



**KELLY P. BUTZ**  
JUDGE OF THE CIRCUIT COURT  
STATE OF FLORIDA, COUNTY OF POLK  
[WWW.JUD10.FLCOURTS.ORG](http://WWW.JUD10.FLCOURTS.ORG)

Polk County Courthouse  
PO Box 9000  
Drawer J-174  
Bartow, FL 33831-9000

Cynthia Marazzito  
(863) 534-6907- Office  
(863) 534-7723- Fax

**CIRCUIT CIVIL DIVISION 04 PROCEDURES AND GENERAL INFORMATION**

- Hearing Room:** 8B-1 (Eight floor, red elevators)
- Courtroom:** 6D (Seventh floor, blue elevators)
- Administration Orders:** Copies of all Administrative Orders for the Circuit are Available on our website at [WWW.JUD10.FLCOURTS.ORG](http://WWW.JUD10.FLCOURTS.ORG)
- Docket Schedule:** Three weeks of motions and two weeks of jury trials. Non-Jury Trials are generally scheduled during motion weeks.

**I. SCHEDULING, NOTICING, AND CANCELLING HEARINGS ON REGULAR (MOTIONS) DOCKET**

- A. SCHEDULING HEARINGS: You must email the judicial assistant to obtain hearing times for a motion after the motion has been filed with the Clerk's office and, if the case has been closed, after the case has been reopened. Attempt to agree with all parties as to the time needed for each party to have a fair opportunity to be heard.

After completing the above, send an email to [cmarazzito@jud10.flcourts.org](mailto:cmarazzito@jud10.flcourts.org) (judicial assistant) providing the following information:

- 1 The case number, style of the case, and the names of the attorneys involved;
  - 2 The motion being set for hearing;
  - 3 The agreed upon the date and time for the hearing;
  - 4 The agreed upon the length of time being reserved for the hearing (it is important that you schedule sufficient time for each party to have a fair opportunity to be heard regarding the issues);
  - 5 Whether the hearing is being set for an in-person or virtual hearing; and date/time slots shall be cleared with opposing counsel or parties. If counsel's good faith attempts to clear a hearing has been unsuccessful, the following language shall be used: 'The requested hearing date has not been cleared with opposing counsel's calendar because (factual statement)
- B.** The parties, or counsel for the parties, will receive email confirmation from the Court advising that the motion has been scheduled or that the time is no longer available. If the date and time is confirmed, the Notice of Hearing may be prepared. **Do not send out a notice of hearing until you have received confirmation from the judicial assistant.**
- C.** A copy of the Motion that is being heard, along with the Notice of Hearing must be emailed to [cmarazzito@jud10.flcourts.org](mailto:cmarazzito@jud10.flcourts.org) at least **5 days** in advance of the hearing. If the motion is larger than 20 pages, it must be sent to the JA via mail, express mail or hand delivery service. The JA will not print out anything over 20 pages.
1. You may send hard copies, but please do not send via both email and regular mail.
  2. No matter which delivery method you choose, the Motion and attachments must be received in this office **no later than five (5) business days prior to the hearing date.**
  3. **Do not** email evidence to this office and expect it to be printed.
- D.** Judge Butz **does not** have a Uniform Motion Calendar (UMC). If a matter is uncontested, the motion and proposed order may be submitted for review (See Section IV. Submitting Proposed Orders). The motion itself should reflect that the matter is, in fact, uncontested.
- E.** Cross-Notices to add other motions are **not** permitted unless the addition has been cleared with opposing counsel and the judge's office.
- F.** All contested evidentiary type hearings will be held in person (Hearing Room 8B-1). Use of communication technology for hearings is governed by Fla. R. Gen Prac. & Jud. Admin. 2.530

## II. NOTICING HEARINGS

- A. Do not send out Notice of Hearing until after you have received confirmation of the hearing time from the judicial assistant. Hearing times are booked on a first come, first served basis and hearing times are not reserved until the confirmation email is sent.
- B. The location of the hearing must be included in the Notice of Hearing. In person hearings are held at the Polk County Courthouse, 255 N. Broadway Avenue, Bartow, FL 33830, in Hearing Room 8<sup>th</sup> B1 (Eight Floor, Red Elevators). The pleading being heard, along with the hearing duration must be set forth in the Notice of Hearing.
- C. If the hearing will be held virtually, the following virtual information must be included on the Notice of Hearing:

PLEASE TAKE NOTICE that the Hearing will take place remotely via Microsoft Teams Videoconferencing. Click the following link to join the hearing:

[https://teams.microsoft.com/l/meetup-join/19:meeting\\_ZmQ4MDcwZjktMDk2MC00MjYxLWEwYTEtZmFkMjA4ZWQ0YTEy@thread.v2/0?context=%7B%22Tid%22%3A%229f6aab68-a956-435b-9525-d1011c660851%22%2C%22Oid%22%3A%22f63d1d1f-c868-4df7-a844-f7367098275a%22%7D](https://teams.microsoft.com/l/meetup-join/19:meeting_ZmQ4MDcwZjktMDk2MC00MjYxLWEwYTEtZmFkMjA4ZWQ0YTEy@thread.v2/0?context=%7B%22Tid%22%3A%229f6aab68-a956-435b-9525-d1011c660851%22%2C%22Oid%22%3A%22f63d1d1f-c868-4df7-a844-f7367098275a%22%7D)

This link is also accessible from Court Administration's website through this procedure: Navigate through the browser to <http://ww.jud10.flcourts.org/>. On the right side of the page, click: Click here for Polk County Virtual Courtroom Links", then click "Polk Circuit Civil", then click "Click here to enter Polk Civil Division 04 Virtual Courtroom".

- D. The following ADA Notice must be included in all notices of hearings or orders setting hearing:

**“If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Office of the Court Administrator, 255 North Broadway, Bartow, FL 33830, (863) 534-4690, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**”

E. Never send a cross notice without prior approval of the court and cleared with opposing counsel.

### III. CANCELLING HEARINGS

A. Please call or email as soon as you learn that a hearing is no longer needed. If the case settles, you must still cancel any hearings that you have set on the Judge's calendar.

B. Only the party who set the hearing may cancel it, and it is that party's responsibility to file a written notice of the cancellation, including court reporters, interested parties and witnesses.

C. Do not assume that if a case has been settled or cancelled (and even if the judge has signed an order dismissing the case), that the judicial assistant knows if it has been cancelled. Please **always** provide a *Notice of Cancellation* to the judge's office to make sure that the hearing or trial has been taken off the book.

D. If the length of the hearing changes in any way (for example, a case settles and you know that a long hearing will only take a few minutes rather than an hour), please notify the Court as soon as possible. The remainder of that hearing time may be needed for other hearings.

### IV. SUBMITTING PROPOSED ORDERS AND OBJECTING TO PROPOSED ORDERS

- A. Always verify that your case number is correct and confirm the materials are being assigned to the correct Civil Division Judge prior to submitting the proposed order whether it is by e-portal or by U.S. mail.
- B. Judge Butz accepts e-mailed copies of the Motion, so long as it is in PDF format and includes all attachments within the same file. If the file is too large, you may send a USB drive or a link to a shared drive where the file can be downloaded (**NOTE: our network only allows access to links stored on Microsoft OneDrive**). For Motions with many attachments (e.g., motions for summary judgement), the attachments may be separate files from the Motion provided they are named sequentially so that they can be sorted alphabetically or numerically (e.g., 01\_Attachment.pdf, 02\_Attachment.pdf). These types of orders require submission of proposed orders by U.S. Mail, express mail, or hand delivery with copies and stamped addressed envelopes for distributions due to clerical requirements regarding the processing of orders in those matters.
- C. All other orders shall be submitted through the e-portal as required in Administrative Order No. 1-61.1. All proposed orders must comply with the formatting and technical

- requirements listed therein; proposed orders that fail to comply with the requirements of the Administrative Order will be rejected and must be resubmitted.
- D. Pertinent motions submitted with a proposal order must have been e-filed prior to submission with the proposed order. The e-filing portal date/time filing stamp will be visible on the Motion if it has been correctly e-filed prior to submission,
  - E. When sending in proposed orders, please be sure a transmittal letter showing that a copy of the letter and proposed order has been sent to opposing counsel. Orders will generally be held for a minimum of 5 working days to give opposing party/counsel time to object. If the cover letter indicates that there are no objections to the proposed order, the Judge will waive the hold process and may sign the order upon submission to the Court.
  - F. If you object to an order, please contact the Judge's office immediately via email to [cmarazzito@jud10.flcourts.org](mailto:cmarazzito@jud10.flcourts.org) . Note that objections must be followed up by a written explanation submitted via the e-portal (and copying opposing counsel) within 5 working days.
  - G. Proposed orders for future hearings may be submitted to the e-portal in advance of the hearing.
  - H. All proposed orders being submitted without a hearing must be submitted with a copy of the motion. Please verify the correct Judge with the Clerk's Office prior to submitting the motion/proposed Order for consideration. If the Judge feels that a hearing is needed, the submitting attorney will be notified that the Judge requires a hearing. Hearings are scheduled pursuant to the procedures set forth above.
  - I. Please include all necessary information in your proposed order, as the Court will not fill in the blanks (hearing dates/attorney/etc) Proposed Orders to Show Cause must include a final hearing date that is confirmed by email before submitting the proposed order for the Judge's consideration. If this is submitted with a blank for the final hearing date, it will be returned.
  - J. Parties submitting orders are solely responsible for ensuring any confidential information contained in the filings is appropriately redacted or identified for redaction. All parties submitting an order, including attorneys and self-represented litigants, will be required to file a Notice of Confidential Information in circuit civil, county civil and small claims court cases when filing documents with Social Security numbers, bank account numbers, or other non-public information; identify the precise

location(s) of confidential information or provision that applies to the identified information.

- K. Do **not** include a Certificate of Service to be completed by the judicial assistant.
- L. It is the responsibility of the submitting attorney to distribute copies to any person or party who is not on the e-file distribution list.

## V. RESIDENTIAL /COMMERCIAL FORECLOSURE INSTRUCTIONS

**NOTE: FORECLOSURE CASES ARE NOT PROCESSED BY THE COURT OR CLERK VIA THE E-PORTAL PROCESSES OUTLINED ABOVE.**

- A. Residential or commercial foreclosure Motions for Summary Judgement , Bench Trials, And Orders to Show Cause hearings should be scheduled during motion weeks and should be submitted to the Court according to the instructions below. FORECLOSURE CASES SHOULD NOT BE SUBMITTED VIA HE E-PORTAL DUE TO NECESSARY POST-JUDGEMENT CLERICAL REQUIREMENTS AND PROCEDURES. On **ORDERS TO SHOW CAUSE YOU MUST HAVE THE HEARING DATE FILLED IN WHEN SUBMITTING THE PAPERWORK OR THE PACKET WILL BE RETURNED TO YOU. Thus, contact the Judicial Assistant for hearing times to include in the OTSC packet.**
- B. Foreclosure packets for this docket shall be sent by US mail, express mail, or hand delivery to our office a minimum of 10 days prior to the hearing dates. All in formation readily available (i.e. attorney's fees and costs) should be completed. Our circuit requires the filing of a notarized *Affidavit of Compliance* in accordance with Administrative Order No. 3-29.2 A copy of the notarized *Affidavit of Compliance* must be included in the packet. Failure to include this document will prevent the Final Judgement from being signed and processed. All original documents must be filed with the Clerk of Courts. Do not send original documents with packet.
- C. The Clerk of Courts is responsible for scheduling and implementing the sale date upon receipt of the executed Judgement. Counsel must include in the foreclosure packet sufficient copies and pre-stamped, correctly addressed envelopes for all persons entitled to receive a copy of the Judgement.
- D. **All Foreclosure Motions for Summary Judgements, unopposed Bench Trials, and Orders to Show Cause** will be held via Microsoft Teams, unless otherwise approved by the Court.

- E. Orders to Show Cause regarding entry of Foreclosure Judgements **must** include a final hearing date that is confirmed by email before submitting the packet for the Judge's consideration. If this is sent in with a blank for the final hearing date, it will be returned.
- F. Emergency Motions to Cancel Sales should be submitted via email to [cmarazzito@jud10.flcourts.org](mailto:cmarazzito@jud10.flcourts.org) so that, if granted, they may be hand -delivered to the Clerk for processing prior to the sale occurring. Non-Emergency Motions to Cancel Sales should be submitted by US mail, express mail, or hand delivery with copies and stamped address envelopes for Clerk's distribution to parties. Plaintiff's motion shall include a proposed Order Cancelling Sale.
- G. Motions to reset sales, or the resetting of a sale included in a Motion/Order Cancelling a Sale, shall include the following language:

The public sale is hereby rescheduled to take place online at [www.polk.realforesure.com](http://www.polk.realforesure.com) at 10:00 a.m. on \_\_\_\_\_, 20\_\_ after the requirements of Florida Statutes Section 45.031 have been complied with, no sooner than \_\_\_\_\_ days from the date hereof.

- H. The Judge will not grant any Motions for Default Final Judgement on residential or commercial foreclosure cases without a properly noticed hearing. The only exception to this would be if the Default Final Judgement was stipulated to by counsel/parties. A copy of the signed stipulation would need to be submitted along with the packet and filings would still need to be in compliance with local Administrative Order No. 3-29.2 (which includes filing and providing a hard copy of a notarized Affidavit of Compliance).

## VI. EMERGENCY MOTIONS

- A. Please **email** a copy of any emergency motions to [cmarazzito@jud10.flcourts.org](mailto:cmarazzito@jud10.flcourts.org) . Simply filing an emergency motion with the Clerk's Office will **not** bring the motion to the attention of the Court.
- B. Any emergency motion submitted for ex parte consideration should clearly so state in the heading of the motion.
- C. Unless the motion is being submitted ex parte, the email shall include a cover letter that indicates that this submission has been copied to the opposing party/counsel.
- D. After reviewing the emergency motion, the Court will decide if the matter raised is a true emergency and whether the hearing should be advanced on the docket.

## VII. TRIALS

A. SCHEDULING TRIALS: The scheduling of trials and the management of cases will be pursuant to the Florida Rules of Civil Procedure. Jury trials are scheduled during a two-week trial period. Non-Jury trials are scheduled during a three-week motion block. Trial Counsel is expected to appear at the pre-trial conference. Mail a hard copy of the pre-trial stipulation to the Judge's office five days prior to the Pre-Trial Conference. Any motion for Trial must be filed with the Clerk of the Court **and** a **copy** must be emailed to [cmarazzito@jud0.flcourts.org](mailto:cmarazzito@jud0.flcourts.org) .

### B. MARKING EXHIBITS:

1. If any exhibits are to be introduced during a hearing or trial, they must be pre-marked with exhibit information and in a form suitable for receipt into evidence.
2. The exhibit labels may be affixed to the exhibits by sticker or inked stamp and shall be in substantially the following format:

Case no. _____
Party _____ Exhibit
no. _____
Admitted _____ Excluded _____
Date _____

The party submitting the exhibit shall fill in all blanks on the label except "admitted" and "excluded."

## VIII. MOTIONS IN LIMINE

A. Motions in Limine may not be scheduled for a hearing unless and until counsel have conferred in an effort to resolve all or a portion of the Motion. The term "confer" requires a substantive conversation in person or virtually 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.

B. The Motion in Limine or Notice of Hearing on said Motion must contain a certification that the parties have conferred (as set forth above) in an attempt to resolve each portion of the Motion prior to court's intervention.

C. The Notice of Hearing on the Motion in Limine must identify the specific issues which remain in controversy after counsel have conferred.

D. No Motion in Limine will be heard during trial unless the judge authorizes it in advance.

E. The Motion in Limine must 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.

F. The judge may summarily rule on any Motion in Limine not written with particularity as described above. Any Motion in Limine not timely filed and scheduled for hearing before pretrial conference will be considered abandoned.

G. "Omnibus" and "boilerplate" Motions in Limine are discouraged. See, *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").

H. A minimum of 10 days prior to the hearing, all parties shall submit their relied upon Case law with relevant text/rule of law/holdings highlighted and in color along with a hardcopy of the Motion, Response and Notice of Hearing.

## **IX. JURY INSTRUCTIONS**

In accordance with the uniform Order Setting Pretrial Conference and Jury Trial and Directing Mediation, Plaintiff shall provide complete instructions. Defendant shall provide only special instructions not included in Plaintiff's submission. The proposed instructions should be submitted via email to the judicial assistant no later than 4:00 p.m. the last workday before the trial. Said instructions should be in Word format. Hearings on contested instructions should be scheduled well in advance of the trial.

## **X. JOINT MOTIONS TO CONTINUE TRIAL**

A. All Motions for continuance, even if agreed, must comply with Florida Rule of Civil Procedure 1.460. A hearing on Joint Motion(s) to Continue Trial may or may not be required, depending on the age of the case, the newly coordinated trial date, and other factors.

B. A proposed order continuing a trial may be submitted if all parties have signed the joint motion, along with their respective attorneys, if applicable. Additionally, in order to avoid delay in prosecution of the case, a new pretrial and trial date must be chosen at the time the joint motion is filed.

C. The proposed Order Granting Continuance (or a separate order submitted simultaneously with the proposed Order Granting Continuance) shall include the agreed upon new date/time/location for both the Pre-Trial Conference and Trial

Block. Additionally, the proposed order must reflect what further activity will or will not be permitted.

## **XI. MOTIONS FOR REHEARING**

A. Florida Rule of Civil Procedure 1.530(b) provides that a Motion for New Trial or Motion for Rehearing must be served within 15 days of the jury verdict or the filing of a judgment in a non-jury action.

B. You must file the original with the Clerk and email a courtesy copy to [cmarazzito@jud10.flcourts.org](mailto:marazzito@jud10.flcourts.org).

C. If a rehearing is to be held, the judicial assistant will email you a link to the online scheduling calendar with available dates and times for you to clear and notice the hearing. You must then follow the process for scheduling hearings as detailed in Section I.

D. Any Motion for Reconsideration shall follow the same procedures as a Motion for Rehearing.

## **XII. VOICE MAIL**

A. Our office only has one line for incoming calls. If you call our office during normal business hours and get our voice mail, it means that the Judicial Assistant is on another line or away from her desk. Accordingly, if you leave a voice mail message, you should expect to receive return contact in a timely fashion. Thank you for your patience in this matter.

