, or Sebring, the defendant shall participate remotely unless the defendant’s remote attendance “is inconsistent with the United States or Florida Constitution, a statute, or a rule of court, a court order, or an opinion that has not been suspended by administrative order.” Id. at 15-16.
- iii. Any party may file a motion to request that the hearing be conducted remotely or in-person. Judges are encouraged to permit remote appearances; however, this language is not intended to diminish the discretion of the presiding judge to order transport of a defendant who is in custody when deemed appropriate by the presiding judge.

c. Baker Act and Marchman Act Proceedings: Hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act shall be conducted remotely unless otherwise ordered by the presiding judge.

d. Juvenile Dependency and Delinquency Proceedings:

- i Termination of Parental Rights and Juvenile Dependency: Trials may be conducted remotely unless otherwise ordered by the presiding judge. All other proceedings, including judicial reviews, will be conducted remotely unless otherwise ordered by the presiding judge.
- ii Juvenile Delinquency: Trials, dispositions, and hearings concerning fingerprinting shall be conducted in person unless the presiding judge authorizes a remote appearance. All other proceedings will be conducted remotely unless otherwise ordered by the presiding judge.

e. Risk Protection Petitions and Jimmy Ryce Proceedings: Final hearings and compliance hearings may be conducted remotely unless otherwise ordered by the presiding judge.

f. Injunction for Protection Petitions: Hearings to determine whether an individual should have an injunction entered against him or her may be conducted remotely, in whole or in part, unless otherwise ordered by the presiding judge.

g. General Civil, Family, Probate and Guardianship Proceedings: Non-evidentiary

hearings shall be conducted remotely, and evidentiary hearings shall be conducted in-person unless otherwise ordered by the presiding judge.

- h. Civil Traffic Proceedings: All civil traffic hearings may be conducted remotely and in person, in whole or in part. If, after an analysis of procedural due process, the hearing officer determines that a remote participant must appear in-person, the hearing officer shall reschedule the proceeding for the individual to appear in-person.
 - i. Small Claims Proceedings: All non-evidentiary and evidentiary hearings and trials may be remotely unless otherwise ordered by the presiding judge.
- 3. Remote Court Proceedings:
 - a. The Office of the Court Administrator for the Tenth Judicial Circuit Court is tasked with providing the parties and/or their attorneys, and any other necessary court participant with instructions regarding how to attend remotely. These instructions will continue to be made available on the Tenth Circuit Court's website (www.jud10.flcourts.org).
 - b. Judges are encouraged to utilize technology to facilitate the efficient and expeditious processing of cases. Therefore, unless the proceeding must be held in-person as directed in this Order or First Amended AOSC21-17 (as amended), the presiding judge may, upon the judge's own motion or the written motion of a party, direct that the proceeding be held remotely, in part or in whole. Any party may file a motion to request that a hearing be conducted remotely or in-person.
 - c. If a proceeding is scheduled for a remote hearing, "[p]articipants who have the capability of participating by electronic means in remote . . . trial court proceedings must do so." *Id.* at 7.
 - d. The presiding judge is directed to consider "available trial court resources and facility space to conduct [mandatory] in person proceedings, [and the priority of the proceedings]." *Id.* at 16.
- 4. Priority of Proceedings: Pursuant to First Amended AOSC21-17, the priority of proceedings is as follows (in order from highest priority to lowest priority):
 - a. Essential proceedings. Essential proceedings include, but are not limited to, "first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for temporary injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights." *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, Fla. Admin. Order No. AOSC20-23, Amendment 13 (May 6, 2021).

- b. Circuit and county criminal trials with an in-custody defendant.
 - c. Circuit trials for juveniles being tried as an adult.
 - d. Juvenile delinquency trials.
 - e. Circuit and county criminal trials with an out-of-custody defendant.
 - f. Termination of parental rights trials.
 - g. Circuit civil jury trials.
 - h. County civil jury trials.
 - i. All other trial court proceedings.
5. Competency to Proceed:
- a. “Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), . . . judges [are directed] to hold competency hearings as soon as feasible after the date of filing a motion to determine competency.” Id. at 27.
 - b. Inmate competency evaluations by Expert Witnesses shall occur pursuant to existing AO 1-50.2 (or as subsequently amended), except that Expert Witnesses may conduct evaluations remotely in the event that the Expert Witness has arranged for the remote video connection between the Expert Witness’s office and the Hardee, Highlands, or Polk County jail. Expert witnesses who wish to conduct their inmate evaluation by remote means should contact the Office of the Court Administrator for the Tenth Judicial Circuit Court at (863) 534-4686 so a video link and instructions can be provided. The Expert Witness shall schedule the evaluation based on the jail’s availability and shall then notice the State Attorney’s Office and defense counsel of the date and time of the remote evaluation. Either party or the Expert Witness may submit a request to the presiding judge to require the evaluation to be conducted in-person.
6. Direction to Maximize the Resolution of Cases: Section II.E.(6) of First Amended AOSC21-17 directs the chief judge of each circuit to maximize the resolution of cases by requiring active case management of certain civil cases and by directing all judges within their circuits and the local Bar to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545. Accordingly, all judges of the Tenth Judicial Circuit are hereby directed to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), (b), and (e), which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, to take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and to apply a firm continuance policy allowing continuances only for good cause shown. Additionally, all attorneys practicing within the Tenth Judicial Circuit are directed to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), which requires lawyers to conclude litigation as soon as it is reasonably and justly possible to do so, and that the pandemic alone is not a basis for a lawyer’s failure to prepare a case for trial or otherwise actively manage a

case.

7. Case Management for Civil Cases: The below measures were initially made part of Administrative Order 1-57.3, entered on April 16, 2021, and went into effect on April 30, 2021.

- a. Applicability: The case management procedures below apply to all cases in which the Florida Rules of Civil Procedure apply, including cases proceeding “under one or more of the Florida Rules of Civil Procedure pursuant to Florida Small Claims Rule 7.020(c) if the deadline for the trial date specified in Florida Small Claims Rule 7.090(d) no longer applies in the” case. First Amended AOSC21-17 fn.27 at 19. The case management procedures below do not apply to cases subject to section 51.011, Florida Statutes, post-judgment proceedings, and writs to which Florida Rule of Civil Procedure 1.630 applies.” Id.
- b. Determine Track: Each judge assigned to an applicable civil division shall cause the civil cases in their division to be reviewed to determine whether it is complex, streamlined, or general. Complex, streamlined, and general are defined as:
 - i. Complex Civil Cases - actions that have been or may be designated by court order as complex under Florida Rule of Civil Procedure 1.201. Upon such designation, the action shall proceed as provided in the rule.
 - ii. Streamlined Civil Cases – unless otherwise determined by the presiding judge, streamlined civil cases are uncontested cases, cases not entitled to jury trial, or cases where a jury trial is not demanded.
 - iii. General Civil Cases - all other civil cases.
- c. Case Management Orders for Streamlined and General Cases:
 - i. Case management orders must include the following at a minimum:
 1. Deadlines for service of complaints, service under extensions, and adding new parties;
 2. Deadlines to complete fact and expert discovery;
 3. Deadlines for all objections to pleadings and pretrial motions to be resolved;
 4. Deadline for mediation to have occurred;
 5. Projected date of trial;
 6. Indicate that deadlines will be strictly enforced by the court; and
 7. Indicate that a firm trial date will be ordered by the presiding judge when the case is at issue pursuant to Florida Rule of Civil Procedure 1.440.

For cases filed before April 30, 2021, the case management order must include the projected trial date and the deadlines listed above if the event has not already occurred or has not already been specified by a separate court order.

- ii. Case management orders must be issued as follows:
 - 1. If the case is subject to dismissal for lack of prosecution pursuant to Florida Rule of Civil Procedure 1.420(e), then a case management order must be issued within 30 days after the Court determining that the case should remain pending.
 - 2. If the case is subject to a statutory stay or a moratorium that prevents prosecution of the case, then a case management order shall be issued:
 - a. Cases filed on or after April 30, 2021: Within 45 days after the stay or the moratorium ends or within 30 days after service of the complaint on the last of all named defendants (whichever date is later); or
 - b. Cases filed before April 30, 2021: By December 3, 2021, within 45 days after the stay or the moratorium ends or within 30 days after service of the complaint on the last of all named defendants (whichever date is later).
 - 3. If the case is not subject to a statutory stay or a moratorium, then a case management order shall be issued:
 - a. Cases filed on or after April 30, 2021: Within 30 days after service of complaint on the last of all named defendants; or
 - b. Cases filed before April 30, 2021: By December 3, 2021.
 - 4. The parties may stipulate and agree to a case management order, which must be submitted for final approval by the deadline stated by the presiding judge. The required form to be used for the parties' agreement is attached as Attachment A, entitled "Civil Case Management Plan." A sample case management order is provided in Attachment B.
- iii. Maximum Deadline Periods for Streamlined Cases (unless otherwise ordered based upon good cause):
 - 1. Deadlines for service of complaints, service under extensions, and adding new parties (**service within 120 days of filing of the complaint unless the Court grants an extension which shall not exceed 240 days from the date of filing of the complaint**);
 - 2. Deadlines to complete fact and expert discovery (**within 270 days after the complaint is filed**);
 - 3. Deadlines for all objections to pleadings and pretrial motions to be resolved (**within 45 days after filing and prior to the pretrial conference**);
 - 4. Deadline for mediation to have occurred (**within 270 days after the complaint is filed**); and
 - 5. Projected date of trial - **within 12 months of filing**.

- iv. Maximum Deadline Periods for General Cases (unless otherwise ordered based upon good cause):
1. Deadlines for service of complaints, service under extensions, and adding new parties (**service within 120 days of filing of the complaint unless the Court grants an extension which shall not exceed 240 days from the date of filing of the complaint**);
 2. Deadlines to complete fact and expert discovery (**within 450 days after the complaint is filed**);
 3. Deadlines for all objections to pleadings and pretrial motions to be resolved (**within 45 days after filing and prior to the pretrial conference**);
 4. Deadline for mediation to have occurred (**within 450 days after the complaint is filed**); and
 5. Projected date of trial – **within 18 months of filing.**
8. Effective Date: Unless otherwise stated herein, this Administrative Order is effective upon signing and shall remain in effect until further order of this Court or the Florida Supreme Court.

DONE AND ORDERED in Bartow, Polk County, Florida this 12th day of August, 2021.

s/ELLEN S. MASTERS, CHIEF JUDGE

Original: Polk County Clerk of Court

Copies: All Judges
Hardee County Clerk of Court
Highlands County Clerk of Court
Polk County Clerk of Court
Nick Sudzina, Trial Court Administrator
Office of the State Attorney
Office of the Public Defender
Office of Criminal Conflict and Civil Regional Counsel, Second District
Department of Juvenile Justice
Hardee, Highlands, and Polk Law Enforcement Agencies
Electronic Bar Mailing

ATTACHMENT A

☐ IN THE COUNTY COURT IN AND FOR Choose an item. COUNTY, FLORIDA

☐ IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR Choose an item. COUNTY, FLORIDA

Case Number: Click or tap here to enter text.

Section: Click or tap here to enter text.

Click or tap here to enter text.

Plaintiff,

v.

Click or tap here to enter text.

Defendant.

_____ /

CIVIL CASE MANAGEMENT PLAN

I. Case Track Assignment (check one): Case disposition times for all case tracks have been established in accordance with the Florida Rules of General Practice and Judicial Administration 2.250(a)(1)(B).

- ☐ Streamlined Track (Case resolved within 12 months without a jury trial).
- ☐ General Track (Case resolved within 18 months with or without a jury trial).
- ☐ Complex Track (Case resolved pursuant to Florida Rule of Civil Procedure 1.201, with or without a jury trial).

II. Case Deadlines and Events:

Deadline or Event	Party (if applicable)	Date
Deadlines for service of complaints, service under extensions, and adding new parties		Click or tap to enter a date.
Deadlines to complete fact and expert discovery	Plaintiff(s):	Click or tap to enter a date.
	Defendant(s):	Click or tap to enter a date.
The deadline for objections to pleadings and/or pretrial motions to be heard within 45 days of the date the objection or pretrial motion was filed. No motions/objections will be heard after pretrial conference.		
Deadline for mediation to have occurred		Click or tap to enter a date.

Projected date of trial (a firm trial date will be ordered by the presiding judge when the case is at issue pursuant to Florida Rule of Civil Procedure 1.440).	Click or tap to enter a date.
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III. Trial Information

Estimated Length of Trial (specify the number of trial days):	Click or tap here to enter text.
Identification of Jury or Non-Jury Trial:	☐ Jury Trial ☐ Non-Jury Trial

The schedule of deadlines herein will be strictly adhered to by the parties unless change is otherwise agreed to by the parties and approved by the Court. The Court will consider a request to approve changes to these deadlines upon a showing of good cause by either party based on matters arising from an emergency nature or unavailability. However, once the *Civil Case Management Plan* has been approved by the Court, procrastination in completing discovery or the unavailability of counsel will not constitute good cause for a change to these deadlines. The failure to abide by these deadlines may result in sanctions by the Court, including the award of attorney's fees, the striking of pleadings and/or a dismissal of the action.

IV. SIGNATURE OF COUNSEL/UNREPRESENTED PARTIES IF SUBMITTED AS AGREED UPON PLAN

Plaintiff's Counsel

Address: Click or tap here to enter text.

Phone: Click or tap here to enter text.

Fax: Click or tap here to enter text.

E-mail: Click or tap here to enter text.

Fla Bar #: Click or tap here to enter text.

Defendant's Counsel

Address: Click or tap here to enter text.

Phone: Click or tap here to enter text.

Fax: Click or tap here to enter text.

E-mail: Click or tap here to enter text.

Fla Bar #: Click or tap here to enter text.

Plaintiff (if unrepresented)

Address: Click or tap here to enter text.

Phone: Click or tap here to enter text.

Defendant (if unrepresented)

Address: Click or tap here to enter text.

Phone: Click or tap here to enter text.

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ATTACHMENT B

☐ IN THE COUNTY COURT IN AND FOR Choose an item. COUNTY, FLORIDA

☐ IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR Choose an item. COUNTY, FLORIDA

Case Number: Click or tap here to enter text.

Section: Click or tap here to enter text.

Click or tap here to enter text.

Plaintiff,

v.

Click or tap here to enter text.

Defendant.

_____ /

CIVIL CASE MANAGEMENT ORDER

THE COURT having reviewed the attached *Civil Case Management Plan*, incorporated herein, and finding it to be satisfactory, it is now

ORDERED that all parties shall abide by the terms of the attached *Civil Case Management Plan*.

DONE and **ORDERED** in Choose an item., Choose an item. County, Florida on Click or tap to enter a date..

County Judge/Circuit Judge

Copies:

Attorneys of Record

Unrepresented Parties